

# 11-1197-CV

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

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PATRICK CARIOU,

*Plaintiff-Appellee,*

– v. –

RICHARD PRINCE,

*Defendant-Appellant,*

GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN,

*Defendants-Appellants.*

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

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### JOINT APPENDIX Volume 5 of 9 (Pages A-1131 to A-1349)

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## If the Copy Is an Artwork, Then What's the Original?

By RANDY KENNEDY  
Times Staff Writer

### Correction Appended

Since the late 1970s, when Richard Prince became known as a pioneer of appropriation art — photographing other photographs, usually from magazine ads, then enlarging and exhibiting them in galleries — the question has always hovered just outside the frames: What do the photographers who took the original pictures think of these pictures of their pictures, apotheosized into art but without their names anywhere in sight?

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Jim Krantz's photograph "Stretching Out" (1997), taken for a Marlboro ad. [More Photos >](#)

Recently a successful commercial photographer from Chicago named Jim Krantz was in New York and paid a quick visit to the Solomon R. Guggenheim Museum, where Mr. Prince is having a well-regarded 30-year retrospective that continues through Jan. 9. But even before Mr. Krantz entered the museum's spiral, he was stopped short by an image on a poster outside advertising the show, a rough-hewn close-up of a cowboy's hat and outstretched arm.

Mr. Krantz knew it quite well. He had shot it in the late 1990s on a ranch in the small town of Albany, Tex., for a Marlboro advertisement. "Like anyone who knows his work," Mr. Krantz said of his picture in a telephone interview, "it's like seeing yourself in a mirror." He did not investigate much further to see if any other photos hanging in the museum might be his own, but said of his visit that day, "When I left, I didn't know if I should be proud, or if I looked like an idiot."

When Mr. Prince started reshooting ads, first prosaic ones of fountain pens and furniture sets and then more traditionally striking ones like those for Marlboro, he said he was trying to get at something he could not get at by creating his own images. He once compared the effect to the funny way that "certain records sound better when someone on the radio station plays them, than when we're home alone and play the same records ourselves."

But he was not circumspect about what it meant or how it would be viewed. In a 1992 discussion at the Whitney Museum of American Art he said of rustling the Marlboro aesthetic: "No one was looking. This was a famous campaign. If you're going to steal something, you know, you go to the bank."

### Multimedia



Side Show  
A Copy Is Art. So What's the Original?

People might not have been looking at the time, when his art was not highly sought. But as his reputation and prices for his work rose steeply — one of the Marlboro pictures set an auction record for a photograph in 2005, selling for \$1.2 million — they began to look, and Mr. Prince has spoken of receiving threats, some legal and some more physical in nature, from his unsuspecting lenders. He is said to have made a small payment in an out-of-court settlement with one photographer, Garry Gross, who took the original shot for one of Mr. Prince's most notorious early borrowings, an image of a young undressed Brooke Shields. (Mr. Prince declined to comment for this article, saying in an e-mail



message only, "I never associated advertisements with having an author.")

Mr. Krantz, who has shot ads for the United States Marine Corps and a long list of Fortune 500 companies including McDonald's, Boeing and Federal Express, said he had no intention of seeking money from or suing Mr. Prince, whose borrowings seem to be protected by fair use exceptions to copyright law.

But with the exhibition now up at the Guggenheim — and the posters using his image on sale for \$9.95 — he said he simply wanted viewers to know that "there are actually people behind these images, and I'm one of them."

"I'm not a mean person, and I'm not a vindictive person," he said. "I just want some recognition, and I want some understanding."

Mr. Krantz, who retains the copyrights to most of his work, said he had been aware for several years that his work had been lifted by Mr. Prince, along with that of several other photographers who have shot Marlboro ads. But he said he did not think much about it, and said he had never talked with other Marlboro photographers about the issue.

"If imitation is a form of flattery, then I will accept the compliment," he said.

But on one occasion a woman active in the art world visited his studio in Chicago, and, seeing a print of one of his pictures, Mr. Krantz recalled, "she said, 'Oh, Richard Prince has a photograph just like that!'" And in 2003 Mr. Prince's version of an image that Mr. Krantz shot for Marlboro — showing a mounted cowboy approaching a calf stranded in the snow — sold for \$332,300 at Christie's. Although the shot was blown up to heroic proportions, "there's not a pixel, there's not a grain that's different," he said. And so Mr. Krantz, whose Marlboro ads now appear mostly in Europe and Asia, began to grow angry.

He said that while he is primarily an advertising photographer, when he was growing up in Omaha, he did attend workshops with Ansel Adams. He studied graphic design and got into commercial photography, starting out in Omaha taking shots of toasters and pens and heating pads because that was where the work was. But he has long exhibited his own art photographs, recent examples of which show stark images of an empty prison as if seen through defaced or broken glass.

Mr. Krantz said he considered his ad work distinctive, not simply the kind of anonymous commercial imagery that he feels Mr. Prince considers it to be. "People hire me to do big American brands to help elevate their images to these kinds of iconic images," he said.

He has considered trying to correspond with Mr. Prince to complain more directly but said he felt it would probably do no good.

"At this point it's been done, and it's out there," he said. "My whole issue with this, truly, is attribution and recognition. It's an unusual thing to see an artist who doesn't create his own work, and I don't understand the frenzy around it."

He added: "If I italicized 'Moby-Dick,' then would it be my book? I don't know. But I don't think so."

# RICHARD PRINCE

Interview by Brian Appel

**BRIAN APPEL:** *Hope you had a chance to read my review of your last show at Barbara Gladstone.*

**RICHARD PRINCE:** Yes, did. Who are you? Do you write like this or do I'm amazed by your text or the auditions. Anyway, I thought it was pretty good.

**BA:** *I think it was about 10 days ago or so that I saw you talking with Barbara Gladstone and a collector at the group show presently up at Barbara's Gallery. I was with my daughter L. She was enjoying John Dogg's "The Final Curtain".*

**RP:** Hey, I remember you - especially your little girl. She was so great and seemed to be having so much fun running through the Dogg curtain.

**BA:** *One of the highlights of the summer for me was having the pleasure of seeing two of your controversial re-photography pieces from 1983 turning up in two excellent survey shows; the subversively seductive "Untitled (Girlfriend on Motorcycle)" a 44 by 64 inch Ektacolor print of a scantily nude bikini girl involuntarily splashed out on top of a Harley Davidson motorcycle in the Kristine Bell curated "GIRLS ON FILM" exhibit at Zellerbach & Wirtz, and the notorious "Spiritual America", a 24 by 20 inch Ektacolor print (after an original by Gerry Gross) of a prepubescent Brooke Shields emerging nude from a steamy bathtub in the Donna De Salvo curated "Landscape" exhibit from the permanent collection at The Whitney Museum of American Art. What struck me most was how these two images can still shock, even after twenty-two years, by revealing how the individual female body (one anonymous and one famous) is able to operate as a public site for the perpetuation of depraved notions of male supremacy and control. It also drove home how the highly mimetic medium of photography is so beautifully suited to make transparent the corruption that is possible for the fetishization and commodification of representations of women. It's all part of the machinery of America.*

**RP:** "The machinery of America." That's a pretty good way of describing the way images get out there. I like to think about making it again instead of making it new. Making it new was an Easy Boudin way of thinking (industrial) and making it again is a more R. Prince way of thinking (technological). Advertising images aren't really associated with an author - more with a product/company and for the most part put out or "art directed." They kind of end up having a life of their own. It's not like you're taking them from anyone. Pages in a magazine are more often "thought of as" collage. When I re-photographed these pages they became "real" photographs. They "looked" like real photographs. They looked like real photographs because they were real photographs. Tearing a page out of a magazine and pasting it on a board would have been a collage. Re-photographing a page out of a magazine was something else entirely. That's something else. Was and is a good revolution.

**BA:** *Your isolation of the tokens of masculinity in Madison Avenue's longest-running fiction, the red, white, and blue Marlboro man are generally thought to be the images that made your name in the art world. When and how did it first dawn on you that these ubiquitous images could be re-used by removing the text, cropping, enlarging and placed in a different context? When you see these images now in survey shows or being referred to in articles on the postmodern critique of commodity culture how do you relate to them?*

**RP:** I first started "seeing" the Marlboro advertisement in 1980 while I was working at Time/Life magazine. 1980 was the first year they started using other models for the "cowboy" and not the one that had become so famous for the campaign. I thought these new models were more generic and less identifiable and could make it seem like after the logo and copy were cropped out that the re-photographed image could be more my own. Like I could get away with telling someone I actually did it. There was very little in the image that could hook up with its original content. For awhile I never spoke or continued to deny that the "cowboy" images were from the Marlboro campaign. I've never thought about the commodification subject in these works. It's never been an issue for me. These images came out every week a different one, and it almost seemed like they were being made by me. Every week would claim one. I was working with about eight magazines at Time/Life and they all had these "cowboy" images in them. It's always been exciting to me to open up a brand new magazine.

**BA:** *From your perspective today, how do you see the timing of these images and their relationship to the B-movie cowboy president who was in office at that time? For that matter, how about the cowboy who's in office today?*

**RP:** The definition of politics is the infinite number of relationships between men and women. That being said, I don't really think much about who is the president of this or any other country. If you can tell me who the French president was when Gauguin was making his beautiful paintings in Tahiti, well, I might have to skip supper. Paintings, movies, dance, literature - comes and comes. Politicians come and go.

**BA:** *At the very beginning of your career, it wasn't the content of your subject matter as much as your method of "stealing" commercial images reproduced in magazines that outraged both critics and artists. Now the chance to own one of these early images of severely cropped, silly posed models of both sexes is not only rare, but the question is when will the next opportunity be? How has time played into your bad-boy image as an artist who would simply crop them, enlarge them and call the work yours?*



Richard Prince  
UNTITLED (COWBOY), 2001  
Ektachrome print, 100 x 66 inches  
Illustrator courtesy CHRISTIE'S IMAGES LTD 2007



Richard Prince  
UNTITLED (GIRLFRIEND), 1993  
Ektacolor photograph, 40 x 60 inches  
Edition of 2 + 1 AP



RP: I've just completed a "taking" project after thinking about it and trying different ways of presenting it after "taking" my first photograph in 1977. The works are called "American English" and it's both editions of a published book. The American edition and the English edition of say "Lolita" are placed side by side on a specially made pedestal. It's a piece of sculpture. There's nothing done to the books except that I buy or find them and put them on display. Recent editions include "The Dharma Bums" by Kerouac, "Slouching Towards Bethlehem" by Joan Dixon, "American Psycho" by Bret Easton Ellis. I first photographed these books and put them in a book three years ago. The publication was called "American English" and came out of London.

BA: Today I saw one of MoMA's latest acquisitions - Robert Rauschenberg's "Ribbus" from 1955. I thought, wow, this painting (including samples of paint chips from the hardware, pencil doodles, photographs cut and pasted from newspapers, pieces of fabric, and drips of paint) was really the harbinger of American postmodern painting. I was thinking how fabulous any one of your "Check Paintings" (the ones you showed at Gagosian's Beverly Hills space) would have looked opposite that '55 masterpiece. Cannot wait to see where your paintings are headed, Richard.

RP: Yeah, I'm looking forward to seeing that Rauschenberg. His Combines are amazing. He was so connected to what was going on in the culture. He practically invented the beatniks (at least what they painted). I've had a chance to meet him several times but somehow have passed. I'm not sure if it's prudent to meet the people you would most like to meet.

BA: The demystification of the celebrity...

RP: Pats Hilton defines the idea of celebrity. At least that's what I hear. And what I hear famous for being famous is as good as any definition. Okay, so she gets on the covers of magazines, and gets into restaurants without a reservation and doesn't know what a velvet rope is, and gets to experience all things VIP. She might have more things going on, I'm sure she does. Maybe she reads Joan Dixon, maybe she plays the piano, maybe does the occasional watercolor, maybe she writes a diary. I don't know. I don't know her. I've never met her but a lot of people out there "know about her". It's kind of like when something gets popular, you check it out. "Checking it out" makes things more popular. It's interesting how popularity defines something. There's agreement, there's consensus. Number one, the top ten. (I'm kind of babbling on here). But I'm more of a "third place" guy - the least likely to succeed? Most things popular aren't very interesting. Once something becomes popular it takes a bit of the edge out of it. When everybody knows about it, you need to...

BA: Speaking of number one - your "Untitled (Cowboy)" from 2001 that sold at Christie's this last May re-set your world auction record for a photograph at \$2.8 million.

RP: For me, money means I can buy extra canvases at the art supply store or I can buy jars of colors I wouldn't normally use if I didn't have the money. It means I can experiment more and spend more time in my studio. It means I can fund my projects myself and not wait for a "green light". It means I can take my time or buy a better frame. It means I can collect other artist's works and get on a plane and not have to sit in the middle between two large people with leaking walkman on their heads. It affords convenience. It makes things smoother. But I still think no matter how much money you have, you should be able to make a work of art with twenty-five cents, meaning with something as simple as a piece of paper and a number two pencil.

I spent a great deal of time living on East 12th Street and Avenue A in a "brass" apartment paying seventy-five dollars a month on rent and working a graveyard shift at TimeLife. I did that for ten years. I could make twelve dollars last for twelve days. I would meet women who would have great apartments and move in with them. The art materials I used were tape (magazines). Friends would give me rolls of 35mm film. If I couldn't afford to blow up a picture I could always just look at the slide. I don't meet anything to stand around hated.

BA: Richard, I've always loved the fact that your photographic editions were so small. The cowboy image from the 18th of May was from an edition of two. Traditionally, fine art photographers think nothing of going back to their negatives ten, twenty, thirty or even forty years after the original exposures are made and use photographic materials that are completely removed from the original technological conditions from which the initial images were created - in effect producing pictures that are divorced from their time frame. Lee Friedlander for example, who has recently enjoyed a one-man retrospective at MoMA, has, since 1994, produced several dozen copies (50) of one of his most important images from his "Self-Portrait" series entitled "N.Y.C. (Shadow on Fur Collar)", of 1966. This is, of course, not including all the "printed later" versions he did in the 70s and 80s where records of prints produced are more difficult to ascertain.

When I look at your photo based artworks I always know that the image I am looking at is a print done in close proximity to the original exposure. Your "copy" of someone else's "original" is in effect "authentically vintage". Quite ironic given the fact that your image started out as a "copy" of someone else's work.

RP: This was a choice I made back in 1980. I was treating the photograph as an object. Always thinking about the way it was presented. The framing was important. I always wanted to present it so it looked like a regular photograph - nothing fancy or creative. Normally is the next "special effect".

Anyway, a lot of photographers made huge editions or "open ended" editions that seemed to make their photos almost into posters. I thought by making my photo into an edition of two it would still be a multiple - it would still be within the norms of what a photograph was supposed to be. I.e. more than one, but it would make it more like other art works which are usually unique. "Almost unique" but not quite. I think this choice was fairly radical at the time, especially in the "Photo World" (or that I got any).



Prince  
BROOKE SHIELDS (SPIRITUAL AMERICA), 1983  
Ektachrome print, 24 by 20 inches (after an original by commercial photographer Garry Gross) edition of 10 + 1 AP, executed in 1981, courtesy Gladstone Gallery, New York



Richard Prince  
TENDER NURSE, 2002  
inkjet print and acrylic on canvas, 75 x 103 1/4 inches  
illustration courtesy PHILLIPS DE PURY & COMPANY, NY

attention from the photo world – still don't. It was the perfect number to edition my photos. You've got one. I've got one.

**BA:** I'm always cautious when I look at a fine art photographic print – trying to decipher whether it's a "vintage" or "printed later" print. But with your work, the prints are always locked into the act of the original exposure and carry with them the appropriate color aging and patina of prints made at the time of their creation.

You've chosen to put forth a naïve posture in regards to your skills involved with the photographic process – claiming you are an "amateur" photographer as opposed to being a "professional" or a "fine art" photographer. I wonder if this is really a smoke screen (see Prince's "Practicing Without a License" of 1977) given the fact that your photographic based pieces have been bringing in six and more recently seven figures at auction as opposed to being available to any enthusiast, as in the case with Friedlander where an "open edition" modern print from a 1970s image is available for under \$5,000? Was this a strategy employed earlier on to provide collectors and critics with the clear signal that you were not the "typical" fine art photographer but, in fact, an artist who chose to use the camera because it best suited your needs and interests at the time? Was this pre-meditated spin implemented to keep you out of what Joshua Holderman, the world-wide head of Photography at Christie's has referred to as "the ghetto of photography"?

**RP:** There wasn't really a plan. I've never been included in any photography based survey, museum show, photo magazine. I've heard Peter Galassi hates my work. That he would never acknowledge it in the photo department at MoMA. I think he's wrong. I think my photo work is all about photography. But there was never an idea about where the work was going in the beginning when I started to re-photograph images. When you don't have any training in a particular medium you can bring something to it that hasn't been brought. I "brung" the stencil and I shot him. I killed photography. Maybe they hated that. I always look for my name in Photography mags but I never see it. Maybe I should have "rescued" photography.

**BA:** In 1986, after almost ten years of working within the photographic appropriation/re-photography mode, you picked up the paint brush and began working through the vehicle of the "joke" paintings. You have been quoted as saying that you needed subject matter to paint and the 80s style, middle American humor provided you with a rich reservoir through which to confront issues of sexual identity, fantasy and frustration. I'm wondering if the fact that photographic appropriation was actually becoming widespread made you decide to switch gears? What were the underpinnings for this shift?

**RP:** The jokes were a mistake. The jokes were wrong. I was living in Venice Beach in Los Angeles in a bedroom on a non-descript cookie-cutter housing project. I had left N.Y.C. – personal crisis – girlfriend trouble, and needed to get away to beach boy country. It was 1985. I'd left "Time" after working there for ten years. I started to look at other magazines now that I was out of the building and thinking they would be something I could draw. I'd always loved making drawings and never knew what to draw. I started to collect these cartoons and got some 160 lb. high-pressure German paper and a #6 pencil (it's best to know your materials before you make art). So I started to re-draw my favorite cartoons. Whitney Darrow had a style that I liked. He drew cartoons mostly for the "New Yorker". But some would show up in "Playboy" and "The New York Review of Books" (Darrow it turned out was an early roommate of Jackson Pollock). Anyway, after I re-drew these cartoons I wanted to call them "jokes". I've always liked to title my work correctly. The description should be accurate. It should take some of the speculation and subjectiveness out of the interpretation. I realized the cartoon drawings were not "jokes". They were cartoons. It occurred to me that if I was to call them "jokes" then I would need to get rid of the illustration and concentrate on the punch line. So that's what I did. I started to think about the "text" underneath the cartoon. I started to hand-write the words that were typed below the cartoon. They weren't funny or "teasing" when separated from their original source. I bought some "joke" magazines and found the "Psychiatrist's" joke the first day of looking (I went to a psychiatrist. I told him everything. And now he's doing my act). That's the way it went.

At first I didn't really understand the joke but I thought it had something to do with "substitution". It was perfect. Abstract. And by hand-writing it out on a small piece of paper with a pen was a pretty good way of "making it again". It didn't cost anything to do it and it didn't really look like anything – at least anything that I could think of.

**BA:** What were the initial responses?

**RP:** When I showed people that this is what my art looked like they reacted with disbelief. "I don't believe you" was their "take". Great! I figured. I had truly made it wrong. The hand-written jokes, which were introduced in 1986 I think, were some of the best work that has ever been done in the history of art. The horn is blowing? I don't know so.

**BA:** How did the silkscreen get incorporated into these works?

**RP:** I started to think how could present the joke in a bigger way. It was 1987. I thought instead of "Disneyland" techniques I would simply use conservative materials – canvas, stretcher bars, paint and silkscreen. I had no experience with silkscreen and I thought it was a medium that was pretty much taken care of. I started to silkscreen jokes with black paint on the white canvas. I chose a modest size canvas – 48 x 56 inches. Within about six months I got rid of these beginnings and started to do the jokes in "colors". I thought the color would be a substitution for an image. The background would be one color and the joke would be another. I pieced jokes that were "meaningful" to me. I don't know how to explain that except that the jokes' content was something that I could identify with. These "jokes" were later identified as the "monochromatic joke paintings". I fell into them. I was walking around in a dark room looking for the light switch. I was moving by wading more than swimming. I was mowing the lawn. No direction home. I was caught in a landslide. My headaches were gone. I started painting with my flyoon. I stopped crying. I started to laugh. Rock bottom sometimes isn't the bottom. Barnett Newman, William De Kooning, Clifford Still – look out.



Richard Prince  
DUDE RANCH NURSE #2, 2002-2003  
ink jet print and acrylic on canvas, 70 x 50 inches  
Illustration courtesy of SOTHEBY'S, N.Y., LTD., 2007



Richard Prince  
UNTITLED (WOMAN WITH COMPACT), 1983  
Ektacolor photograph, 20 x 24 inches  
Illustration Courtesy of Skarstedt Fine Art



Richard Prince  
OSEXUAL, 2004-2005  
Wood speakers, pen on loam, 25.3 x 76.1 x 10.3 inches  
Photo David Regen  
Courtesy Gladstone Gallery, New York

BA: I think the failure of Pollock's Ab-Ex works and the success of Warhol's 'self-about-the-image' pairings (at the Sotheby's evening contemporary art sale on the 15th of May, 2007) is an indication of much more than just higher numbers at the rostrum. David Mugrabi (America's largest private collector of Warhol with 800-some paintings) was just telling me that there is no reason that Pollock, de Kooning and Rothko should be trading at these high levels and not Warhol. He feels the Ab-Ex painters did not even have their own style - they just expanded a bit on what had been going on in Europe. David believes Pop was the first real American movement that was truly developed in the U.S.A. (minus Hamilton in the U.K.) - it was not a stem of something else. All the market needed was one large scale GREAT painting. It seems that the rule is changing as the new, younger buyer is looking more for 'context' that reflects their own generation. Representational art has returned bigger than ever and the role of the camera cannot be under-estimated in this shift in paradigm.

RP: Yeah I pretty much agree with that point of view. Image has always been key. Abstract is a no-brainer unless it's a Pollock or Gorky or a de Kooning. It becomes fabric and pattern after awhile - even decorative. Those who can't paint - paint abstract - those who can paint representational. Stella's Black Paintings are an exception and Larry Poon's. Even with Jude's sculptures you have to realize they have a huge debt to furniture designers like Prouve (even if he didn't know it) - also think there's this idea of the 'complete' artist out there, like Picasso, Richter, Manzoni, Carlo Vico, Warhol, Richard Prince - artists who work in multiple mediums and excel at them - did I say Prince?

BA: Publicity stills whet our appetite for moving images yet unseen or prolong our pleasure after the act of seeing. They can also be looked upon as intimate products manufactured by man and women who consciously participate in their own exploitation. Your hip, irreverent send-up of show business celebrities in your continuing series "Undid (Publicity Stills)" also turn celebrities into objects to be consumed. Can you talk about your process of arranging, classifying and manipulating these images and how these pieces allow the viewer to 'master' the world of celebrity?

RP: I've always collected 5x7 publicity pictures of celebrities, movie stars, TV and music personalities. I've always liked the way they present themselves - hair and make-up, three-quarter shot, the head-shot - secure lighting. A sophisticated year-book picture. I like where you find them too. Sometimes up on the wall of a barber shop or back of the counter of a deli - the hall of fame in a nightclub. Before the person is famous you pay anywhere between ten and two hundred dollars. Most of the time this picture is signed or additionally inscribed by the celebrity. You can get signed publicity at memorabilia stores or on-line 'collectible' sites. You can go to conventions where you stand in line and wait for the celebrity to sign one of their pictures (kind of like a book signing). My favorite convention is GlamorCon. This is put on by Playboy. Centerfolds both contemporary and from years past are sitting behind desks signing away for fans like myself. These conventions usually take place at the Sheraton or Hilton or a Holiday Inn out by the airport of a major city. The last one went to was in Chicago - I just stayed at the airport. The nice thing about standing in line is you get an 'in person' signature. You can ask the celebrity to personalize the picture to you. There are lots of auctions now that deal with hard to find publicity pictures. Phil Spector and the Beatles and Jimi Hendrix and Janis Morrison and Lenny Bruce and Marlon Brando and James Dean are especially hard to find. I have an 8x10 of James Joyce signed by Joyce and Bernice Abbott, the photographer who took it that I especially like. Picking a publicity still is another way of letting someone else know you're out there. Like all great art it's way of staking

BA: Why would someone want to stand in line to have a 'hooker' who appeared as a Playboy centerfold autograph her picture?

RP: That's a good question. People stand in lots of lines. I saw a bunch of people waiting outside a bakery yesterday (the line was about a block long) waiting for some kind of pastry. I guess if what's at the end of the line is sweet enough you stand forever.

BA: I find it very interesting that you 'signed' some of the autographed celebrity publicity stills made out to you.

RP: In the beginning I faked the celebrities' signature. I did it on a publicity still of Courtney Love. I signed it "To Richard Prince All The Best, Courtney Love". I'm not sure I knew what I was doing but it reminded me of that joke that went "My parents kept me in a closet. For fifteen years I thought I was a star."

I used to collect 'flyers' of heavy metal 'hair' bands in 1985 when I was living in Los Angeles. These were really small posters that the bands would tack or staple up in laundromats and coffee shops announcing when and where they were playing. They looked all the same and there were hundreds of them. Sometimes it seemed that these flyers were made-up and were put up by the same person. I mean there couldn't be that many of these bands could there be? It almost made it seem that everybody in L.A. was in a metal band. Everybody was in a band and everybody was in a picture of a band. That's what got me - the inclusion.

BA: You have an opportunity to purchase what you consider to be two of the finest artworks from the nine living artists below. Please name the artworks chosen and respond with why you selected those two pieces above all the others - Cindy Sherman, Paul McCarthy, Mike Kelley, Jeff Koons, Charles Ray, Christopher Wool, Edward Ruscha, Gerhard Richter and Jeff Wall.

RP: Chnstooner and Ed

BA: I was going over some of the writers who have commented on your work over the years and I came up with a pretty impressive list of people. Would you care to comment on any of these scribes - Craig Owens, Hal Foster, Tricia Collins & Richard Millezzo, Michael Kimmelman, David Robbins, Brian Wallis, Douglas Crimp, Lisa Phillips, Collier Schorr, Dave Hickey, Roberts Smith, Judd Tully, Abigail Solomon-Godeau, Andy Grundberg, Vince Aletti, Eva Prinz and Glenn O'Brien?

RP: I'm not really in touch with any of these critics. I'm not even sure if



Richard Prince  
ALL I'VE HEARD, 1989  
Acrylic and silk-screen on canvas, 75 1/2 x 58 inches  
Courtesy Gladstone Gallery, New York



Richard Prince  
MAVERICK, 2004  
Fiberglass, bondo, acrylic and wood, 62 x 36 x 9 inches  
Photo: David Regen  
Courtesy Gladstone Gallery, New York

they're still critics. I guess I was making work back then that they thought represented some kind of platform/agenda, a way to "de-construct" the media. I wasn't de-constructing anything. And I certainly wasn't a spokesman for anything. October. When they found out I wasn't the poster boy for appropriation/picture generation simulation, they stopped calling. Maybe they never called. I don't know. I was driving around in a speed boat back then, high flying through red lights and ignoring the safety of fashion and style.

BA: Carol Vogel has referred to you as a "trendy living artist" in a number of articles in "The New York Times". How does that make you feel?

RP: I didn't read the article. Someone told me about it. I was getting my car washed when someone called me and told me about it. My car was really dirty. It's hard to keep clean. We live on a dirt road in the middle of nowhere. I'm thinking of getting the car waxed.

BA: I don't recall where I read this quote of yours: "I don't see any difference between what I collect and what I make..." "It's become the same. What I'm collecting, well, a lot of times, end up in the work". Your "Untitled (Publicity)", 1998 that I saw at the Armory with two publicity stills (Pamela Anderson & Brett Eldredge) at the Mei 35 Gallerie booth was my hands down favorite at the fair. Here it is - your collecting chops full throttle.

RP: Yes, I think collecting has become the new "expression". It certainly collapses a lot of activities into a new form or "forms". It addresses the question of "do you see what I see?" It's funny because "consensus" used to be a dirty word when applied to art/politics. Now I think "agreement" is a powerful position.

BA: You mentioned my text on the auctions - I wonder if auctions create stress for you or if they are an amusement? The secondary market serves as an art historical re-assessment in a way, as the art viewing public is re-introduced to the works when they are "known" prior to the auction and a "value" is placed on the work in the catalogue. These pre-sale estimates set by the "experts" are supposed to reflect the support of the work historically as well as reflecting what they think the present value might be given the "climate" at the time of the sale. Then there is the secret agreed-upon minimum or reserve that is set between the consignor and the house which is approximately 10% less than the low pre-sale estimate that determines if a piece will be sold or "bought in".

RP: If someone spends a million dollars on an art work does that mean it's better than an art work that sold or sells for one thousand dollars? I don't have that answer. Putting your money where your mouth is. I guess there's something to be said for putting up, making a withdrawal, looking it over. Most of what I read about my work these days has to do with "how much" it's going for, who owns it and when can I have one. The biggest essays about the work are in the auction catalogues. I've seen my work go for very little money. I've seen my work go for a lot of money. It's kind of like that quote from Marlon Brando when he was asked about the way he looked. He said something to the effect that I've been thin and I've been fat. I've been handsome and I've been ugly. It's all the same to me.

BA: When I got close up to the yellow paint chipping down the pretty head of your "Dude Ranch Nurse #2" from 2001 that was hanging at the pre-sale exhibition at Sotheby's in May, I thought of the head of Christ bleeding from the crown of thorns. The ink jet print and acrylics on canvas trumped your previous painting record landing in at just over \$2.5 million. It seems like there are a lot more eyes looking at the work when it has that global stage at those evening auctions in New York? Where were you when that gavel came down?

RP: Wow, that's pretty cool. I like when things happen away from you. When all this was happening I was playing in the yard with my kids - we play a strange form of baseball we've invented - and it's strange to think all this activity is going on without you there. Thanks for letting me know about the picture. Of all the early nurse paintings, this is probably one of the top three.

There are so many auctions I don't really follow them anymore, except when you tell me what happened. It's all pretty interesting - the prices and all - but I think some of the best artists are all but passed by. The auctions have definitely become a way of measuring - a kind of new critique. Private museums are the other trend I believe will become the next standard.

BA: In the last five years your profile has moved from relative avant-garde obscurity to art-star celebrity. What do you see as the pros and cons of your new high profile status?

RP: It's true that the last couple of years have changed the whole "relationship" to other people (not just my dealer - but friends and family) significantly. It's hard to put into words. It's not that I don't trust the recent activity. It's just that I don't try to think about it that much. I try not to be "surprised" by it. I've always thought it would happen and have a great deal of confidence in all things "art". It's really the only thing I know. I pretty much edit out all the temptations to "cash in" - and stick to the day to day activities in my studio. Right now my focus is on a couple of new bodies of work and plans to open up a "real" body shop up here. Also this show at the Guggenheim is taking up a lot of time. The good thing about the money coming in - is it allows me to experiment and make more mistakes and gives me more time to think about work that I'm not sure about.

Yeah, I've noticed that older artists who used to say hello to me and shake my hand and invite me to sit down and have a cup of coffee and shoot the breeze - are not so nice to me. The money thing has gotten in the way of some of the relationships that I've had with other artists. Ten years ago it was never a factor. It wasn't something anybody had to think about. It used to be the work pissed people off. The work still pisses some people off but with the money it just shakes their heads and says my god I'm here all alone.

BA: Warhol's prescient statement of 1975 - "Making money is art and working is art and good business is the best art" (The Philosophy of Andy



Richard Prince  
UNTITLED, 1995-99  
Ektacolor photograph, 69 x 49 1/16 inches  
Edition of 2 + 1 AP  
Courtesy Glassstone Gallery, New York

**Wami** [From A to B and Back Again] seems to dovetail with your recent works that incorporate your old personal checks that have been clipped and painstakingly fitted within lines of text that spell out old jokes. Are you shy commenting on your own commercial control of your artistic practice while simultaneously asking us to reflect on the notion that jokes are simply lighthearted fun?

RP: The check paintings came about like most of my other work. One thing led to another. After collecting the "publicity" pictures I noticed in some of the "memorabilia" catalogues they were selling celebrity "cancelled" checks. They were selling them because they were "signed" - I liked the information on the check - the shape of the check, the color, the dates, the diary aspect of the check (who or what it's made out to) - the "cancelled" quality. I liked how some of them were presented underneath a "picture" of the celebrity - then framed up in the same frame. Anyway, I bought a couple - the first one was a Lenny Bruce check and the second was a Jack Kerouac check. About a year after the "buying" I realized I had my own "cancelled" checks - lots of them - thousands in fact and I thought why not kind of just paste them "all over" a canvas, you know use them as a ground and try to make it appear abstract. I did a bunch of these and put them in frames under glass (works on paper so to speak - well, not so to speak but real speak) - after these I went online and found "sites" that sold blank checks - ones with all kinds of images and others you could design yourself. I found a site that sold checks with Sponge Bob on them and Jimi Hendrix on them. I got a bunch of these, pasted them on canvas and stenciled jokes on them. I never thought about quoting a "money" thing with the check paintings. I liked the idea of calling them The Check Paintings and maybe people would think I was doing paintings with patterns on them but then they would see them and see that they were really "check" paintings after all. I've always liked a title that's non-fiction. Like the "Gintrends," the "Hoods," the "Gangs." When I use my own checks it's like you can "read" what I was up to that year. Where I went, what I did, who I might have been hanging with. In the end, the "check" paintings were always there even when I wasn't painting them.

**BA:** The point at which an artist reaches his or her zenith of creativity is often referred to in art historical terms as hitting their "mature" phase. This is the work that's considered by critics as the first manifestation of the artist's "authentic voice." Do you think an artist can reach a "mature" phase more than once or twice in a lifetime? Can you give me an example of an artist like that? Can you give me an example of an artist who peaked early and is simply an "aging franchise"?

RP: This is a complicated question. Frank Stella is someone who comes to mind. His first three shows were pretty amazing. His last body of work, forty years later, look pretty good too. I'm sure you could agree that Jasper Johns did his best work in the fifties - but I'm sure he wouldn't agree. De Kooning was always doing good work. Guston must have had a personal crisis to have made that work in the 1970. Larry Rivers made some great paintings in the early fifties - then? I don't know. He was an interesting artist. The word "interesting" is hardly used to describe artists work. Burning bright, flaring out, top of the heap - don't know. Sometimes it's nice to spend time doing something you feel comfortable with. Other times it's good to give up and do something you have no business doing.

**BA:** The Museum of Modern Art has invited you to curate a show on portraiture. You can select any artists living or dead and have a space no smaller than 4,000 square feet. You are not limited to the museum's own collection. The world is your oyster.

RP: I can't eat anything that's not cooked. I get an awful stomach ache start rolling around the floor and go into the fetal position. It feels like I've been born.

**BA:** Can artists control the way history records them?

RP: I'm reading a chapter of Isaac Asimov's Foundation. It's called The Psycho-historians. I started it last night. There are two types of history - the one where Mac is on the way to the revolution and the one where Mac is lurking in the bushes on the way to the revolution. I always tell the truth about what I do. But no one believes me.



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PATRICK CARIOU,

Plaintiff,

-against-

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

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08 CIV 11327 (DAB)

**DEFENDANTS' JOINT MEMORANDUM OF LAW IN  
REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS'  
JOINT MOTION FOR SUMMARY JUDGMENT**

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### ARGUMENT

Any consideration of the pending summary judgment motions must begin with Cariou's

56.1 Counter-Statement in which he admits that the following facts are "not disputed":

- "Drawing inspiration from his birthplace, the Panama Canal Zone, where he had visited in 2005 and the storyline of his *Eden Rock* screenplay, Prince imagined a make-believe, post-apocalyptic enclave set in a tropical location, the *Canal Zone*, in which bands and music are the only things to survive." D. 56.1 Stmt. ¶ 61.
- "Guitars, naked women and Rastas were all ingredients in the *Canal Zone* Paintings, but the guitar is the primary subject." *Id.* at ¶ 73.
- "Prince added images of guitars to his Paintings to establish groupings of men and women as contemporary musical bands in order to create a rock and roll theme throughout the paintings in the *Canal Zone* series." *Id.* at ¶ 74.
- "Through his *Canal Zone* paintings, Prince sought to pay homage to artists such as Willem de Kooning, Cezanne, Warhol and Picasso." *Id.* at ¶ 82.
- "In creating *Yes Rasta*, Cariou's intent was to create a beautiful portraiture book, to document the Rastafarian culture and the surrounding landscapes, and to capture as closely as possible the subject being photographed." *Id.* at ¶ 116.
- "Prince used the *Yes Rasta* Images and changed them from documentary photographs into elements of a fictionalized, post-apocalyptic world, which related to his screenplay pitch, and his desire to do a series of paintings in a tropical setting with an emphasis on musical groups and the importance of music, while still making strong art historical references." *Id.* at ¶ 174.

P. C-S 56.1 at ¶¶ 61, 73, 74, 82, 116.<sup>1</sup> Cariou also admits each fact about Prince's creative intention, the techniques, Images and other raw elements he used, and the meanings of the titles for each Painting.<sup>2</sup> These admissions, and the flawed legal theories Cariou advances, confirm that he failed to carry his burden on summary judgment on fair use. Specifically, by admitting that Prince's use of the Images as raw materials "changed them from documentary photographs into elements of a fictionalized, post-apocalyptic world," Cariou concedes that the Paintings have a new expression,

<sup>1</sup> "P. C-S 56.1" refers to Plaintiff's Counter-Statement, Pursuant to Local Civil Rule 56.1, of Undisputed Material Facts, in Opposition to Defendants' Motion for Summary Judgment. "D. C-S 56.1" refers to Defendants' Rule 56.1 Statement of Uncontested Material Facts in Response to Plaintiff's Statement Pursuant to Local Rule 56.1. "P. Opp. Mem." refers to Plaintiff's Memorandum of Law in Opposition to Defendants' Joint Motion for Summary Judgment. "D. Opp. Mem" refers to Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Summary Judgment. "Reply Aff." refers to the accompanying Affidavit of Hollis Gonerka Bart in Reply to Plaintiff's Opposition to Defendants' Joint Motion for Summary Judgment. All other capitalized terms have the meaning ascribed to them in D. Opp. Mem. at n.1.

<sup>2</sup> P. C-S 56.1 at ¶¶ 29-30, 46-47, 56, 58-62, 64-65, 67, 70-74, 76-77, 79-87, 183-88, 190-202, 204-07, 209-21, 223, 225-306, 308-321, 325-370, 372-403.

meaning and message, and in doing so, concedes that the Paintings are transformative. *See Blanch v. Koons*, 497 F.3d 244, 252-53 (2d Cir. 2006) (“*Blanch*”); D.Mem. 14-16; D. Opp. Mem. 5-13; *see also United States v. City of New York*, 637 F. Supp. 2d 77, 98-99 (E.D.N.Y. 2009) (where defendant’s response to plaintiff’s 56.1 statement conceded that certain statements were true, defendant could not create an issue of material fact in its memorandum of law by disputing those very same, already conceded facts); *accord* Local Civil Rule 56.1(c). Given Cariou’s further concession that Prince had a genuine creative rationale for appropriating the Images (P. C-S 56.1 at ¶ 61), and the now undisputed transformative techniques Prince used to create the Paintings, including how the Image was altered,<sup>3</sup> summary judgment is warranted on this ground alone, particularly since there has been no showing of bad faith in the creation, exhibition or marketing of the Paintings.<sup>4</sup> On this record, plaintiff’s conclusory statement that “Prince’s appropriation was not transformative” (P. Opp. Mem 2) is insufficient to defeat summary judgment on the transformative prong of the first factor.<sup>5</sup> *See Bourne Co. v. Twentieth Century Fox Films Corp.*, 602 F. Supp. 2d 499, 503 (S.D.N.Y. 2009) (Batts, J.).

Likewise, Cariou’s admissions that the Images are part of a documentary on Rastafarians in their Jamaican landscape, and that Prince used them to further his creative intent to depict a “fictionalized, post-apocalyptic world, which related to his screenplay pitch, and his desire to do a series of paintings in a tropical setting with an emphasis on musical groups and the importance of music” (P. 56.1 C-S at ¶ 174) confirms that these bodies of work were created for very different

<sup>3</sup> Cariou’s unsubstantiated claim that the images were “unaltered” must be rejected given the testimony of NancyScans, which fully corroborates Prince’s sworn statements on this point. Reply Aff. at Ex. A; RP 169-70.

<sup>4</sup> While Cariou notes that the Images were taken from *Yes Rasta*, which bears a copyright notice on the colophon page, Cariou cites to no case that holds that this fact alone is evidence of bad faith. *Cf. Blanch* at 255-6.

<sup>5</sup> Defendants make no comment to plaintiff’s three-page discussion of purported settlements by other appropriation artists (P. Opp. Mem. 2-4), except to say that presumably the parties in those cases concluded that there was a reason to settle on terms they felt were reasonable, but the propriety of their assessments has nothing to do with whether Prince’s use of the Images was transformative.

purposes. Thus, regardless of whether there is some degree of protectable originality in the Images (a point that is not conceded), this is of “limited usefulness” on the second factor “where the creative work of art is being used for a transformative purpose.” P. Opp. Mem. 17-18 citing *Blanch* at 257;<sup>6</sup> *see also* PC Tr. 164, 170-71, 173, 176-79 (even plaintiff had difficulty finding his own images).

Cariou’s admissions that the Paintings were the result of a two-year creative process, and that the manner Prince created each Painting are “not in dispute” (P. 56.1 C-S ¶¶ 58-9, 61) also confirm that Prince’s choice of subject matter and the 25 sources from which he selected images was deliberate. As such, the fact that Prince worked quickly and would “randomly take images that fit into [his] artistic vision and message for each work” does not mean that Prince gave no thought to what or how much he was taking; rather it provides further evidence that the Images were interchangeable for his purposes and therefore, of little value or importance. Cariou’s disingenuous attempt to spin his repeated admission that “you have to take the whole book as a whole” as instructions for film processing (P. Opp. Mem. 18) does not compel a different result. His unequivocal answers to later questions about “another example” of how *Yes Rasta* needs to be considered as a whole confirms there is only one credible interpretation of his testimony; that the images in *Yes Rasta* must be viewed as a whole to appreciate their distinctiveness. PC Tr. 61, 81; *see also id.* at 117. In any event, as Cariou wholly failed to address the substantiality prong of the third factor, this factor also weighs in defendants’ favor. *See* D. Opp. Mem. 16-20; *see also Pilgrim*

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<sup>6</sup> Cariou’s reference to *Monster Commc’ns, Inc. v. Turner Broad. Sys., Inc.*, 935 F. Supp. 490, 494 (S.D.N.Y. 1996) is misleading. While the court acknowledges that images of people and places “may be as creative and deserving of protection as purely fanciful creations,” it holds that, “there is a public interest in receiving information concerning the world in which we live.” *Id.* More factual work “may strengthen somewhat the hand of a fair use defendant as compared with an alleged infringer of a fanciful work or a work presented in a medium that offers a greater variety of forms of expression.” *Id.* Thus, even if this Court were to find the Images creative on some level, they are nevertheless factual and informational in nature, and largely not protectable.

Though defendants inadvertently cited to incorrect pages to evidence that the Photographs were taken in Negril, Lucille and other public places, the record supports this fact. *See* PC Tr. 38, 73-74, 119-20, 131-32, 138.

v. *The McGraw-Hill Cos., Inc.*, 599 F. Supp. 2d 462, 474 (S.D.N.Y. 2009) (“[Plaintiff] effectively concedes [the argument made by defendant on summary judgment] by not addressing [it] in her opposition to summary judgment”); *Maysonet v. Thompson*, 2005 U.S. Dist. Lexis 7311, at \*16-17 (S.D.N.Y. Apr. 21, 2005) (same).<sup>7</sup>

Cariou also failed to carry his burden on the fourth factor as he still has not addressed the market usurpation standard required for this factor, and instead continues to urge the “harm” theory that was rejected by the Second Circuit, thus explaining why he cites no case law supporting his view. *See* D. Mem. 11, 23-26; D. Opp. Mem. 22-24. As it is now undisputed that Cariou never actually committed to do a show with Clic Gallery, Cariou cannot under any theory carry the market factor. *See* P. 56.1 C-S ¶ 157 (admitting “Celle never finalized an agreement with Cariou to represent him. As Celle stated, ‘I was very committed, I wanted to represent him. We agree on it but we never really pursue it.’”); *see also* CC Tr. 133-4, 160; D. Opp. Aff. Ex. C.

Plaintiff’s reliance on tertiary authority and dicta in a Second Circuit decision rendered over 30 years ago, intimating the theoretical possibility of a conspiracy claim confirms there is no reason for this Court to go against the weight of measured authority in this District, which holds that there is no recognized claim for conspiracy. *See* D. Opp. at 13, n. 6. Thus, the only remaining issues before this Court are whether Prince had to, or in fact did, comment with his Paintings, and if not, whether his appropriative use nonetheless falls within Section 107’s illustrative purposes; and whether Prince’s statements on this point lack credibility.

**A. Prince’s Transformative Use Of The Images To Further A Different Message Falls Within Section 107, Even If Prince Is Not Seen As Commenting**

Cariou’s suggestion that Prince must comment for his use of the Images to be transformative

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<sup>7</sup> Cariou’s claim that it is irrelevant that *Yes Rasta* is registered as a compilation misses the point. Defendants do not dispute that a compilation copyright gives its owner rights to the underlying work. However, the fact that a work is registered as a compilation evidences that its core expression is as a compilation. *NXIVM Corp. v. Ross Inst.*, 364 F.3d 471, 481 (2d Cir. 2006) (core of expression can not be identified apart from the compilation in its entirety).

(P. Opp. Mem. 5-9) is contrary to well-settled law in this Circuit. In making this argument, Cariou improperly conflates the analysis of the sub-prongs used in this Circuit to determine the first factor. See *Leibovitz v. Paramount Pictures Corp.*, 137 F.3d 109, 114 (2d Cir. 1998) (Court analyzed sub-prongs separately, holding: “Plainly, the ad adds something new and qualifies as a ‘transformative’ work. Whether it ‘comments’ on the original is a somewhat closer question.”). Indeed, the Second Circuit has expressly declined to adopt the interpretation advanced by Cariou. See *Bill Graham Archives v. Dorling Kindersley Ltd.*, 448 F.3d 605, 609-11 (2d Cir. 2006) (“*Graham Archives*”) (in rejecting plaintiff’s argument that each image should be accompanied by comment or criticism, found plaintiff’s position to be a “limited interpretation of transformative use” because “use of the disputed images is transformative *both* when accompanied by referencing commentary *and when standing alone*”) (emphasis added); see also *Calkins v. Playboy Enters. Int’l. Inc.*, 561 F. Supp. 2d 1136, 1141-42 (E.D. Cal. 2008) (first prong weighed in favor of magazine where photograph was used to personalize model purely to “inform and entertain” and was thus put into an entirely different context and therefore, transformative).

In any event, even if this Court were to find that Prince was not effectively commenting through the messages he undisputedly was conveying with his Paintings (see D. Opp. Mem. 9-12), Prince’s use of the Images to further his appropriative purpose falls squarely within the type of illustrative purposes in Section 107. As the Second Circuit has observed:

While there are no categories of presumptively fair use, courts have frequently afforded fair use protection to the use of copyrighted material in biographies, recognizing such works as forms of historic scholarship, criticism, and comment that *require incorporation of original source material for optimum treatment of their subjects.*

*Graham Archives* at 609 (emphasis added) citing *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 584 (1994). In the same way, Prince used source material, including the Images, to achieve optimum treatment of the meaning and messages he was endeavoring to express through the



Paintings. As the now-undisputed record reveals, Prince used the Images of Rastafarians and tropical landscapes to further his creative expression of Rastafarians as band members in a post-apocalyptic society on the tropical island of St. Barts. P. 56.1 C-S ¶¶ 61, 174, 201. By taking Images from a book documenting Rastafarians in their native landscape as realistically as possible, Prince is assured that the authenticity of the Images is unassailable, a justification accepted by the Second Circuit.<sup>8</sup> See *Blanch* at 255 (appropriation artist showed a justification for using image where he attested that “[b]y using an existing image, I also ensure a certain authenticity or veracity that enhances” his stated artistic purpose). As Prince explained his appropriative style at his deposition, “I feel that I like to get as much fact into my work and reduce the amount of speculation.” RP Tr. 44-45. See also P. 56.1 C-S, ¶ 35 (admitting there “is no dispute” that Prince is “not interested in what is actually there,” and is instead “really interested in making art that . . . transforms something that’s already existed without getting involved in the original intent of the image.”). This is the very essence of appropriation art. *Rogers v. Koons*, 960 F.2d 301, 304 (2d Cir. 1992) (appropriation art defined as: “when the artist finishes his work, the meaning of the original object has been extracted and an entirely new meaning set in its place.”); see also *Blanch* at 246, n.1 citing *Ames*) at 1477-80; D. Mem. 2. As the promotion of the arts is at the very core of the Copyright Act, the Paintings, which were undisputedly intended to be a hip take on the music scene that uses guitars and other pop culture elements and historical art references to communicate messages through a creative expression that is plainly different than Cariou’s fact-based

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<sup>8</sup> Though plaintiff continues to urge that Prince could have used stock photos to achieve the same purpose (P. Opp. Mem. 9-10), the availability of substitutes is not determinative of whether a work is transformative. *Lennon v. Premise Media Corp. L.P.*, 556 F. Supp. 2d 310, 324 (2d Cir. 2008) (fact that “defendants manifestly could have proceeded without the plaintiff’s images . . . posed no obstacle to a finding of fair use” since “[d]etermining whether a use is transformative . . . does not require courts to decide whether it was strictly necessary that [the original work] be used . . . as opposed to some other image”). In any event, the fact that substantially similar images are readily available on the Internet merely confirms that the Images are deserving of little if any copyright protection. D. Mem. 20-21; D. Opp. Mem. 2-3.

documentary, Prince's creation of the Paintings fits within the purposes found in Section 107. *See Blanch* at 253 (use of image as part of a "massive painting" found transformative where appropriation artist's stated objective was not to "repackage" image, "but to employ it 'in the creation of new information, new aesthetics, new insights and understandings.'" (internal citation omitted); *see also* D. Mem. 12-17; D. Opp. Mem. 15-16.

**B. There Is No Basis To Disregard Any Statement In Prince's Affidavits, Which Are Credible And Necessitated By The Deficiencies In Plaintiff's Examination Of Prince**

As shown above, Cariou admitted in his 56.1 Counter-Statement that there "is no dispute" as to Prince's purpose and techniques, the messages he was trying to communicate through, or the importance titles played in conveying the transformative nature of the Paintings. In doing so, Cariou has mooted his suggestion that statements in Prince's Affidavit concerning his messages should be disregarded as incredible "*post hoc* rationalizations." *See* P. Opp. Mem. pp. 10-15. In any event, as a review of the entirety of Prince's deposition confirms, plaintiff's examination of Prince was geared largely to creating credibility issues rather than discovery of Prince's creative intentions. Reply Aff. Ex B and C (chart of Prince deposition topics and time dedicated to each). For example, though there are 29 Paintings at issue in this case, plaintiff questioned Prince about the creative rationale behind only six of them, but even as to those six Paintings, plaintiff rushed Prince through his answers, often interrupting him before he could finish. *See* RP Tr. 330-43, 346-66; *see also id.* at 341-42, 356, 358-59. Indeed, plaintiff urged Prince to use brevity in answering his questions. *Id.* at 341 ("I think you're answering the questions but then you seem to feel you need to give me more information. . . . And if you have to you have to, but I'd like to get out of here at 6:15."). Prince's attempts to explain his creative process also were met with mockery, which further chills the discovery process. *Id.* at 357-60, 364-66. On this record, then, an affidavit from Prince detailing his rationale and the techniques he used to create the Paintings was the proper way to place before the

Court a cogent statement demonstrating Prince's fair use of the Images. Thus, the fact that some of these sworn statements, including those relating to Prince's messages, were not adequately covered, if at all, in his deposition, affords no basis to disregard Prince's sworn statements concerning the messages he was conveying through his Paintings. Likewise, the pre-action documents do not contradict Prince's Affidavit. *See* Brooks Dec. Ex. F, T, DD, EE; Ex. M. The press release, which Prince first saw at his deposition, focuses on the techniques he used to create the Paintings. RP Tr. 294. The Frey essay reflects Frey's interpretation of Prince's pitch, but was not entirely in keeping with Prince's artistic intention for the *Canal Zone* series. RP Tr. 221-23. The three pages of the 13-page interview transcript, which dealt with the *Canal Zone* exhibition focus on Prince's discovery of the Rastafarian images and his screenplay pitch.<sup>9</sup> Brooks Dec. Ex T at C75-77. That pitch, which was done in outline form, provides only a summary treatment of Prince's screenplay. *Id.* In sum, these documents do not reference the messages Prince was conveying through the Paintings because they were written with a completely different focus. However, the common theme of each of these contemporaneous documents, like Prince's truthful testimony on the subject, is that the *Canal Zone* series evolved from his vision of a fantastical post-apocalyptic society consisting of survivors comprised of bands and their music. *Compare* Brooks Dec. at Ex. F, T, DD, EE; Ex. M with RP Tr. 207-8, 214-18. Thus, whether this vision is called a "subtext" to his pitch or a message in his Paintings (P. Opp. Mem. 11-12), the fact remains that Prince has been consistent that this post-apocalyptic society is "one of the ingredients" of the *Canal Zone* series and the storyline from which it evolved. RP Tr. 277-79; D. Mem. 4-5; *see also* Collins *English Dict.* (2003) ("subtext (n.) –

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<sup>9</sup> The interview transcript also provides pre-action corroboration of the importance Prince placed on the titles he gave to the Paintings: "[T]he Rastas and the lesbians started starring in these pictures and were kind of like bands- there are, like, five people to a picture, and every picture has a title to it. It sort of becomes an allegory." Brooks Dec. Ex. T, C00076. Thus, Prince's inability to recall each of the titles with precision does not undermine the importance he gave to them at the time (*see* D. Opp. Mem. 20), and in any event, is largely a function of plaintiff's refusal to give him the documents that would have refreshed his recollection on this point. (RP Tr. 216-17).

an underlying theme in a piece of writing.”). As such, Prince’s sworn statements in his affidavit concerning his messages about the redemptive value of music in this post-apocalyptic world and equality between the sexes (i.e., the band members), merely amplify, and are fully consonant with, his deposition testimony and the pre-action evidence. *Palazzo v. Corio*, 232 F. 3d 38, 43-44 (2d Cir. 2000) (use of affidavit to address issues not thoroughly or clearly explored during deposition, or to clarify deposition testimony that was “ambiguous, confusing or simply incomplete” or to amplify or explain prior deposition testimony was proper).<sup>10</sup>

The snippets of Prince’s deposition testimony Cariou quotes of out context does not change the analysis. The answer “I don’t really have a message” was in response to a nonsensical question at the end of a line of questions about Prince’s appropriative technique generally, and not about the *Canal Zone* series specifically. RP Tr. 45-46 (“ . . . Q. Is it part of your message now that your artwork is more believable because it was taken from someone else? A. I don’t really have a message.”). It is understandable that Prince would answer a question which mixes technique with message that he has no message as to the believability of his appropriation artworks generally. Moreover, as is evident from the transcript, and as explained in his RP Supp. Aff. ¶ 7, Prince struggled with the words “message” and “comment” as they were used (interchangeably by counsel) in questions posed to him at his deposition:

Q. What is your *message* or what is the meaning of this painting [*Back to the Garden*], what

<sup>10</sup> Defendants never argued that Prince “only found the copy of *Yes Rasta* after he had already written his screenplay in 2007” as Cariou claims. P. Opp. Mem. 11. To the contrary, the pages cited by plaintiff are silent as to the year of Prince discovered *Yes Rasta*. See *id.* citing D. Mem. at 4-5. Those pages do cite to the Prince Affidavit as record support for the “fluid” process by which Prince created the *Canal Zone* series starting in 2005. RP Aff. ¶ 17 (“At the time that I painted my de Kooning series, I was already thinking about the *Canal Zone* series, and therefore, I had also been looking for black and [white] images of figures of men that I could put next to my de Kooning women.”). The statements in Prince’s Affidavit, and the description of this process in defendants’ memorandum, concerning the evolution of the *Canal Zone* series are thus, fully consonant with Prince’s deposition testimony and pre-action evidence. Compare RP. Aff. ¶¶ 16-17 and D. Mem. 4-5 with RP Tr. 153-54, 158, 236, 239-40, 266 and Brooks Dec. Ex T [Interview]; see also RP Tr. 266 (when asked if *Yes Rasta* inspired his idea for the screenplay pitch, Prince truthfully answered, “No.”). As such, there is no basis to strike these highly probative and credible statements from Prince’s Affidavit.

is it that you're trying to get across?

A. As I said, I'm trying to make a kind of fantastic, absolutely hip, up to date, contemporary take on the music scene. And it's my way of dealing with this idea that I've always had, which are the three relationships that exist in the world, which are men and women, men and men, and women and women. . . . in any artwork I don't think there's any one message. *I'm not a political artist.* If you can tell me who the president of France was when Gauguin was in Tahiti I'll give you a thousand dollars. Politicians come and go, art comes and comes. . . .

Q. This has the guitar, right?

A. Yes.

Q. So is this what you were talking about, *commenting on* the music scene?

A. The guitar, again, is what I think my contribution is to the image, one of the contributions to this particular image, just like the mask was my contribution to the nurse paintings. Once I make some sort of connection. Now, if that hadn't been made, this guitar, this collage, which turns this – the original intentions of this image into something completely different, obviously, he's playing the guitar now, it looks as if he's always played the guitar, that's what my message was.

Q. Okay.

A. Is to sort of tell people, hey, this guy is playing the guitar.

Q. Understood.

A. And –

Q. I'm kind of – I don't mean to cut you off, but I'm trying to finish by 6:15.

RP Tr. 338-41 (emphasis added); *see also* RP Aff. ¶ 37. As such, Cariou's reliance on an answer lifted out of context from a line of questions Prince was prevented from answering completely affords no basis to disregard his affidavit where he has given a complete, uninterrupted description of his creative intent. However, this sequence does confirm that even plaintiff and his counsel understood Prince's message to be the same thing as his comment on the music scene, thereby confirming that to the extent a comment is required, Prince has made it through his credible messages, which are now undisputed. P. C-S ¶¶ 61, 174.

### CONCLUSION

For all the reasons herein, in Defendants' Memorandum, Defendant's Opposition Memorandum, and in the affidavits and exhibits, defendants respectfully request this Court to enter an order denying plaintiff's summary judgment motion, and granting defendants summary judgment on the grounds that Prince's use of the Images did not infringe on any right of plaintiff, or alternatively, that Prince's use was fair as a matter of law.



**CERTIFICATE OF SERVICE**

The Undersigned hereby certifies that a copy of the foregoing was served upon the following via ECF on this the 24th day of June, 2010:

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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.

No. 08-CV-11327 (DAB)

**AFFIDAVIT OF  
HOLLIS GONERKA BART  
IN REPLY TO PLAINTIFF'S  
OPPOSITION TO  
DEFENDANTS' JOINT  
MOTION FOR  
SUMMARY JUDGMENT**

-----X

STATE OF NEW YORK            )  
  ) ss.  
COUNTY OF NEW YORK        )

Hollis Gonerka Bart, being duly sworn, deposes and says:

1. I am a member of the bar of the state of New York and of this Court and a member of the law firm of Withers Bergman LLP, attorney for defendants Gagosian Gallery, Inc. and Lawrence Gagosian (collectively "Gagosian"), and I submit this affidavit in reply to Plaintiff's Opposition to Defendants' Joint Motion for Summary



Judgment and to place before the Court true and correct copies of materials adduced in discovery, or publicly available documents.

2. Attached hereto as Exhibit A are true and correct copies of relevant excerpts from the deposition of John Olson, Chief Executive Officer of NancyScans Corp., taken on November 16, 2009, evidencing that NancyScans received the *Yes Rasta* Images in collage format and scanned them to Richard Prince's specifications.

3. Attached hereto as Exhibit B is a chart prepared as an aid to the Court, summarizing the topics addressed at the deposition of Richard Prince taken on November 8, 2009, the corresponding pages on which these topics appear, and the relevant time at which these topics were covered.

4. Annexed hereto as Exhibit C is a true and correct copy of the deposition of Richard Prince, taken on January 12, 2010, together with his signed errata sheet.

Dated: New York, New York  
June 24, 2010

  
HOLLIS GONERKA BART

Subscribed to and sworn to before me this 24th day of June, 2010

  
NOTARY PUBLIC

ALYSSA KOERNER  
Notary Public, State of New York  
No. 02BE6123029  
Qualified in New York County  
Commission Expires February 28, 20<sup>12</sup>

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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COPY

PATRICK CARIOU,

Plaintiff,

- against -

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

Defendants.

---

DEPOSITION UPON ORAL EXAMINATION of  
Non-Party Witness, NANCYSCANS CORP. by JOHN OLSON, Chief  
Executive Officer, held pursuant to Notice of Examination on  
the 16th day of November 2009 at 2:05 P. M. at the offices of  
SONYA DEL PERAL, ESQ., 22 Park Row, Chatham, New York 12037  
before CHARLES E. M. JOHNSON, a Court Reporter and Notary  
Public in the State of New York.

Valley Reporting Service, Inc.  
115 Green Street  
Kingston, New York 12401  
(845) 331-4020

1 JOHN OLSON

2 photograph, and the instructions from the photographer  
3 are to print or rather copy and print, this photograph,  
4 is it possible to employ ink jet technology in order to  
5 achieve that instruction?

6 A. Yes.

7 Q. And how would one do that?

8 A. If you receive a digital file, you feed that digital  
9 file to an ink jet printer, and the technology  
10 transforms that digital information onto a substrate  
11 with a head that squirts ink in different colors or  
12 gradations of gray onto paper or canvas.

13 Q. All right. Now, if you were to receive an original --  
14 and the same hypothetical -- if you were to receive an  
15 original document -- but it was a hard copy, in order to  
16 achieve what you have just described, you would have to  
17 create some electronic form of that hard copy; is that  
18 correct?

19 A. Yes.

20 Q. And how would you do that?

21 A. I would scan it.

22 Q. Is that process that you just described in general terms  
23 what you did for Mr. Prince in connection with the Canal

1 JOHN OLSON

2 Zone project?

3 A. Yes.

4 Q. He would send you hard copies, and NancyScans would scan  
5 them, and then employing an ink jet process would print  
6 them?

7 MR. HAYES: Objection to the form.

8 MS. BART: Join.

9 THE WITNESS: Yes.

10 BY MR. BODEN: (Continued.)

11 Q. Now, we're going to get to the documents here that were  
12 produced, that you photocopied, in response to the  
13 subpoena.

14 But I want to ask whether you're familiar  
15 with, as you sit here today, some of the documents that  
16 were sent to you by hard copy from Mr. Prince.

17 Specifically, do you recall seeing images of  
18 Rastafarian men?

19 MS. BART: Objection to the form.

20 MR. HAYES: Objection to form.

21 MS. PERAL: Objection to the form.

22 THE WITNESS: I recall Rastafarians.

23 BY MR. BODEN: (Continued.)

1 JOHN OLSON

2 Q. Do you also recall receiving in the documents from Mr.  
3 Prince in connection with the Canal Zone project images  
4 of -- several images of -- guitars?

5 A. Yes.

6 MS. BART: Objection, form.

7 Q. Do you also recall receiving in the documents received  
8 from Mr. Prince or someone working on behalf of Mr.  
9 Prince images of landscapes, tropical landscapes?

10 MS. BART: Objection to the form.

11 MS. PERAL: Objection to the form.

12 THE WITNESS: No.

13 BY MR. BODEN: (Continued --

14 Q. Do you recall receiving images of nude women?

15 A. Yes.

16 Q. When you received those images of Rastafarian men and  
17 nude women and guitars, were they usually received by or  
18 from separate -- strike that.

19 Did you see these different images separately  
20 or were they received in collage form together?

21 MS. BART: Objection.

22 MS. PERAL: Objection as to form.

23 THE WITNESS: I received them in collage form.

1 JOHN OLSON

2 BY MR. BODEN: (Continued.)

3 Q. You testified that you recall you received -- that you  
4 recall receiving -- Rastafarian men; correct?

5 THE COURT REPORTER: Rastafarian men?

6 MS. BART: Objection.

7 MR. BODEN: I will make the question  
8 clearer.

9 BY MR. BODEN: (Continued.)

10 Q. Images of Rastafarian men in connection with the Canal  
11 Zone project.

12 MS. BART: Objection to the form and also to  
13 the side bar communication about the question. It was  
14 clear.

15 BY MR. BODEN: (Continued.)

16 Q. And you also testified that you recall specifically  
17 receiving hard copy images of guitars in connection with  
18 the Canal Zone project.

19 A. Yes.

20 MS. BART: Objection to the form.

21 Q. And you also testified that you recall receiving in  
22 connection with the Canal Zone project images of nude  
23 women; correct?

1 JOHN OLSON

2 A. Yes.

3 Q. Now, those three separate images, would you have  
4 received hard copy documents of each of those separately  
5 or on occasion were those three images or any  
6 combination of those three images together portrayed on  
7 one document?

8 MS. BART: Objection to the form.

9 MR. HAYES: Objection to the form.

10 THE WITNESS: I received them in both forms.

11 BY MR. BODEN: (Continued.)

12 Q. You would have received them separately, and you would  
13 have received them --

14 A. Collaged.

15 Q. -- in some combination?

16 A. Yes.

17 Q. And the term collaged you understand to mean different  
18 images on one document --

19 A. Yes.

20 Q. -- correct?

21 A. Yes.

22 Q. Were you on occasion at NancyScans instructed by Mr.  
23 Prince to combine any of those three images we just

1 JOHN OLSON

2 Were you also asked to enlarge some of these  
3 images to specific size dimensions --

4 A. Yes.

5 MS. BART: Objection to the form.

6 Q. -- in connection with the Canal Zone project?

7 A. Yes.

8 Q. How would you know what size to enlarge images to?

9 A. By following the instructions that we received.

10 Q. You don't remember what the instructions, the exact  
11 instructions, were?

12 A. Yes.

13 Q. Do you know whether it was a verbal instruction or  
14 whether it was a written instruction?

15 A. Any instructions we received were either verbal or on  
16 occasion written on an envelope we would receive work  
17 in.

18 Q. Do you know who the author of the written instructions  
19 on the envelope is?

20 A. No, I don't.

21 Q. Do you know who gave verbal instructions?

22 A. No, I don't.

23 Q. Did you ever receive verbal instructions, if you can



1 JOHN OLSON

2 L-O-S-E-N-G-E -- is?

3 A. No.

4 MR. HAYES: Objection to the form.

5 MS. BART: Objection.

6 BY MR. BODEN: (Continued.)

7 Q. In connection with the Canal Zone project, did you  
8 receive any images -- any documents bearing images --  
9 with Rastafarian men whose eyes were obscured by circles  
10 or any sort of symbol?

11 A. Yes.

12 Q. Did you or anyone else at NancyScans ever put circles or  
13 any sort of images over the eyes of the documents that  
14 you received from Mr. Prince in connection with the  
15 Canal Zone project?

16 A. No.

17 Q. Did you or anyone else at NancyScans ever put any marks  
18 on any documents bearing images that you received in  
19 connection with the Canal Zone project?

20 A. No.

21 Q. Are you familiar with artistic practice of skewing?

22 A. No.

23 Q. Do you ever recall dealing with any of Mr. Prince's

1 JOHN OLSON

2 would print them at the same size, 100 percent of their  
3 size.

4 MS. BART: Objection. Move to strike the  
5 Witness' response as speculative.

6 MR. HAYES: I join.

7 BY MR. BODEN: (Continued.)

8 Q. The 26 images that you received, do you recall what  
9 paper they were on, what type of paper they were on?

10 A. Matte paper.

11 Q. Matte paper. And when you scanned and printed them in  
12 the same size you just testified to, what paper did you  
13 print them onto, what type of paper?

14 A. They were printed to a paper, not a canvas.

15 Q. What -- was it different matte paper that they came on?

16 A. I'm sure there was some difference.

17 Q. Do you have any idea of what difference that would be?

18 I don't want you to guess.

19 A. I don't know.

20 Q. Back to the final page of Exhibit 94, these 26 images  
21 together in collage format, as being represented by this  
22 thumbnail on the final page of Exhibit 94, did you  
23 deliver to Mr. Prince something in collage format --

1 JOHN OLSON

2 A. I do.

3 Q. The first line item of this read lavender guitar. Do  
4 you see that?

5 A. Yes, I do.

6 Q. Is that the job name for this specific job?

7 A. Yes.

8 Q. Do you recall working on any of the parts of this  
9 specific job?

10 A. No.

11 Q. Do you know who came with up the description of lavender  
12 guitar for this job?

13 A. I don't.

14 Q. If you turn to the last page of Exhibit 95, you will see  
15 six thumbnails of guitars, and appears to be in TIF  
16 format. Do you see that.

17 A. I do.

18 Q. Do you recall working on any of these images in  
19 connection with the Canal Zone project?

20 A. No.

21 Q. So, don't know in what format these guitars were  
22 received by NancyScans from Mr. Prince?

23 A. They were hard copies, and they were cut apart.

1 JOHN OLSON

2 Q. And scanned?

3 A. Yes.

4 Q. Do you know whether they were eventually printed?

5 MS. BART: Objection, form.

6 MR. HAYES: Join.

7 THE WITNESS: They were printed.

8 BY MR. BODEN: (Continued.)

9 Q. And were they delivered to Mr. Prince or someone working  
10 for Mr. Prince?

11 A. Yes.

12 MR. BODEN: I would like to mark as Exhibit 96  
13 another compilation of documents produced by your  
14 attorney to our office.

15 (A compilation of NancyScans documents was  
16 marked Plaintiff's Exhibit No. 96 for  
17 identification this date.)

18 BY MR. BODEN: (Continued.)

19 Q. Mr. Olson, have you had an opportunity to look through  
20 Exhibit 96?

21 A. Yes.

22 Q. The first page of Exhibit 96 in the upper margin reads  
23 Invoice Number 0805310008. Do you see that?

1 JOHN OLSON

2 MS. BART: Objection to form.

3 MR. HAYES: Join.

4 MS. PERAL: Objection.

5 THE WITNESS: There is the scanning process  
6 and the printing process. Following the scanning  
7 process, this work order indicates that we are to print  
8 these onto canvas.

9 BY MR. BODEN: (Continued.)

10 Q. And enlarge it from the original document that you  
11 scanned?

12 A. Well, it doesn't indicate that here, but the subsequent  
13 page gives the image and the size of which we are to  
14 print.

15 Q. Does that indicate to you that it was to be printed on a  
16 larger size than the original?

17 A. Yes.

18 Q. All right. Now, going back to the second page, it says  
19 print canvas to LD indicated. It's written you can gang  
20 files side-by-side to be page efficient.

21 Does that -- strike that.

22 Your earlier description of a ganged file and  
23 images in order for the efficiency of NancyScans, is

1 JOHN OLSON

2 BY MR. BODEN: (Continued.)

3 Q. Do you recall how?

4 A. No, I don't.

5 Q. When it says "RP will be cutting canvas apart", is that  
6 referring to canvas on which NancyScans was scanning the  
7 image?

8 A. Okay. If there is a --

9 Q. Sorry. Printing the image.

10 A. Yes.

11 MS. BART: Can I hear the question back,  
12 please.

13 MR. BODEN: I'll withdraw that question.

14 BY MR. BODEN: (Continued.)

15 Q. When it's written RP will be cutting canvas apart, is it  
16 your understanding that refers to canvas on which the  
17 scanned image was to be printed by NancyScans?

18 MS. BART: Objection to the form.

19 MR. HAYES: Join.

20 THE WITNESS: Yes.

21 BY MR. BODEN: (Continued.)

22 Q. Can you turn to the third to last page of this Exhibit  
23 96. So, that's Page One, Two -- Page Five of the

1 JOHN OLSON

2 Q. Do you recall seeing that?

3 A. Yes.

4 Q. What form was the hard copy image in that you scanned?

5 A. Collage.

6 Q. So, all of the images that appear on this thumbnail in  
7 hard copy collage you scanned?

8 MR. HAYES: Objection to the form.

9 THE WITNESS: I don't understand.

10 BY MR. BODEN: (Continued.)

11 Q. This image is the thumbnail that you scanned, sixty-nine  
12 point nine inch Prince canvas?

13 A. Right. I recall that image.

14 Q. And when you say "you recall that image", you recall the  
15 hard copy document --

16 A. Yes.

17 Q. -- photograph you got from Mr. Prince?

18 A. Yes.

19 Q. Is that hard copy -- I think you -- you described it as  
20 a collage.

21 A. Yes.

22 Q. That hard copy collage, did it have the two women that  
23 appear in the thumbnail?

1 JOHN OLSON

2 A. Yes.

3 Q. It had a landscape image in the background?

4 A. Yes.

5 Q. Every portion that's reflected in this thumbnail would  
6 be in that hard copy collage?

7 A. As I recall.

8 MR. BODEN: I think I'm done. Let me take a  
9 second to look over these documents that you just gave  
10 to me.

11 (A compilation of NancyScans documents was  
12 marked Plaintiff's Exhibit No. 102 for  
13 identification this date.)

14 MR. BODEN: So, Exhibit 102 was produced to me  
15 by your attorney today before the deposition, and it's a  
16 two-page exhibit.

17 MS. BART: Let me -- I just want to see it  
18 just quickly.

19 MR. BODEN: Sure. I'm going to going to ask  
20 one question.

21 MS. BART: Okay. Thank you.

22 MR. BODEN: Just to identify this exhibit on  
23 the record, in the right margin of the first page of it



## RICHARD PRINCE DEPOSITION ON OCT. 6, 2009 – BREAKDOWN OF EXAMINATION

Time	Pages	Topic
10:15 am	6	Deposition of Richard Prince begins.
	8-20, 32-83, 88-142, 144	Prince's early childhood, education, employment history, prior collections and early shows are addressed. Also touches upon Richard Prince's philosophy as an artist, his assets, and press.
	21-25	Prince's Answer to plaintiff's amended complaint.
	25, 72-73	Other lawsuits are discussed; Prince confirms he has never been sued before.
	26-27	Preparation for deposition.
	32	Prince's other collections.
11:46 am	81	[Videographer changes from tape one to tape two.]
	142-43	Profits from <i>Canal Zone</i> exhibition.
	150-84, 236	Richard Prince's creation of <i>Canal Zone</i> .
1:05 pm	163	[Recess taken. Videographer's tape two ends.]
1:53 pm	163	[Deposition resumes. Videographer begins tape 3.]
	178-84	Discussion about Prince's creation of <i>Canal Zone, 2007</i>
	185-98	Questions about Guns & Ammo series.
	195	Guns & Ammo series was about survival.
3:17 pm	234	Tape three ends.
3:29 pm	234	[Videographer begins tape four.]
3:29 pm	199-204; 219-235	Frey Essay/the pitch.
	237-241	Prince's purchase of <i>Yes Rasta</i> .
	242-44, 257-81	Glenn O'Brien interview.
4:25 pm	281	[Videographer's Tape four ends.]
4:29 pm	281	[Videographer begins tape five.]
	287-88	Sending images for interview.
	245-57	Titles of specific paintings are discussed.
4:29 pm	281	Questioned about commenting on <i>Yes Rasta</i> .

## RICHARD PRINCE DEPOSITION ON OCT. 6, 2009 – BREAKDOWN OF EXAMINATION

Time	Pages	Topic
	282-92	Use of other photos/stock photos
	292-301	Gagosian Gallery Press Release
	301-09	Schematic of show/paintings in exhibition
	309-10	Paintings are in storage.
	310-16	Prince negotiates agreement with plaintiff's counsel to end deposition at 6:15
	310, 317	Cease & desist letter.
	317-22	Guest list for <i>Canal Zone</i> 11/08/08 dinner.
	322-25	Gagosian Gallery accountings of Paintings sold.
	328	<i>Canal Zone</i> book copyright notice.
	330-43	Richard Prince describes process of creating <i>Back to the Garden</i> .
	344-51	Questions regarding image of Richard Prince's studio which shows an Image that appears in <i>Inquisition</i> .
5:51 pm	353	[Videographer Tape five ends.]
5:55 pm	353	[Videographer begins tape six.]
5:55 pm	351-54	Specific questioning about <i>Canal Zone, 2008</i> .
	355-61	Specific questioning on <i>Djuna Barnes, Natalie Barney, Renee Vivien and Romaine Brooks take over the Guanahani</i> .
	362-63	Specific questioning about <i>Graduation</i> .
	363-66	Specific questioning about <i>Tales of Brave Ulysses</i> .
	367-75	Pages from <i>Yes Rasta</i> and other materials onto which Richard Prince drew figures/notes.
6:20 pm	376-77	[Deposition ends.]

**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.

**VIDEOTAPED DEPOSITION OF**

**RICHARD PRINCE**

October 6, 2009  
10:00 a.m.

140 Broadway  
New York, New York

Reported By:  
Bryan Nilsen, RPR



**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](http://www.esquiresolutions.com)

<p style="text-align: center;">1</p> <p style="text-align: center;">Prince                  UNITED STATES DISTRICT COURT                  SOUTHERN DISTRICT OF NEW YORK</p> <p style="text-align: center;">-----x</p> <p>PATRICK CARIOU, Plaintiff, Index No.:                  vs. RICHARD PRINCE, GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN, and RIZZOLI INTERNATIONAL PUBLICATIONS, INC., Defendants. 08 CIV 11327 (DAB)</p> <p style="text-align: center;">-----x</p> <p style="text-align: center;">VIDEOTAPED DEPOSITION OF RICHARD PRINCE                  New York, New York                  Tuesday, October 6, 2009</p> <p>Reported by:                  Bryan Nilsen, RPR                  JOB NO. 304040</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">1 Prince</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 SCHNADER HARRISON SEGAL &amp; LEWIS LLP</p> <p>5 Attorneys for Plaintiff</p> <p>6 140 Broadway, Suite 3100</p> <p>7 New York, New York 10005-1101</p> <p>8 BY: DANIEL J. BROOKS, ESQ.</p> <p>9 BY: ERIC A. BODEN, ESQ.</p> <p>10 PHONE: (212)973-8000</p> <p>11 EMAIL: dbrooks@schnader.com</p> <p>12</p> <p>13 WITHERS BERGMAN LLP</p> <p>14 Attorneys for Defendants Gagosian Gallery, Inc.,</p> <p>15 and Lawrence Gagosian</p> <p>16 430 Park Avenue, 10th Floor</p> <p>17 New York, New York 10022-3505</p> <p>18 BY: HOLLIS GONERKA BART, ESQ.</p> <p>19 PHONE: (212)848-9800</p> <p>20 EMAIL: hollis.bart@withers.us.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: center;">2</p> <p style="text-align: center;">1 Prince</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 October 6, 2009</p> <p>7 10:00 a.m.</p> <p>8</p> <p>9</p> <p>10 Deposition of RICHARD PRINCE,</p> <p>11 held at the offices of Schnader Harrison</p> <p>12 Segal &amp; Lewis LLP, 140 Broadway, New York,</p> <p>13 New York, pursuant to Notice, before</p> <p>14 Bryan Nilsen, RPR, a Notary Public of</p> <p>15 the State of New York.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">1 Prince</p> <p>2 APPEARANCES (Cont'd.)</p> <p>3</p> <p>4 HANLY CONROY BIERSTEIN SHERIDAN FISHER &amp; HAYES LLP</p> <p>5 Attorneys for Defendant Richard Prince</p> <p>6 112 Madison Avenue</p> <p>7 New York, New York 10016-7416</p> <p>8 BY: STEVEN M. HAYES, ESQ.</p> <p>9 PHONE: (212)784-6400</p> <p>10 EMAIL: shayes@hanlyconroy.com</p> <p>11</p> <p>12 WEISMANN CELLER SPETT &amp; MODLIN P.C.</p> <p>13 Attorneys for Defendant Rizzoli International</p> <p>14 Publications, Inc.,</p> <p>15 445 Park Avenue, No. 1500</p> <p>16 New York, New York 10022</p> <p>17 BY: JOHN B. SHERMAN, ESQ.</p> <p>18 PHONE: (212)371-5400</p> <p>19 EMAIL: jsherman@wscsm445.com</p> <p>20</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23 PETER LEDWITH - Videographer</p> <p>24 Esquire Video Solutions</p> <p>25 PATRICK CARIOU</p>

<p style="text-align: center;">5</p> <p>1 Prince</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>1 Prince</p> <p>2 THE VIDEOGRAPHER: Will the court</p> <p>3 reporter please swear in the witness.</p> <p>4</p> <p>5 RICHARD PRINCE, called as a</p> <p>6 witness, having been duly sworn by a</p> <p>7 Notary Public, was examined and testified</p> <p>8 as follows:</p> <p>9 THE COURT REPORTER: Please state</p> <p>10 your name and address for the record.</p> <p>11 THE WITNESS: Richard Prince,</p> <p>12 151 Righter Road, Rensselaerville,</p> <p>13 New York 12147.</p> <p>14</p> <p>15 EXAMINATION BY</p> <p>16 MR. BROOKS:</p> <p>17 Q. Good morning, Mr. Prince. My name</p> <p>18 is Daniel Brooks. I represent Patrick Cariou</p> <p>19 the plaintiff in this case.</p> <p>20 Can you tell us what your occupation</p> <p>21 is?</p> <p>22 A. I'm an artist.</p> <p>23 Q. I understand you were born in the</p> <p>24 Canal Zone --</p> <p>25 A. Yes.</p>
<p style="text-align: center;">6</p> <p>1 Prince</p> <p>2 THE VIDEOGRAPHER: This is tape</p> <p>3 number 1 in the videotaped deposition of</p> <p>4 Richard Prince, in the matter of Cariou</p> <p>5 versus Richard Prince, being heard before</p> <p>6 the U.S. District Court, Southern District</p> <p>7 of New York.</p> <p>8 This deposition is being held at</p> <p>9 Schnader Harrison Segal, 140 Broadway,</p> <p>10 New York, New York, on October 6, 2009.</p> <p>11 The time is 10:15 a.m.</p> <p>12 My name is Peter Ledwith. I'm the</p> <p>13 videographer. The court reporter is Bryan</p> <p>14 Nilsen.</p> <p>15 Counsel, will you please introduce</p> <p>16 yourselves and who you represent.</p> <p>17 MR. HAYES: Steven Hayes, counsel</p> <p>18 for Richard Prince.</p> <p>19 MS. BART: Hollis Gonerka Bart,</p> <p>20 counsel for Larry Gagorian and Gagorian</p> <p>21 Gallery.</p> <p>22 MR. SHERMAN: John Sherman, counsel</p> <p>23 for Rizzoli International Publications.</p> <p>24 MR. BROOKS: Dan Brooks and Eric</p> <p>25 Boden for the plaintiff.</p>	<p style="text-align: center;">8</p> <p>1 Prince</p> <p>2 Q. -- is that correct?</p> <p>3 In 1949?</p> <p>4 A. Yes.</p> <p>5 Q. Did you attend school there?</p> <p>6 A. No, I didn't.</p> <p>7 Q. Where did you attend primary school?</p> <p>8 A. Outside of Boston, a town called</p> <p>9 Braintree, Massachusetts.</p> <p>10 Q. Was it a boarding school or did you</p> <p>11 live there?</p> <p>12 A. What age are you talking about?</p> <p>13 Q. Okay, let me back up.</p> <p>14 How long did you live in the Canal</p> <p>15 Zone?</p> <p>16 A. We moved when I was about six years</p> <p>17 old.</p> <p>18 Q. To Massachusetts?</p> <p>19 A. Yes.</p> <p>20 Q. Did the six years you spent in the</p> <p>21 Canal Zone affect your later work in any way?</p> <p>22 MR. HAYES: As an artist you're</p> <p>23 talking about?</p> <p>24 MR. BROOKS: Yes.</p> <p>25 A. Recently, yes.</p>

<p style="text-align: center;">9</p> <p>1 Prince</p> <p>2 Q. How so?</p> <p>3 A. I paid a visit to what is now called</p> <p>4 Panama about three years ago, three or four</p> <p>5 years ago. I'm not sure. And I started to</p> <p>6 think about -- I started to think about the</p> <p>7 place that I was born in.</p> <p>8 Q. We'll get to this later obviously,</p> <p>9 but did some of that thinking enter into your</p> <p>10 creation of the works of art that are in the</p> <p>11 Canal Zone book?</p> <p>12 A. Yes, in the form of a pitch or a</p> <p>13 screenplay that I wrote, and then I subsequently</p> <p>14 sort of made up a story that I felt that could</p> <p>15 be described with the title Canal Zone. I very</p> <p>16 much liked the idea that the name of the place</p> <p>17 that I was born had disappeared, that they no</p> <p>18 longer called it the Canal Zone, they call it</p> <p>19 Panama.</p> <p>20 Q. The pitch -- and again, we'll get to</p> <p>21 this later, but the pitch that you say you</p> <p>22 wrote, was it originally called Eden Rock?</p> <p>23 A. I think one of the working titles</p> <p>24 was Eden Rock, yes.</p> <p>25 Q. And that is a hotel in St. Barth's?</p>	<p style="text-align: center;">11</p> <p>1 Prince</p> <p>2 course or courses that you took at that college?</p> <p>3 A. Mostly it was figure studies. I</p> <p>4 studied the figure. I went to classes where</p> <p>5 they had models.</p> <p>6 Q. And what medium were you working in</p> <p>7 in these courses?</p> <p>8 A. Pencil, watercolor, collage, pen and</p> <p>9 ink.</p> <p>10 Q. How many years did you attend Nasson</p> <p>11 College?</p> <p>12 A. Four years.</p> <p>13 Q. Did you graduate?</p> <p>14 A. Yes.</p> <p>15 Q. With a degree in what?</p> <p>16 A. I guess liberal arts.</p> <p>17 Q. A BA?</p> <p>18 A. Yes.</p> <p>19 Q. After college did there come a time</p> <p>20 when you started working in New York City for</p> <p>21 Time Life Magazines?</p> <p>22 A. Yes.</p> <p>23 Q. When was that, approximately?</p> <p>24 A. 1975.</p> <p>25 Q. And when did you finish college?</p>
<p style="text-align: center;">10</p> <p>1 Prince</p> <p>2 A. Yes, I believe so, yes.</p> <p>3 MR. BROOKS: S-T, period, B-A-R-T-H,</p> <p>4 apostrophe S, that's how we'll spell it</p> <p>5 from now on.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Do you have any education after high</p> <p>8 school?</p> <p>9 A. You mean college education?</p> <p>10 Q. Yes.</p> <p>11 A. Yes, I did attend college.</p> <p>12 Q. What was the name of the college?</p> <p>13 A. Nasson, N-A-S-S-O-N, College.</p> <p>14 Q. In Maine?</p> <p>15 A. Yes.</p> <p>16 Q. Was that a small liberal arts</p> <p>17 college?</p> <p>18 A. Yes.</p> <p>19 Q. Did you take any art courses at</p> <p>20 Nasson College?</p> <p>21 A. Yes.</p> <p>22 Q. Did you take any photography</p> <p>23 courses?</p> <p>24 A. No.</p> <p>25 Q. Briefly, can you describe the art</p>	<p style="text-align: center;">12</p> <p>1 Prince</p> <p>2 A. '71.</p> <p>3 Q. What was the nature of your job or</p> <p>4 jobs at Time Life?</p> <p>5 A. I worked for a number of jobs.</p> <p>6 First one was I worked in what they called the</p> <p>7 employee bookstore. That was my main job. And</p> <p>8 I worked -- I believe the title is called copy</p> <p>9 process, which was tearing up the various</p> <p>10 magazines that they published.</p> <p>11 In those days, pretty primitive,</p> <p>12 precomputer, we would tear up the magazine and</p> <p>13 hand the editorial -- they were called hard</p> <p>14 copies -- to the people who wrote those stories.</p> <p>15 Q. Tear sheets?</p> <p>16 A. Tear sheets.</p> <p>17 Q. And was this advertising or actual</p> <p>18 editorial -- non-advertising content?</p> <p>19 A. What they wanted, what we would put</p> <p>20 in these tubes and send, what they wanted was</p> <p>21 the editorial copy.</p> <p>22 Q. Articles?</p> <p>23 A. Articles, yes, for the various --</p> <p>24 I believe at the time they published seven</p> <p>25 magazines.</p>

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<p>1 Prince</p> <p>2 Q. While you were employed by Time Life</p> <p>3 did you begin a practice of rephotographing</p> <p>4 images --</p> <p>5 A. Yes.</p> <p>6 Q. -- that you encountered there?</p> <p>7 A. 1977 I made a breakthrough in terms</p> <p>8 of what I considered a breakthrough, and I</p> <p>9 started to rephotograph images that were</p> <p>10 essentially from magazines that Time Life</p> <p>11 published and also the New York Times magazine.</p> <p>12 Q. Were the images advertisements?</p> <p>13 A. Strictly advertisements, yes.</p> <p>14 Q. In 1977 did you rephotograph four</p> <p>15 photos from the New York Times magazine section?</p> <p>16 A. Yes.</p> <p>17 Q. What was the nature of those photos?</p> <p>18 A. They were images of living rooms,</p> <p>19 advertisements. I don't recall who was the</p> <p>20 advertiser, but -- and I believe they appeared</p> <p>21 sequentially once -- once a week for four weeks</p> <p>22 I believe.</p> <p>23 Q. And when you rephotographed those</p> <p>24 four images what, if anything, did you do with</p> <p>25 them? Did you exhibit them anywhere?</p>	<p>1 Prince</p> <p>2 Q. Did you have a solo exhibition at</p> <p>3 the Ellen Sragow Gallery?</p> <p>4 A. Sragow, I believe.</p> <p>5 Q. Sragow?</p> <p>6 A. Yes.</p> <p>7 Q. When was that?</p> <p>8 A. It was a long time ago.</p> <p>9 MR. HAYES: If you recall. If you</p> <p>10 don't recall, say so.</p> <p>11 A. Well, '76 maybe.</p> <p>12 Q. And what was the content of the</p> <p>13 exhibition?</p> <p>14 A. I guess you could describe the --</p> <p>15 it's hard -- I believe they were images with</p> <p>16 text. They would refer to it at the time as</p> <p>17 narrative art.</p> <p>18 Q. Were the --</p> <p>19 A. They were stories that I had made up</p> <p>20 about various locations in which I had visited.</p> <p>21 Q. And what medium were the images?</p> <p>22 A. I think they were drawing. I think</p> <p>23 on one piece of paper it was drawing, and I</p> <p>24 believe the -- photographs -- text that was put</p> <p>25 out with a typewriter, and a lot of what was</p>
14	16
<p>1 Prince</p> <p>2 A. No, I didn't.</p> <p>3 Q. Did some controversy arise from your</p> <p>4 rephotographing those four images?</p> <p>5 A. Not at the time, no.</p> <p>6 Q. At a later time?</p> <p>7 A. A controversy? I think -- no, I</p> <p>8 would more describe it as just people were very</p> <p>9 perplexed and didn't particularly know what they</p> <p>10 were looking at, because of the nature of the</p> <p>11 transformation. It was a real photograph that I</p> <p>12 was showing, not an image that I had torn out of</p> <p>13 the magazine. Which is essentially when I first</p> <p>14 tore it, it was a collage. I collaged it onto</p> <p>15 paper. That's the very first way I showed the</p> <p>16 images.</p> <p>17 But I decided -- I mean that was</p> <p>18 the breakthrough, was taking the apparatus, the</p> <p>19 camera, and making a real photograph.</p> <p>20 Q. A photograph of a photograph?</p> <p>21 A. Well, it was a photograph of -- no,</p> <p>22 it wasn't a photograph. It was a photograph of</p> <p>23 a page --</p> <p>24 Q. From the magazine?</p> <p>25 A. -- in the magazine.</p>	<p>1 Prince</p> <p>2 then called white-out, which was a kind of</p> <p>3 liquid paint that you used to correct a typo.</p> <p>4 Q. At some point did you begin</p> <p>5 rephotographing ads for Marlboro cigarettes?</p> <p>6 A. I started that I believe in 1980 was</p> <p>7 the first one.</p> <p>8 Q. And this has been known as the</p> <p>9 Marlboro Cowboy photographs?</p> <p>10 A. I referred to them -- yes. I</p> <p>11 started titling them Untitled, parentheses,</p> <p>12 Cowboys.</p> <p>13 Q. And you say you started in 1980?</p> <p>14 A. Yes.</p> <p>15 Q. How long did you continue engaging</p> <p>16 in that practice?</p> <p>17 A. Until -- I believe the last ones</p> <p>18 were done in 1999.</p> <p>19 Q. How did you obtain the images of the</p> <p>20 Marlboro cowboys?</p> <p>21 A. They used to come out -- when I was</p> <p>22 working at Time Life they would come out -- we'd</p> <p>23 get the magazines on Monday, and they would</p> <p>24 appear in the magazine -- in the various</p> <p>25 magazines.</p>

<p style="text-align: center;">17</p> <p>1 Prince</p> <p>2 Q. Tobacco companies were still</p> <p>3 permitted to advertise at that time?</p> <p>4 A. Yeah. Before the Marlboro I had</p> <p>5 made collages. I hadn't yet rephotographed, but</p> <p>6 I believe I made collages when I was visiting</p> <p>7 Cologne of Camel cigarette ads, which I still</p> <p>8 have. But I pasted those -- I cut them out with</p> <p>9 an exacto knife and I pasted them on paper.</p> <p>10 About two years later, when I was</p> <p>11 working at Time Life, I started to see the</p> <p>12 cowboys, and I started to -- I had already been</p> <p>13 rephotographing images for about three years, so</p> <p>14 I sort of knew how I could appropriate and</p> <p>15 sample these cowboys.</p> <p>16 I could shoot around the actual</p> <p>17 advertising copy and -- I mean do you want me to</p> <p>18 go on or?</p> <p>19 Q. Sure.</p> <p>20 MR. HAYES: Do you want to read back</p> <p>21 the question so the witness can determine</p> <p>22 whether he's finished.</p> <p>23 (Record read.)</p> <p>24 BY MR. BROOKS:</p> <p>25 Q. One thing is you said Cologne. Is</p>	<p style="text-align: center;">19</p> <p>1 Prince</p> <p>2 I mean this was ten years later and</p> <p>3 she had already grown up. I guess he wanted --</p> <p>4 he wanted to publish posters of the original</p> <p>5 shoot that he made that day.</p> <p>6 Q. But getting back to my question, the</p> <p>7 image that you saw in his materials was a</p> <p>8 reproduction of that photo?</p> <p>9 A. The image that I saw that day, that</p> <p>10 evening when I received the little booklet, I</p> <p>11 felt that my reaction to it is, oh, that's what</p> <p>12 they're talking about. Because these images</p> <p>13 were in the press at the time.</p> <p>14 Q. But the image, was it a photograph,</p> <p>15 that's all I'm asking?</p> <p>16 A. In the booklet?</p> <p>17 Q. Yes.</p> <p>18 A. I didn't know what the image was.</p> <p>19 All I saw was the reproduction.</p> <p>20 Q. What was Brooke Shields wearing in</p> <p>21 the picture?</p> <p>22 A. She wasn't wearing anything at all.</p> <p>23 Q. Did you make a photograph of that</p> <p>24 image?</p> <p>25 A. I rephotographed the image, yes.</p>
<p style="text-align: center;">18</p> <p>1 Prince</p> <p>2 that in Germany?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know how to spell that?</p> <p>5 MR. HAYES: C-O-L --</p> <p>6 A. K-O-L-N.</p> <p>7 Q. K-O-L --</p> <p>8 A. Or C-O --</p> <p>9 MR. HAYES: C-O-L-O-G-N-E.</p> <p>10 A. I believe it's the same.</p> <p>11 Q. In 1983 did you rephotograph a photo</p> <p>12 by a photographer named Garry, G-A-R-R-Y, Gross?</p> <p>13 A. I didn't rephotograph a photo by</p> <p>14 him. I rephotographed an image that appeared in</p> <p>15 a little advertising booklet that he had</p> <p>16 self-published.</p> <p>17 MR. BROOKS: Can I hear that again?</p> <p>18 (Record read.)</p> <p>19 BY MR. BROOKS:</p> <p>20 Q. What was the nature of the image?</p> <p>21 A. He apparently had taken an image of</p> <p>22 Brooke Shields that I believe when she was</p> <p>23 around 12 or -- years old. I don't exactly know</p> <p>24 what the age was, but -- he was I believe</p> <p>25 wanting to publish those images.</p>	<p style="text-align: center;">20</p> <p>1 Prince</p> <p>2 Q. And did you give it a title?</p> <p>3 A. Yes, I did.</p> <p>4 Q. What was the title?</p> <p>5 A. Spiritual America.</p> <p>6 Q. And you say you obtained the image</p> <p>7 that you rephotographed in the mail in some kind</p> <p>8 of advertising publication?</p> <p>9 MR. HAYES: Objection. I don't</p> <p>10 think he said that.</p> <p>11 MR. BROOKS: Okay. I could be</p> <p>12 wrong.</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. Tell us again how you --</p> <p>15 A. I received the image because someone</p> <p>16 gave me the little pamphlet or --</p> <p>17 Q. Okay. You didn't get it in the</p> <p>18 mail?</p> <p>19 A. I didn't get it in the mail.</p> <p>20 Q. So you didn't purchase the pamphlet,</p> <p>21 somebody gave it to you?</p> <p>22 A. Someone gave it to me, yes.</p> <p>23 Q. Did you obtain Mr. Gross's</p> <p>24 permission to rephotograph the image?</p> <p>25 A. No.</p>



<p style="text-align: center;">21</p> <p>1 Prince</p> <p>2 Q. Did you obtain his permission to</p> <p>3 sell your photograph of the image?</p> <p>4 A. It wasn't for sale.</p> <p>5 Q. I'm going to hand you what I'd like</p> <p>6 marked as Plaintiff's Exhibit 1, which is simply</p> <p>7 a copy of the amended complaint in this lawsuit.</p> <p>8 (Plaintiff's Exhibit 1, amended</p> <p>9 complaint, was marked for identification,</p> <p>10 as of this date.)</p> <p>11 Q. Mr. Prince, what I've placed in</p> <p>12 front of you is a copy of the amended complaint</p> <p>13 in this lawsuit. Have you ever seen it before?</p> <p>14 A. No.</p> <p>15 Q. I'm going to ask you to turn to</p> <p>16 page 4, please. And I'm going to read you what</p> <p>17 paragraph 13 states.</p> <p>18 Quote, None of the defendants was</p> <p>19 ever authorized by Plaintiff to appropriate the</p> <p>20 photographs, comma, or to reproduce, comma,</p> <p>21 distribute or display the photographs, comma, or</p> <p>22 to adapt the photographs in order to create the</p> <p>23 paintings or any other derivative work based on</p> <p>24 the photographs, period. Defendant's conduct</p> <p>25 was and continues to be a willful disregard of</p>	<p style="text-align: center;">23</p> <p>1 Prince</p> <p>2 Q. Paragraph 13, which appears to be</p> <p>3 the answer to the allegation I read before.</p> <p>4 And this is what it states.</p> <p>5 Prince denies the allegations in</p> <p>6 paragraph of 13 of the complaint, comma, except</p> <p>7 admits that any use of Plaintiff's photographs</p> <p>8 by Prince was not specifically authorized by</p> <p>9 Plaintiff, comma, and states that such</p> <p>10 authorization was not required as Prince's use</p> <p>11 of portions of the photographs in his art works</p> <p>12 is proper artistic practice and appropriate</p> <p>13 under applicable law.</p> <p>14 First, I should ask you, have you</p> <p>15 ever seen this answer to the amended complaint,</p> <p>16 this document that you're looking at now,</p> <p>17 before?</p> <p>18 MR. HAYES: If you recall.</p> <p>19 A. No. No, I don't.</p> <p>20 Q. You don't?</p> <p>21 A. No.</p> <p>22 Q. Are you sure you never saw it or you</p> <p>23 just don't remember?</p> <p>24 A. No.</p> <p>25 Q. No which?</p>
<p style="text-align: center;">22</p> <p>1 Prince</p> <p>2 Plaintiff's rights under the copyright act,</p> <p>3 unquote.</p> <p>4 Just for your information,</p> <p>5 photographs are capitalized, initial capitalized</p> <p>6 in that paragraph, and the photographs that are</p> <p>7 being referred to are the photographs in this</p> <p>8 book in my hand Yes Rasta, which we'll talk</p> <p>9 about. You've seen this book before, right?</p> <p>10 A. Yes.</p> <p>11 MR. BROOKS: Let's mark as</p> <p>12 Plaintiff's Exhibit 2 Mr. Prince's answer</p> <p>13 to the amended complaint.</p> <p>14 (Plaintiff's Exhibit 2, answer to</p> <p>15 amended complaint, was marked for</p> <p>16 identification, as of this date.)</p> <p>17 Q. Mr. Prince, you'll recall just a</p> <p>18 minute ago I read you an allegation in the</p> <p>19 complaint, paragraph 13. Now, I'd like you to</p> <p>20 turn to page 3 of the answer, which is</p> <p>21 Exhibit 2, and I will read page 3.</p> <p>22 MR. HAYES: Page 2.</p> <p>23 MR. BROOKS: Page 3.</p> <p>24 MR. HAYES: Page 3, sorry. And he's</p> <p>25 asking you to look at --</p>	<p style="text-align: center;">24</p> <p>1 Prince</p> <p>2 A. No, I've never -- no, I've never</p> <p>3 seen this, no.</p> <p>4 Q. Did you discuss -- without going</p> <p>5 getting into what you said, did you discuss the</p> <p>6 preparation of this answer with anyone?</p> <p>7 A. No.</p> <p>8 Q. All right. If you look at</p> <p>9 paragraph 13, which I just read to you, did you</p> <p>10 play any role in preparing that answer to</p> <p>11 paragraph 13?</p> <p>12 A. No.</p> <p>13 Q. I've read it into the record and</p> <p>14 you've read it yourself. Do you agree with this</p> <p>15 answer in paragraph 13?</p> <p>16 MR. HAYES: Objection, calls for a</p> <p>17 legal conclusion.</p> <p>18 Q. You can answer.</p> <p>19 A. To tell you the truth, I don't</p> <p>20 really understand it.</p> <p>21 Q. Do you believe it to be true and</p> <p>22 accurate?</p> <p>23 MR. HAYES: Objection, calls for a</p> <p>24 legal conclusion.</p> <p>25 Q. You can answer.</p>

<p style="text-align: center;">25</p> <p>1 Prince</p> <p>2 MR. HAYES: Also, it seems to be</p> <p>3 attempting to turn him into some kind of</p> <p>4 expert, but primarily calls for a legal</p> <p>5 conclusion.</p> <p>6 A. I mean, you know, this type of</p> <p>7 language I -- you know, is not something that I</p> <p>8 feel comfortable commenting on.</p> <p>9 Q. Very well.</p> <p>10 Let me just back up.</p> <p>11 Have you ever been sued before this</p> <p>12 lawsuit in any court?</p> <p>13 A. No, I've never been sued.</p> <p>14 Q. Not by Garry Gross?</p> <p>15 A. No.</p> <p>16 Q. Have you ever been a party to any</p> <p>17 lawsuit or arbitration?</p> <p>18 A. Not that I believe, no.</p> <p>19 Q. Have you ever sued anyone?</p> <p>20 A. No, I've never sued anybody.</p> <p>21 Q. Have you ever had your deposition</p> <p>22 taken before today?</p> <p>23 A. No.</p> <p>24 Q. What, if anything, did you do to</p> <p>25 prepare for this deposition?</p>	<p style="text-align: center;">27</p> <p>1 Prince</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. So just tell us what, if anything,</p> <p>4 you reviewed before coming here today to prepare</p> <p>5 for this deposition?</p> <p>6 A. I didn't really do anything. I</p> <p>7 just -- I wasn't even sure what I was supposed</p> <p>8 to do today.</p> <p>9 Q. Did you meet with any lawyers --</p> <p>10 without getting into what you said to them or</p> <p>11 they said to you, did you meet with any lawyers</p> <p>12 to prepare for this deposition?</p> <p>13 A. I met with -- yeah, I met with</p> <p>14 Steven.</p> <p>15 Q. Mr. Hayes?</p> <p>16 A. Yes.</p> <p>17 Q. Just the two of you?</p> <p>18 A. Yes.</p> <p>19 Q. No one else was present during the</p> <p>20 meeting?</p> <p>21 A. No.</p> <p>22 Q. Okay. Let me go back to this answer</p> <p>23 to paragraph 13 on page 3 of Exhibit 2. And</p> <p>24 perhaps we can break this down so it's more</p> <p>25 digestible.</p>
<p style="text-align: center;">26</p> <p>1 Prince</p> <p>2 A. I went over --</p> <p>3 MR. HAYES: I'll caution the witness</p> <p>4 not to talk about any conversations with</p> <p>5 counsel.</p> <p>6 THE WITNESS: I'm sorry?</p> <p>7 MR. HAYES: Don't talk about the</p> <p>8 substance of any conversations with</p> <p>9 counsel as protected by attorney/client</p> <p>10 privilege.</p> <p>11 A. I didn't really do much.</p> <p>12 Q. Tell us what you did, even if it was</p> <p>13 very little, without divulging conversations</p> <p>14 with your lawyer.</p> <p>15 A. I talked to my wife about it.</p> <p>16 Q. Did you review any documents?</p> <p>17 A. Documents -- what type of documents?</p> <p>18 Q. Well, for instance, books, your</p> <p>19 book, the Canal Zone book?</p> <p>20 MR. HAYES: Objection. Objection.</p> <p>21 I understand that that's not a proper</p> <p>22 question. That's work product.</p> <p>23 MR. BROOKS: Are you directing him</p> <p>24 not to answer?</p> <p>25 MR. HAYES: No, I'll let him answer.</p>	<p style="text-align: center;">28</p> <p>1 Prince</p> <p>2 The answer says that you were not</p> <p>3 specifically authorized to use Plaintiff's</p> <p>4 photographs, do you see that?</p> <p>5 A. I wasn't specifically authorized?</p> <p>6 Q. That's what this says.</p> <p>7 A. Okay.</p> <p>8 Q. Is that true?</p> <p>9 MR. HAYES: Object to the form</p> <p>10 of the question, calls for a legal</p> <p>11 conclusion.</p> <p>12 You can answer if you understand it.</p> <p>13 Q. You can answer.</p> <p>14 A. I still don't understand why I'm --</p> <p>15 I wasn't specifically authorized.</p> <p>16 Q. Did you ever ask Mr. Cariou, who is</p> <p>17 sitting here, the plaintiff, for permission to</p> <p>18 use his photographs from the Yes Rasta book?</p> <p>19 A. I didn't really use his photographs.</p> <p>20 Q. Okay. Did you make use of them in</p> <p>21 any way?</p> <p>22 A. I made use of them, yes.</p> <p>23 Q. Did you ask for his permission to</p> <p>24 make use of them?</p> <p>25 A. No.</p>

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<p style="text-align: center;">29</p> <p>1 Prince</p> <p>2 Q. Did he specifically give you</p> <p>3 permission to use --</p> <p>4 A. No.</p> <p>5 Q. Did he generally give you permission</p> <p>6 to use the photographs?</p> <p>7 A. No.</p> <p>8 Q. Now, you say that the use you made</p> <p>9 of the portions of the photographs -- withdrawn.</p> <p>10 This answer says that the use you</p> <p>11 made of portions of the photographs in your</p> <p>12 artworks was a proper artistic practice. Do you</p> <p>13 agree with that?</p> <p>14 MR. HAYES: Again, object to the</p> <p>15 form of the question on the grounds it</p> <p>16 asks for a legal conclusion and attempts</p> <p>17 to make the witness an expert.</p> <p>18 But you can answer the question if</p> <p>19 you understand it.</p> <p>20 A. I did use, in fact, portions of</p> <p>21 photographs that appear in his book. Whether</p> <p>22 they were for proper artistic practice, that's</p> <p>23 a -- that's something I can't really -- I would</p> <p>24 have to define proper. And I'm not sure if</p> <p>25 there's any type of definition for proper</p>	<p style="text-align: center;">31</p> <p>1 Prince</p> <p>2 answer says here this was proper under -- it was</p> <p>3 appropriate under applicable law, do you have</p> <p>4 any idea what that refers to?</p> <p>5 MR. HAYES: Again, same objections,</p> <p>6 calls for an expert conclusion --</p> <p>7 A. No.</p> <p>8 MR. HAYES: -- and is not a proper</p> <p>9 question.</p> <p>10 MR. BROOKS: Right. But it's in his</p> <p>11 answer so I just want to see if he knows</p> <p>12 what that means.</p> <p>13 A. No.</p> <p>14 Q. You have no idea?</p> <p>15 A. No.</p> <p>16 Q. I'd like to discuss with you your</p> <p>17 artistic practice, quote/unquote, artistic</p> <p>18 practice, a term used in the answer, which I</p> <p>19 understand you've never seen the answer before.</p> <p>20 You are an artist, so I assume you</p> <p>21 have an artistic practice?</p> <p>22 A. I'd like to think so, yes.</p> <p>23 Q. Okay.</p> <p>24 MR. BROOKS: Let's mark as</p> <p>25 Plaintiff's Exhibit 3 two pages which have</p>
<p style="text-align: center;">30</p> <p>1 Prince</p> <p>2 artistic practice.</p> <p>3 But I did, in fact, use portions of</p> <p>4 images that appear in his books. Eventually,</p> <p>5 for paintings that I made into this -- they</p> <p>6 were sort of ingredient -- part of a recipe</p> <p>7 ingredients that were eventually made into this</p> <p>8 show that I titled Canal Zone.</p> <p>9 Q. Were his photographs the subject of</p> <p>10 your --</p> <p>11 A. No.</p> <p>12 Q. -- artworks?</p> <p>13 A. No.</p> <p>14 Q. The subject was some</p> <p>15 post-apocalyptic vision of what would happen</p> <p>16 after a nuclear war on a remote island?</p> <p>17 A. No, that was -- that's a subtext of</p> <p>18 the whole Canal Zone type of pitch. It first</p> <p>19 appeared when I was thinking about this project.</p> <p>20 Q. Okay. You know what, we'll get to</p> <p>21 that. I've got -- your lawyers produced all the</p> <p>22 documents. We'll go through them.</p> <p>23 A. Okay.</p> <p>24 Q. And I'm pretty sure what your answer</p> <p>25 is going to be, but when you say -- when the</p>	<p style="text-align: center;">32</p> <p>1 Prince</p> <p>2 been Bates stamped by us C57 and 58 when</p> <p>3 they were produced in discovery.</p> <p>4 MS. BART: Yesterday, correct?</p> <p>5 MR. BROOKS: No, about six months</p> <p>6 ago.</p> <p>7 MS. BART: The original production.</p> <p>8 MR. BROOKS: The initial disclosure</p> <p>9 I should say.</p> <p>10 (Plaintiff's Exhibit 3, two-page</p> <p>11 printout from website, was marked for</p> <p>12 identification, as of this date.)</p> <p>13 Q. Mr. Prince, you have a website?</p> <p>14 A. Yes, I do. Yes.</p> <p>15 Q. And is it www.RichardPrinceArt.com?</p> <p>16 A. Yes.</p> <p>17 Q. The first page of Exhibit 3 is a</p> <p>18 photograph of somebody. Is that you?</p> <p>19 A. Yes.</p> <p>20 Q. And on the table in the photograph</p> <p>21 there seems to be a book with some -- it looks</p> <p>22 like a cowboy on a horse?</p> <p>23 A. Yes.</p> <p>24 Q. Is that a book with some of these</p> <p>25 Marlboro cowboys we were talking about before?</p>

<p style="text-align: center;">33</p> <p>1 Prince</p> <p>2 A. I think that book is a book called</p> <p>3 Blasted Allegories that was published by the</p> <p>4 New Museum. I think they used a cowboy image of</p> <p>5 mine.</p> <p>6 Q. But that's not your book?</p> <p>7 A. It's not my book, no.</p> <p>8 Q. Now, if you could turn to the second</p> <p>9 page. There's a reference to -- it looks like</p> <p>10 an essay called Practicing Without a License</p> <p>11 1977, and beneath that there's a reference to</p> <p>12 what looks like an essay called Appropriation</p> <p>13 1978. Do you see those two?</p> <p>14 A. Yes.</p> <p>15 Q. Are those essays that you wrote?</p> <p>16 MR. HAYES: Object to form.</p> <p>17 THE WITNESS: I'm sorry?</p> <p>18 MR. HAYES: Object to form. He's</p> <p>19 calling them essays without establishing</p> <p>20 what they are. So I'm objecting to form.</p> <p>21 You can answer if you understand it.</p> <p>22 MR. BROOKS: No, no, I'll withdraw.</p> <p>23 BY MR. BROOKS:</p> <p>24 Q. What are they?</p> <p>25 A. I think they were sort of -- I was</p>	<p style="text-align: center;">35</p> <p>1 Prince</p> <p>2 managing, with quotes around managing, rather</p> <p>3 than quoting them, reproducing their effect and</p> <p>4 look as naturally as they had been produced when</p> <p>5 they first appeared.</p> <p>6 Was this a description by you in</p> <p>7 1977 of a practice that you were experimenting</p> <p>8 with at that time?</p> <p>9 A. Yes.</p> <p>10 Q. Let's look at the second -- I'm</p> <p>11 calling it an essay. Please don't be offended.</p> <p>12 Just these words.</p> <p>13 A. It's okay.</p> <p>14 MR. HAYES: Just as long as you're</p> <p>15 adopting that as a term of art for this</p> <p>16 purpose, that's fine.</p> <p>17 Q. Appropriation 1978 states --</p> <p>18 MR. HAYES: So do you want to read</p> <p>19 the rest of the --</p> <p>20 MR. BROOKS: Not at this time, no.</p> <p>21 MR. HAYES: Okay.</p> <p>22 BY MR. BROOKS:</p> <p>23 Q. Appropriation 1978 states -- and for</p> <p>24 the record, I have not read the entire piece</p> <p>25 that was written in 1977.</p>
<p style="text-align: center;">34</p> <p>1 Prince</p> <p>2 trying to figure out what I was doing in 1977.</p> <p>3 And since I was the one who was doing it, and it</p> <p>4 was brand new, I felt that I was probably in the</p> <p>5 position of trying to explain what the</p> <p>6 experiment was in 1977.</p> <p>7 Q. Now, when you were -- let's just</p> <p>8 talk about the first one first in 1977. When</p> <p>9 you were explaining the experiment who was your</p> <p>10 anticipated audience for the explanation?</p> <p>11 A. I didn't have any expectation of an</p> <p>12 audience. Aside from a few other artist friends</p> <p>13 I was totally in the dark. I was just basically</p> <p>14 alone in my studio.</p> <p>15 Q. Let me just ask a different</p> <p>16 question. These are your words that you wrote</p> <p>17 in or about 1977?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. I believe they are.</p> <p>21 Q. The first sentence I will read into</p> <p>22 the record says rephotography is a technique</p> <p>23 for stealing, parenthesis, pirating, close</p> <p>24 parenthesis, already existing images, comma,</p> <p>25 simulating rather than copying them, comma,</p>	<p style="text-align: center;">36</p> <p>1 Prince</p> <p>2 Appropriation 1978. I think</p> <p>3 appropriation has to do with the inability of</p> <p>4 the author slash artist to like his or her own</p> <p>5 work, period. Especially if the work is all</p> <p>6 theirs, period. I think it's a lot more</p> <p>7 satisfying to appropriate, comma, especially if</p> <p>8 you are attempting to produce work with a</p> <p>9 certain believability, comma, an official</p> <p>10 fiction let's say. If you take someone else's</p> <p>11 work and call it your own, comma, you don't have</p> <p>12 to ask an audience, quote, to take my word for</p> <p>13 it, unquote, period. It's not like it started</p> <p>14 with you and ended up being guessed at. The</p> <p>15 effect you want to produce is not that different</p> <p>16 from what an audience sometimes experiences when</p> <p>17 viewing a good movie. And that's what -- and</p> <p>18 then in quotes -- somebody named Christian Metz</p> <p>19 called a general lowering of wakefulness.</p> <p>20 MR. HAYES: I think what might have</p> <p>21 been an inadvertent misstatement is the</p> <p>22 sentence next to last is and what's that</p> <p>23 as opposed to that's what.</p> <p>24 Q. Oh, sorry. And what's that what</p> <p>25 Christian Metz called a general lowering of</p>

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<p style="text-align: center;">37</p> <p>1 Prince                  2 wakefulness, unquote.                  3 (Clarification by reporter.)                  4 Q. Again, those were your words in                  5 1978?                  6 A. Yes.                  7 Q. When you would -- now, I'm asking                  8 about the first series of sentences. Okay?                  9 A. Mm-hmm.                  10 Q. Practicing without a license.                  11 When you would rephotograph would                  12 you actually use a camera?                  13 A. Yes.                  14 Q. So you would take an analog                  15 photograph of some image, is that right?                  16 A. I would take a slide. I was using                  17 slide film.                  18 Q. And then develop it?                  19 A. I would send it to a commercial lab                  20 and have it developed.                  21 Q. Now, in this digital age that we're                  22 in now are you able to appropriate images                  23 without actually using a camera?                  24 MR. HAYES: Objection to the form of                  25 the question. Without actually using a</p>	<p style="text-align: center;">39</p> <p>1 Prince                  2 the Canal Zone show isn't is a fact that you                  3 scanned some of Plaintiff's images directly onto                  4 the canvas?                  5 A. No.                  6 MR. HAYES: Objection.                  7 MS. BART: Objection, form.                  8 A. No.                  9 Q. Did somebody do that at your                  10 request?                  11 MS. BART: Same objection.                  12 A. What I would do is send -- after I                  13 tore the image out of the book --                  14 Q. You're talking about Plaintiff's                  15 book?                  16 A. Yes.                  17 I would send it off to a commercial                  18 lab. And I believe it's called inkjet process.                  19 Q. Right.                  20 A. Now, I don't know too much about it                  21 except that it -- you're able to reproduce in                  22 almost any scale onto different surfaces. The                  23 surface which I chose was canvas.                  24 Q. Right. And the name of the lab that                  25 you used?</p>
<p style="text-align: center;">38</p> <p>1 Prince                  2 camera?                  3 Q. Well, for instance, like if you see                  4 a photograph somewhere you can -- is it possible                  5 to scan it and enlarge it?                  6 A. I suppose so.                  7 Q. And do a high-definition copy of it                  8 without using a camera?                  9 MR. HAYES: If you know.                  10 A. I guess so.                  11 MS. BART: Excuse me, I'd like to                  12 hear the question back, please.                  13 (Record read.)                  14 MR. HAYES: I attempted to interpose                  15 an objection that the question calls for                  16 speculation, and I'll do that now.                  17 MR. BROOKS: Okay.                  18 BY MR. BROOKS:                  19 Q. But you can answer.                  20 A. I guess so.                  21 Q. Well, you guess so?                  22 MR. HAYES: Don't guess. If you                  23 know, say so. If you don't, say so.                  24 A. Yes, I believe you can. Yes.                  25 Q. In creating the works that were in</p>	<p style="text-align: center;">40</p> <p>1 Prince                  2 A. NancyScans.                  3 Q. Where are they located?                  4 A. Chatham, New York.                  5 Q. Chatham, New York.                  6 Near where you live Upstate?                  7 A. It's about an hour, yes.                  8 Q. And that's why -- we'll get to this                  9 again later --                  10 A. Okay.                  11 Q. -- but in the book, the Canal Zone                  12 book, it says the images -- some of your                  13 paintings rather, are inkjet and acrylic on                  14 canvas, correct?                  15 A. Yes.                  16 Q. And other material?                  17 A. And other mediums, yeah.                  18 Q. Have you ever heard of an inkjet                  19 printer?                  20 MR. HAYES: Objection.                  21 Meaning other than in this context                  22 or?                  23 MR. BROOKS: No, just in general.                  24 A. I don't understand -- heard of an                  25 inkjet printer?</p>

<p style="text-align: center;">41</p> <p>1 Prince</p> <p>2 Q. Have you ever gone into like a</p> <p>3 Kinko's and asked them to make a copy for you?</p> <p>4 A. No.</p> <p>5 Q. Do you have a printer at home?</p> <p>6 A. No, I don't.</p> <p>7 Q. In your studio?</p> <p>8 A. No.</p> <p>9 Q. Do you have a computer?</p> <p>10 A. I have a computer.</p> <p>11 Q. Let me ask you a few questions about</p> <p>12 the 1978 -- I'm going to call it an essay.</p> <p>13 MR. HAYES: That's fine.</p> <p>14 MR. BROOKS: I understand it's not</p> <p>15 an essay.</p> <p>16 MR. HAYES: Yeah, he adopted the</p> <p>17 term. As long as we're clear it's an</p> <p>18 adopted term, that's fine. No problem.</p> <p>19 BY MR. BROOKS:</p> <p>20 Q. Was it ever published anywhere,</p> <p>21 Appropriation 1978, other than on your website?</p> <p>22 A. The Appropriation 1978?</p> <p>23 Q. Right.</p> <p>24 A. I think a form of it or another --</p> <p>25 maybe another edit of it was probably -- some of</p>	<p style="text-align: center;">43</p> <p>1 Prince</p> <p>2 interested in reflecting about what was going on</p> <p>3 at the time. I believe I was, what, twenty --</p> <p>4 MR. HAYES: Nine.</p> <p>5 A. Twenty-nine.</p> <p>6 I had only been in New York for four</p> <p>7 or five years. I was also very interested in</p> <p>8 the whole punk rock movement and felt very much</p> <p>9 a part of that attitude.</p> <p>10 And the idea of not liking your own</p> <p>11 work I thought was a kind of avant-garde,</p> <p>12 revolutionary, very poetic position to take at</p> <p>13 the time. Because most artists you meet have</p> <p>14 these large egos and love what they do. So I</p> <p>15 took the opposite point of view.</p> <p>16 Q. And why did you feel that it was,</p> <p>17 quote, more satisfying to appropriate?</p> <p>18 A. I felt that, you know, again, I like</p> <p>19 the idea of having a bit or a part or a share of</p> <p>20 a public image, much like the pop artists who I</p> <p>21 very much grew up with. And I was especially</p> <p>22 enamored of Andy Warhol at the time.</p> <p>23 And I felt that I wanted to</p> <p>24 contribute to something that already existed in</p> <p>25 the world.</p>
<p style="text-align: center;">42</p> <p>1 Prince</p> <p>2 the sentence structure was probably used.</p> <p>3 I know the general lowering of</p> <p>4 wakefulness was used in a book that I wrote</p> <p>5 called Why I Go to the Movies Alone.</p> <p>6 Q. That was the name of your book?</p> <p>7 A. Yes.</p> <p>8 Q. And do you know when that book came</p> <p>9 out?</p> <p>10 A. 1983.</p> <p>11 Q. With respect to the essay, it states</p> <p>12 appropriation has to do with the inability of</p> <p>13 the author slash artist to like his or her own</p> <p>14 work.</p> <p>15 Do you feel that you have an</p> <p>16 inability to like your own work?</p> <p>17 A. I think at the time I wrote</p> <p>18 it I was -- I was very interested in</p> <p>19 anti-expressionism. I was very interested in</p> <p>20 works or artworks that did not have to do with</p> <p>21 personal dreams. I was very interested in</p> <p>22 making things up and fiction and turning the</p> <p>23 fiction into something that you can believe in.</p> <p>24 Again, I have to say also that in</p> <p>25 this year, especially '77 to '78, I was also</p>	<p style="text-align: center;">44</p> <p>1 Prince</p> <p>2 Q. You're speaking in the past tense,</p> <p>3 fair enough, because I'm asking you about --</p> <p>4 A. Yeah, this is what I'm -- I'm trying</p> <p>5 to approximate what I was feeling thirty years</p> <p>6 ago.</p> <p>7 Q. Let's talk about now. Do you still</p> <p>8 find it more satisfying to appropriate than to</p> <p>9 create your own work?</p> <p>10 A. Yeah, I do. I feel that I like to</p> <p>11 get as much fact into my work and reduce the</p> <p>12 amount of speculation. I believe there's too</p> <p>13 much -- I like an artwork where that when you</p> <p>14 see something, like a cowboy or a girlfriend, I</p> <p>15 mean these are, in fact, true.</p> <p>16 Q. Or a nurse?</p> <p>17 A. Or a nurse, or a hood.</p> <p>18 Q. And you feel, if it's not yours --</p> <p>19 MR. HAYES: Let him finish.</p> <p>20 MR. BROOKS: I'm sorry.</p> <p>21 MR. HAYES: Have you finished your</p> <p>22 answer?</p> <p>23 THE WITNESS: I'm sorry. Yes.</p> <p>24 Q. And you feel if it's not yours it's</p> <p>25 more believable to the audience?</p>

<p style="text-align: center;">45</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection,</p> <p>3 mischaracterizes what he said.</p> <p>4 But if you want -- you can respond</p> <p>5 to that if you want, but the statement --</p> <p>6 A. I feel it's totally mine.</p> <p>7 Q. Okay. But in the essay you said you</p> <p>8 find appropriating satisfying especially if you</p> <p>9 are attempting to produce work with a certain</p> <p>10 believability?</p> <p>11 A. Yes.</p> <p>12 Q. So there's something about</p> <p>13 appropriating images from other people that</p> <p>14 helps you make a work of art that's more</p> <p>15 believable, is that right?</p> <p>16 A. I guess you can say that, yes.</p> <p>17 Q. Do you still feel that way?</p> <p>18 A. Probably not as much as I did in</p> <p>19 1978.</p> <p>20 Q. But to some extent?</p> <p>21 A. I think you could say that.</p> <p>22 Q. Is it part of your message now that</p> <p>23 your artwork is more believable because it was</p> <p>24 taken from someone else?</p> <p>25 A. I don't have a -- I don't really</p>	<p style="text-align: center;">47</p> <p>1 Prince</p> <p>2 Monday.</p> <p>3 MR. BROOKS: Well, I can't help</p> <p>4 that.</p> <p>5 (Plaintiff's Exhibit 4, interview,</p> <p>6 was marked for identification, as of this</p> <p>7 date.)</p> <p>8 Q. Mr. Prince, you've been handed</p> <p>9 what's been marked as Plaintiff's Exhibit 4.</p> <p>10 Do you recall being interviewed in</p> <p>11 ArtForum Magazine in 2003?</p> <p>12 A. Boy. I don't really recall being</p> <p>13 interviewed, no.</p> <p>14 Q. Do you know who Steve Lafreniere is?</p> <p>15 A. No, I don't.</p> <p>16 Q. Let's look at the second page of</p> <p>17 this exhibit. And there's a question up at the</p> <p>18 top where the interviewer is asking, I'd always</p> <p>19 assumed that you purposely made your early</p> <p>20 photos have an amateur look and that you'd done</p> <p>21 them quickly, but looking at them today would</p> <p>22 suggest otherwise. How worked on were pictures</p> <p>23 like Untitled, three women looking in the same</p> <p>24 direction, 1980.</p> <p>25 Before I read the answer, did you</p>
<p style="text-align: center;">46</p> <p>1 Prince</p> <p>2 have a message.</p> <p>3 Q. Okay. Is appropriating images from</p> <p>4 other people, does that also make your job</p> <p>5 easier in creating a new image?</p> <p>6 A. No. Not really, no.</p> <p>7 Q. Does it make it harder?</p> <p>8 A. No, it's just something that --</p> <p>9 something that I do and I love to do, and I've</p> <p>10 always -- you know, I've been doing this for</p> <p>11 quite a while.</p> <p>12 Q. Right.</p> <p>13 When you began to engage in the</p> <p>14 practice of rephotographing the work of others</p> <p>15 did you consider yourself at that time to be a</p> <p>16 skilled photographer?</p> <p>17 A. No.</p> <p>18 MR. BROOKS: Let's mark as</p> <p>19 Plaintiff's Exhibit 4 an article, or</p> <p>20 actually an interview with Bates stamp</p> <p>21 pages C226 through 228.</p> <p>22 And this was I believe produced in</p> <p>23 response to your discovery requests on</p> <p>24 Friday.</p> <p>25 MS. BART: We got them actually on</p>	<p style="text-align: center;">48</p> <p>1 Prince</p> <p>2 have a work Untitled with three women looking in</p> <p>3 the same direction in 1980, if you recall?</p> <p>4 A. Yes.</p> <p>5 Q. And here's what appears to be your</p> <p>6 answer. RP, I had limited technical skills</p> <p>7 regarding the camera. Actually, I had no</p> <p>8 skills. I played the camera. I used a cheap</p> <p>9 commercial lab to blow up the pictures. I made</p> <p>10 editions of two. I never went into a darkroom.</p> <p>11 And yes, I really worked hard on Women, capital</p> <p>12 W, period. I mean that piece still looks like</p> <p>13 it was purposely made.</p> <p>14 Do you recall making this statement?</p> <p>15 A. Yes.</p> <p>16 Q. And was it a true statement?</p> <p>17 A. Yes, it was. It's absolutely true.</p> <p>18 Q. The next question says, So you sort</p> <p>19 of fell into photography, and the answer is, In</p> <p>20 the early '80s I didn't have the subject matter</p> <p>21 for painting, I didn't have the, quote, jokes,</p> <p>22 initial cap J, unquote, until 1986. What I did</p> <p>23 have was magazines. I was working at Time Life</p> <p>24 and was surrounded by magazines. I wanted to</p> <p>25 present the images I saw in these magazines as</p>

<p style="text-align: center;">49</p> <p>1 Prince</p> <p>2 naturally as when they first appeared. Making a</p> <p>3 photograph of them seemed the best way to do it.</p> <p>4 I didn't exactly, quote, fall, unquote, as much</p> <p>5 as steal, period.</p> <p>6 Did you make that statement?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Was that a true statement?</p> <p>9 A. Yes, it is.</p> <p>10 Q. When you said you had no skills,</p> <p>11 I mean what did you mean?</p> <p>12 A. I didn't have any skills. I had</p> <p>13 never really -- I liked the idea of not knowing</p> <p>14 how to use a mechanical apparatus at the time.</p> <p>15 I didn't know anything about the medium.</p> <p>16 Q. Right.</p> <p>17 Do you remember saying in a</p> <p>18 subsequent interview that you destroyed</p> <p>19 photography?</p> <p>20 A. Yes, I shot the sheriff or something</p> <p>21 like that. Yeah, I did.</p> <p>22 Q. What did you mean by that?</p> <p>23 A. I changed it. I revolutionized it.</p> <p>24 Q. How?</p> <p>25 A. I changed it completely.</p>	<p style="text-align: center;">51</p> <p>1 Prince</p> <p>2 And the part was this idea of the artist as a</p> <p>3 kind of cliché. And I was very much an</p> <p>4 outsider. And I was interested in playing a</p> <p>5 role. Again, fictionalizing myself.</p> <p>6 Q. As an outlaw?</p> <p>7 A. Yes.</p> <p>8 Q. Kind of like Robin Hood stealing</p> <p>9 from Philip Morris?</p> <p>10 MR. HAYES: Objection to the form.</p> <p>11 A. No.</p> <p>12 MR. HAYES: Objection.</p> <p>13 A. No. I was making things up.</p> <p>14 Q. Right.</p> <p>15 A. I was extremely -- to tell you the</p> <p>16 truth, I was extremely conservative, on the</p> <p>17 other hand, in terms of my artistic attitude.</p> <p>18 And I knew that in order to maybe</p> <p>19 discover something new I had to change a bit and</p> <p>20 take on another persona. And I felt that by</p> <p>21 playing, quote, as I said in the interview, the</p> <p>22 camera, just like a punk rock guitarist who</p> <p>23 picks up a guitar, seven days later he's playing</p> <p>24 on stage. He doesn't know how to play the</p> <p>25 guitar, but it's his inability which shines</p>
<p style="text-align: center;">50</p> <p>1 Prince</p> <p>2 Q. How?</p> <p>3 A. Well, rephotography actually you</p> <p>4 could -- thirty years later people download.</p> <p>5 You could actually substitute the word download</p> <p>6 for rephotography. I mean I did it.</p> <p>7 Q. Download an image on your computer?</p> <p>8 A. It's the same thing really.</p> <p>9 Q. And scan it --</p> <p>10 A. I mean I'm talking poetically here,</p> <p>11 philosophically. Again, it's all an</p> <p>12 experimentation. But I did destroy and change</p> <p>13 the whole -- the whole medium actually.</p> <p>14 And that's what I was trying to</p> <p>15 do at the time was revolutionize an artistic</p> <p>16 practice that up to that time was pretty boring,</p> <p>17 really.</p> <p>18 Q. In the essays we looked at in the</p> <p>19 previous exhibit, Exhibit 3.</p> <p>20 A. Mm-hmm.</p> <p>21 Q. 1977 and 1978 essays, and in this</p> <p>22 interview in 2003, were you trying to depict</p> <p>23 yourself as an outlaw or a rebel?</p> <p>24 MR. HAYES: Object to the form.</p> <p>25 A. I think I was playing a part, yes.</p>	<p style="text-align: center;">52</p> <p>1 Prince</p> <p>2 through, which is really exciting.</p> <p>3 And the fact that he's not a</p> <p>4 virtuoso -- it's the very limitations I think</p> <p>5 that make -- can actually make great art. And</p> <p>6 that's basically what all this, these two essays</p> <p>7 and these two quotes in this particular</p> <p>8 interview is about.</p> <p>9 MR. BROOKS: Let's mark as</p> <p>10 Plaintiff's Exhibit 5 two pages Bates</p> <p>11 stamped C229 and 230.</p> <p>12 It's a portion of -- or it is an</p> <p>13 interview in French.</p> <p>14 MS. BART: Do you have an English</p> <p>15 translation for the witness and counsel?</p> <p>16 MR. BROOKS: Later. That will be</p> <p>17 Exhibit 6. I'm on Exhibit 5.</p> <p>18 MS. BART: Well, I'd like to have</p> <p>19 a copy of the translation so that I can</p> <p>20 determine whether or not I need to object</p> <p>21 to any of your questions with this</p> <p>22 exhibit.</p> <p>23 MR. BROOKS: Okay. All right.</p> <p>24 Fine.</p> <p>25 MS. BART: Excuse me, I'd like to</p>





53	55
<p>1 Prince</p> <p>2 have it before you question --</p> <p>3 MR. BROOKS: I'm going to give</p> <p>4 that to you after I ask him a couple of</p> <p>5 questions about this document.</p> <p>6 MS. BART: I object to this line of</p> <p>7 questioning.</p> <p>8 MR. BROOKS: Fine. That's fine.</p> <p>9 BY MR. BROOKS:</p> <p>10 Q. Mr. Prince, take a look at --</p> <p>11 (Interruption by reporter.)</p> <p>12 (Plaintiff's Exhibit 5, interview in</p> <p>13 French, was marked for identification, as</p> <p>14 of this date.)</p> <p>15 MR. BROOKS: I object to counsel</p> <p>16 conferring --</p> <p>17 MS. BART: There's no question</p> <p>18 pending.</p> <p>19 MR. HAYES: There's no question</p> <p>20 pending, is there?</p> <p>21 Or read the question back that's</p> <p>22 pending.</p> <p>23 MR. BROOKS: There was a question</p> <p>24 pending. I started asking a question.</p> <p>25 MR. HAYES: What was the question?</p>	<p>1 Prince</p> <p>2 trying to ask him.</p> <p>3 MS. BART: Do it.</p> <p>4 MR. BROOKS: You know, your</p> <p>5 objections are supposed to be succinct,</p> <p>6 non-argumentative --</p> <p>7 MS. BART: They are succinct.</p> <p>8 MR. BROOKS: -- and non-suggestive.</p> <p>9 MS. BART: I'm not engaging.</p> <p>10 Continue.</p> <p>11 MR. BROOKS: Fine. Neither am I.</p> <p>12 BY MR. BROOKS:</p> <p>13 Q. Mr. Prince, were you interviewed by</p> <p>14 a publication called Liberation Next?</p> <p>15 A. I'm sorry, what --</p> <p>16 MR. HAYES: Read the question back.</p> <p>17 A. No, no, no, no. What was the --</p> <p>18 Q. Liberation Next.</p> <p>19 A. Next?</p> <p>20 Q. Yes.</p> <p>21 MR. HAYES: Is the question were you</p> <p>22 interviewed by that publication?</p> <p>23 A. I don't know.</p> <p>24 Q. Now, do you speak French?</p> <p>25 A. No, I don't.</p>
54	56
<p>1 Prince</p> <p>2 MR. BROOKS: I don't remember.</p> <p>3 MR. HAYES: Okay, well, read it</p> <p>4 back.</p> <p>5 (Clarification by reporter.)</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Mr. Prince, take a look at what's</p> <p>8 been marked as Plaintiff's Exhibit 5, please.</p> <p>9 It's two pages.</p> <p>10 A. Mm-hmm.</p> <p>11 MR. HAYES: Just for the record, I</p> <p>12 am going to object to any questions about</p> <p>13 this document which is in French without</p> <p>14 having an English translation be provided.</p> <p>15 MR. BROOKS: Fine. Your objection</p> <p>16 is noted.</p> <p>17 MS. BART: Unless you can lay a</p> <p>18 foundation --</p> <p>19 MR. BROOKS: Let me just ask the</p> <p>20 question.</p> <p>21 MS. BART: I'm going to finish my</p> <p>22 objection, counsel.</p> <p>23 Unless you can establish that this</p> <p>24 person reads and speaks French.</p> <p>25 MR. BROOKS: Well, that's what I'm</p>	<p>1 Prince</p> <p>2 Q. At all?</p> <p>3 A. No, I don't.</p> <p>4 MR. BROOKS: Let's mark as</p> <p>5 exhibit -- Plaintiff's Exhibit 6 an</p> <p>6 English translation of a portion of the</p> <p>7 French text in Exhibit 5.</p> <p>8 (Plaintiff's Exhibit 6, English</p> <p>9 translation of portion of French</p> <p>10 interview, was marked for identification,</p> <p>11 as of this date.)</p> <p>12 Q. Mr. Prince, you've been handed</p> <p>13 Plaintiff's Exhibit 6 --</p> <p>14 MR. HAYES: Actually, have you been</p> <p>15 handed six? I don't have a copy of it.</p> <p>16 Okay. Here's six. Got it.</p> <p>17 Q. Okay. The second page of</p> <p>18 Plaintiff's Exhibit 6 has a photo.</p> <p>19 Do you see that?</p> <p>20 A. This one?</p> <p>21 Q. Yes. The photo of the cowboy on a</p> <p>22 horse?</p> <p>23 A. Yes.</p> <p>24 Q. Do you see it?</p> <p>25 A. Mm-hmm.</p>

<p style="text-align: center;">57</p> <p>1 Prince</p> <p>2 Q. Do you recognize it?</p> <p>3 A. Yes.</p> <p>4 Q. What is it?</p> <p>5 A. It's an image of a cowboy.</p> <p>6 Q. Does it have any relationship to you</p> <p>7 or your work?</p> <p>8 A. Yes.</p> <p>9 Q. What?</p> <p>10 A. It's an artwork that I did I believe</p> <p>11 in 1989.</p> <p>12 Q. Is it a rephotograph of one --</p> <p>13 A. Yes.</p> <p>14 Q. -- of these Marlboro cowboys?</p> <p>15 A. Yes.</p> <p>16 Q. The name of the interviewer on</p> <p>17 page 2 appears to be Olivier Wicker. Do you</p> <p>18 know him?</p> <p>19 A. No, I don't know him. If it's --</p> <p>20 are you sure it's a him? I mean --</p> <p>21 Q. No, I'm not.</p> <p>22 A. It's a him?</p> <p>23 MR. HAYES: It could be a her.</p> <p>24 Q. It could be.</p> <p>25 A. You know, I get interviewed so many</p>	<p style="text-align: center;">59</p> <p>1 Prince</p> <p>2 limiting it to these two questions.</p> <p>3 MR. HAYES: I understand that, but I</p> <p>4 want to be able to see --</p> <p>5 MR. BROOKS: I don't have a</p> <p>6 translation of the balance.</p> <p>7 MR. HAYES: But can I just finish</p> <p>8 why? I want to be able to see it in</p> <p>9 context. That's a perfectly fair</p> <p>10 question. I want to see -- anything you</p> <p>11 want to ask him about I want to see it in</p> <p>12 context so if I have a follow-up question,</p> <p>13 for example, the opportunity to ask about</p> <p>14 the entire article.</p> <p>15 If you are asking him about a</p> <p>16 portion of it and you're only translating</p> <p>17 a portion of it, I don't speak French,</p> <p>18 unfortunately.</p> <p>19 MR. BROOKS: Well --</p> <p>20 MR. HAYES: You're denying me the</p> <p>21 opportunity to review it and ask any</p> <p>22 follow-up questions.</p> <p>23 MR. BROOKS: Okay.</p> <p>24 MR. HAYES: So I object --</p> <p>25 MR. BROOKS: I do speak French. The</p>
<p style="text-align: center;">58</p> <p>1 Prince</p> <p>2 times that -- especially at this particular</p> <p>3 moment. I believe that was a woman. But I</p> <p>4 can't be sure of that.</p> <p>5 Q. The date was an interesting date.</p> <p>6 It's February 29th of last year on a leap --</p> <p>7 leap February 29th.</p> <p>8 A. Okay.</p> <p>9 Q. Do you remember if you were in</p> <p>10 France then?</p> <p>11 A. I don't remember. The 29th -- no, I</p> <p>12 can't answer that.</p> <p>13 Q. Okay. There are two questions and</p> <p>14 answers that are reproduced in this interview.</p> <p>15 The first question says, You work essentially</p> <p>16 from existing images, what is your opinion on</p> <p>17 copyright. The answer says, I have always</p> <p>18 worked without authorization -- I'm going to get</p> <p>19 to the rest later, but -- I've always worked</p> <p>20 without authorization, is that correct?</p> <p>21 MR. HAYES: I would just like to</p> <p>22 stop for one second.</p> <p>23 Do you have a translation of the</p> <p>24 entire article?</p> <p>25 MR. BROOKS: No, because I'm only</p>	<p style="text-align: center;">60</p> <p>1 Prince</p> <p>2 rest of it has nothing to do with these</p> <p>3 two questions. You have my word.</p> <p>4 MR. HAYES: I'm not questioning --</p> <p>5 MR. BROOKS: And you're free to get</p> <p>6 your own translation obviously.</p> <p>7 MR. HAYES: I'm not questioning your</p> <p>8 word, but I'm simply asking at this</p> <p>9 deposition it's appropriate to give me a</p> <p>10 translation of the entire article.</p> <p>11 MR. BROOKS: I don't have it.</p> <p>12 MR. HAYES: Therefore, I object.</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. Now, getting back to what I said.</p> <p>15 When I started --</p> <p>16 MS. BART: Join.</p> <p>17 Q. You said, When I started out, no one</p> <p>18 was paying any -- no, I'm sorry. You said, I</p> <p>19 have always worked without authorization, is</p> <p>20 that true?</p> <p>21 A. I'm not sure I said that. I mean</p> <p>22 I -- it sounds -- when I read that whole</p> <p>23 paragraph it sounds like something that was</p> <p>24 translated.</p> <p>25 But, you know, I don't -- I don't --</p>

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<p style="text-align: center;">61</p> <p>1 Prince</p> <p>2 it probably meant that I've always worked --</p> <p>3 I don't really ask permission probably is what</p> <p>4 I meant or -- I don't know. Authorization</p> <p>5 doesn't sound like something I would say, but --</p> <p>6 Q. Right.</p> <p>7 Do you recall giving the interview</p> <p>8 with an interpreter?</p> <p>9 A. I don't -- I'm thinking that this</p> <p>10 interview might have taken place in New York</p> <p>11 alongside Mark.</p> <p>12 Q. Mark Jacobs?</p> <p>13 A. Yeah, but I don't recall Next.</p> <p>14 I do recall giving an interview with</p> <p>15 Mark for a French newspaper.</p> <p>16 Q. Okay. Let's go on to the balance of</p> <p>17 the answer, and you can tell me whether or not</p> <p>18 it accords with your recollection of what you</p> <p>19 might have said.</p> <p>20 Which does not mean that I do not</p> <p>21 understand the reason why copyright exists. The</p> <p>22 material I work on, I buy it, then I modify it,</p> <p>23 and I know quite well from what moment an image</p> <p>24 or object becomes mine. That is what I did for</p> <p>25 the Marlboro cowboys. I bought an original</p>	<p style="text-align: center;">63</p> <p>1 Prince</p> <p>2 in a new way, presented them in a new way.</p> <p>3 Whether or not I was -- you know,</p> <p>4 I've never really been aware that -- again, the</p> <p>5 idea of -- as far as I know -- I mean I'm not --</p> <p>6 I just really don't understand -- and I still</p> <p>7 don't, copyright. However, I do believe at the</p> <p>8 time there was no copyright for advertising</p> <p>9 images.</p> <p>10 Q. I'm just trying to understand. I</p> <p>11 understand this was probably translated from</p> <p>12 French to English, so I understand that.</p> <p>13 When you say you bought, and you</p> <p>14 just testified that you bought drawings, did you</p> <p>15 buy the drawing or the right to reproduce the</p> <p>16 drawing, if you know?</p> <p>17 A. I bought the drawing.</p> <p>18 Q. And did you buy it from Philip</p> <p>19 Morris or did you buy it in an auction --</p> <p>20 A. I bought it in auction.</p> <p>21 Q. -- or from some other person who</p> <p>22 owned it?</p> <p>23 A. I bought it at auction.</p> <p>24 Q. And what do you mean -- again, it</p> <p>25 may be because it was translated, what do you</p>
<p style="text-align: center;">62</p> <p>1 Prince</p> <p>2 drawing that the brand had used as a medium for</p> <p>3 an advertising campaign. I put it in a frame</p> <p>4 alongside another photo of a cowboy. So you</p> <p>5 understand that I do not pay more attention to</p> <p>6 copyright than that.</p> <p>7 Do you recall giving an answer --</p> <p>8 A. Yeah, but that last sentence does</p> <p>9 sound like something that was translated because</p> <p>10 that doesn't make any sense. But I was probably</p> <p>11 referring to, yes.</p> <p>12 I think in order to continue the</p> <p>13 cowboy series, I started actually finding out --</p> <p>14 I mean this gets back to the idea of discovering</p> <p>15 and going into new territory, which was a</p> <p>16 complete surprise to me that this is how organic</p> <p>17 something can start.</p> <p>18 I discovered you could buy original</p> <p>19 drawings that the Marlboro company had</p> <p>20 commissioned and used as advertisements before</p> <p>21 they started making advertisements with</p> <p>22 photographs. And I would go online and buy them</p> <p>23 at auctions. And I liked very much that I could</p> <p>24 buy these drawings.</p> <p>25 And what I did was I juxtaposed them</p>	<p style="text-align: center;">64</p> <p>1 Prince</p> <p>2 mean that you put the image alongside another</p> <p>3 photo of a cowboy? And I'm just looking at this</p> <p>4 photo here, I only see one cowboy.</p> <p>5 MR. HAYES: First of all, could you</p> <p>6 ask him what he meant -- or did he say it</p> <p>7 and what he meant, because he's pointed</p> <p>8 out that this translation may not be</p> <p>9 accurate --</p> <p>10 MR. BROOKS: Right.</p> <p>11 MR. HAYES: -- I'd just like to get</p> <p>12 it down straight about what happened.</p> <p>13 MR. BROOKS: Right.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. What's your best recollection of</p> <p>16 what you meant?</p> <p>17 A. What I meant was I was trying to</p> <p>18 describe the work that I had made with the</p> <p>19 original drawing that I bought of the Marlboro</p> <p>20 ad.</p> <p>21 Q. But did you have a practice when you</p> <p>22 did these Marlboro rephotographs of putting one</p> <p>23 cowboy next to another within the same frame?</p> <p>24 A. Not at the -- not when I started</p> <p>25 out, no. I mean what I'm describing here is a</p>

<p style="text-align: center;">65</p> <p>1 Prince</p> <p>2 new body of work that I'm still working on to</p> <p>3 this day, which is I'm buying original drawings</p> <p>4 and watercolors that Marlboro used for their</p> <p>5 advertising.</p> <p>6 Q. You're still doing that?</p> <p>7 A. I collect them. Yeah, they're part</p> <p>8 of my collection. I don't sell them. I collect</p> <p>9 them.</p> <p>10 I put them into frames next to</p> <p>11 photographs of cowboys. So there's a</p> <p>12 juxtaposition between the two mediums. I kind</p> <p>13 of like that. I think it's very creative.</p> <p>14 Q. And this is for your personal</p> <p>15 viewing?</p> <p>16 A. This is for my personal mania for</p> <p>17 collecting books and other artworks by other</p> <p>18 artists.</p> <p>19 Q. Now, let's look at the second</p> <p>20 question. The question is, You never had any</p> <p>21 problems, question mark. And the answer is,</p> <p>22 When I started out, no one was paying any</p> <p>23 attention to me. Who would have been concerned</p> <p>24 by a guy who appropriated an image from an ad?</p> <p>25 What purpose would it serve to sue me? I was</p>	<p style="text-align: center;">67</p> <p>1 Prince</p> <p>2 Q. And so the two of you put together a</p> <p>3 spring collection for Louis Vuitton?</p> <p>4 A. No, I -- I didn't put anything</p> <p>5 together. I gave him ideas for -- my job, or --</p> <p>6 you know, what I was supposed to do was to work</p> <p>7 with the font, I guess you call it, the Louis</p> <p>8 Vuitton, their logo. I was supposed to come up</p> <p>9 with a variation that they then could put on</p> <p>10 handbags.</p> <p>11 Q. And was that done?</p> <p>12 A. Yes, it was.</p> <p>13 Q. Were you paid?</p> <p>14 A. I was paid.</p> <p>15 Q. Let's take a look at -- let me just</p> <p>16 say something. I'm going to come back to that</p> <p>17 so, just so --</p> <p>18 MR. HAYES: We'll leave it right</p> <p>19 here.</p> <p>20 Q. -- it can be kept on top of the pile</p> <p>21 because I am going to come back to it.</p> <p>22 MR. HAYES: Sure. This is actually</p> <p>23 the copy here, this is my copy.</p> <p>24 MR. BROOKS: All right. Fine.</p> <p>25 Let's mark as Plaintiff's Exhibit 7</p>
<p style="text-align: center;">66</p> <p>1 Prince</p> <p>2 living in an apartment in East Village -- in the</p> <p>3 East Village, where the rent was \$75 a month.</p> <p>4 My job earned me \$100. I had enough left to</p> <p>5 eat, drink, and buy supplies to paint. But if,</p> <p>6 unfortunately, I were to be sued today, I would</p> <p>7 call upon a law firm. However, it would not</p> <p>8 bother me in the slightest for someone to</p> <p>9 appropriate my work. And it's rather funny for</p> <p>10 me to work with a company Louis Vuitton whose</p> <p>11 sales revenue depends in large part on defending</p> <p>12 its copyright.</p> <p>13 Do you recall giving an answer along</p> <p>14 those lines?</p> <p>15 A. That's pretty good. Yeah. That's a</p> <p>16 pretty good translation.</p> <p>17 Q. And did you work on the 2008 spring</p> <p>18 collection for Louis Vuitton together with Mark</p> <p>19 Jacobs?</p> <p>20 A. Yes.</p> <p>21 Q. Who is Mark Jacobs?</p> <p>22 A. He's a friend.</p> <p>23 Q. No, but what is his -- what is he</p> <p>24 known for?</p> <p>25 A. He's a fashion designer.</p>	<p style="text-align: center;">68</p> <p>1 Prince</p> <p>2 a two-page article which was produced with</p> <p>3 Bates stamps C83 and 84.</p> <p>4 (Plaintiff's Exhibit 7, two-page</p> <p>5 article, was marked for identification, as</p> <p>6 of this date.)</p> <p>7 Q. Mr. Prince, please take a look at</p> <p>8 Plaintiff's Exhibit 7. You'll see it was</p> <p>9 written -- do you know Randy Kennedy, the</p> <p>10 reporter who wrote this?</p> <p>11 A. I know of him, yes.</p> <p>12 Q. From the New York Times?</p> <p>13 A. Yes.</p> <p>14 Q. It looks like this article was</p> <p>15 written December 6th, 2007, and that was on the</p> <p>16 occasion of your mid-career retrospective at the</p> <p>17 Guggenheim, is that right?</p> <p>18 A. Yes.</p> <p>19 Q. What was the name of that show?</p> <p>20 A. Spiritual America.</p> <p>21 Q. After the Brooke Shields photograph?</p> <p>22 A. Yes.</p> <p>23 Q. Now, that -- I should say</p> <p>24 rephotograph, that Brooke Shields image.</p> <p>25 The name, the title Spiritual</p>

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<p style="text-align: center;">69</p> <p>1 Prince</p> <p>2 America, where did you get that from?</p> <p>3 A. It was an Alfred Stieglitz image</p> <p>4 that I saw at the Metropolitan Museum of Art.</p> <p>5 (Discussion off the record.)</p> <p>6 Q. You saw it where, at the</p> <p>7 Metropolitan Museum of Art? What did you say?</p> <p>8 A. Yes. Yes. That's where I saw the</p> <p>9 image.</p> <p>10 Q. The Stieglitz image?</p> <p>11 A. The Stieglitz image was titled.</p> <p>12 Q. Right.</p> <p>13 A. Spiritual America.</p> <p>14 Q. If you go down to the fourth</p> <p>15 paragraph do you see it starts with the words</p> <p>16 when Mr. Prince started reshooting ads, do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 MR. HAYES: I caution the witness,</p> <p>20 you can take your time to read the entire</p> <p>21 document that's put in front of you.</p> <p>22 Any documents put in front of you,</p> <p>23 just you take the time to read the entire</p> <p>24 document.</p> <p>25 Just so he knows.</p>	<p style="text-align: center;">71</p> <p>1 Prince</p> <p>2 ads you did fountain pens and furniture sets?</p> <p>3 A. Yes.</p> <p>4 Q. The next paragraph it says,</p> <p>5 referring to you, But he was not circumspect</p> <p>6 about what it meant or how it would be viewed.</p> <p>7 In the 1992 discussion at the Whitney Museum of</p> <p>8 American Art he said of rustling the Marlboro</p> <p>9 aesthetic, colon, quote, no one was looking,</p> <p>10 this was a famous campaign, if you are going to</p> <p>11 steal something, you know, you go to the bank.</p> <p>12 Did you make a statement to that</p> <p>13 effect?</p> <p>14 A. I really can't say that, but it</p> <p>15 sounds like something I might have said at the</p> <p>16 time, yes.</p> <p>17 Q. Have you ever compared yourself to</p> <p>18 Willy Sutton?</p> <p>19 A. I believe that I was probably</p> <p>20 riffing on the Willy Sutton comment, and I was</p> <p>21 probably being a bit of a - again, playing the</p> <p>22 part of kind of a punk rock artist at the time.</p> <p>23 Q. And just for the record, who is</p> <p>24 Willy Sutton, as far as you know?</p> <p>25 A. I believe he was a bank robber.</p>
<p style="text-align: center;">70</p> <p>1 Prince</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. That goes for any document I show</p> <p>4 you today.</p> <p>5 Now, this paragraph states when</p> <p>6 Mr. Prince started reshooting ads, first prosaic</p> <p>7 ones of fountain pens and furniture sets and</p> <p>8 then more traditionally striking ones like those</p> <p>9 from Marlboro, he said he was trying to get at</p> <p>10 something he could not get at by creating his</p> <p>11 own images. He once compared the effect to the</p> <p>12 funny way that, quote, certain records sound</p> <p>13 better when someone on the radio station plays</p> <p>14 them, than when we're home alone and play the</p> <p>15 same records ourselves, unquote.</p> <p>16 Do you recall making a statement to</p> <p>17 that effect?</p> <p>18 A. Yeah, it's a great statement.</p> <p>19 Q. But it's your statement?</p> <p>20 A. The quote?</p> <p>21 Q. Yes.</p> <p>22 A. Yes, that's a statement. Whether I</p> <p>23 made it to him, I don't recall.</p> <p>24 Q. And is it correct that before you</p> <p>25 started rephotographing the Marlboro commercials</p>	<p style="text-align: center;">72</p> <p>1 Prince</p> <p>2 Q. The next paragraph states people</p> <p>3 might not have been looking at the time when his</p> <p>4 art was not highly sought, but as his reputation</p> <p>5 and prices for his work rose steeply, dash, one</p> <p>6 of the Marlboro pictures set an auction record</p> <p>7 for a photograph in 2005, comma, selling for</p> <p>8 1.2 million dollars, dash, they began to look,</p> <p>9 and Mr. Prince has spoken of receiving threats,</p> <p>10 comma, some legal and some more physical in</p> <p>11 nature, comma, from his unsuspecting lenders.</p> <p>12 He is said to have made a small payment in an</p> <p>13 out-of-court settlement with one photographer</p> <p>14 Garry Gross who took the original shot for one</p> <p>15 of Mr. Prince's most notorious early borrowings,</p> <p>16 an image of a young unclothed Brooke Shields.</p> <p>17 Mr. Prince declined to comment for this article,</p> <p>18 comma, saying in an e-mail message only, quote,</p> <p>19 I never associated advertisements with having an</p> <p>20 author, unquote.</p> <p>21 Now, is it true that you started</p> <p>22 receiving legal threats at some point?</p> <p>23 A. No, that's probably something that I</p> <p>24 just made up.</p> <p>25 Q. Did Garry Gross ever threaten to sue</p>

<p style="text-align: center;">73</p> <p>1 Prince</p> <p>2 you?</p> <p>3 A. No, he never did.</p> <p>4 Q. Did you ever reach an out-of-court</p> <p>5 settlement with Garry Gross?</p> <p>6 A. No.</p> <p>7 Q. You're positive?</p> <p>8 A. I'm positive.</p> <p>9 As far as I can tell, I'm positive.</p> <p>10 I actually -- in 1992 I guess that's what</p> <p>11 they're talking about, your last quote here,</p> <p>12 you're talking about -- I mean Mr. Kennedy is</p> <p>13 talking about a 1992 discussion at the Whitney,</p> <p>14 and I believe at that time I bought the rights</p> <p>15 to the image for \$2,000.</p> <p>16 Q. From Gary Gross?</p> <p>17 A. Yes.</p> <p>18 Q. Because he threatened to sue you?</p> <p>19 A. No. I was told by the Whitney that</p> <p>20 I -- in order to exhibit that image I made a</p> <p>21 concession, or they advised me that it would</p> <p>22 probably be best that -- and I believe I sort of</p> <p>23 reached out to him at the time.</p> <p>24 Because up until then, that image</p> <p>25 that I rephotographed from that pamphlet that he</p>	<p style="text-align: center;">75</p> <p>1 Prince</p> <p>2 in for context the following paragraph and</p> <p>3 its reference to the fair use exceptions</p> <p>4 to copyright law?</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. Did you send an e-mail to this</p> <p>7 reporter saying, at the top of page 2 of the</p> <p>8 exhibit, I never associated advertisements with</p> <p>9 having an author?</p> <p>10 A. It sounds like something I would</p> <p>11 have said. Whether or not I sent an e-mail to</p> <p>12 him, I don't know. I don't recall.</p> <p>13 Q. And you -- that actually is</p> <p>14 something you believe, right?</p> <p>15 A. Yeah. Advertisements have no</p> <p>16 authors. They're art directed though, and I</p> <p>17 believe -- I believe that sincerely. I believe</p> <p>18 they're psychologically hopped-up images that</p> <p>19 are too good to be true. They look like they</p> <p>20 have a life of their own, and they look like a</p> <p>21 film still.</p> <p>22 I don't believe I've ever seen</p> <p>23 an author or an artist's signature on an</p> <p>24 advertisement.</p> <p>25 What I believe -- they're associated</p>
<p style="text-align: center;">74</p> <p>1 Prince</p> <p>2 had produced in 1983, I made one copy, an 8 by</p> <p>3 10, and I gave it away. And it wasn't until</p> <p>4 1992 that it came back into the limelight, and I</p> <p>5 think my attitude changed a bit and I was sort</p> <p>6 of willing to become more part of the process I</p> <p>7 suppose.</p> <p>8 Q. And at that time you made ten copies</p> <p>9 plus an artist proof?</p> <p>10 A. At the time there was ten copies and</p> <p>11 I believe two artist proofs, none of which I</p> <p>12 own.</p> <p>13 MR. HAYES: By the way, do you want</p> <p>14 to read into the record the following</p> <p>15 paragraph --</p> <p>16 (Clarification by reporter.)</p> <p>17 MR. HAYES: Do you want read into</p> <p>18 the record the following paragraph --</p> <p>19 MR. BROOKS: No, no, you can do that</p> <p>20 when you have redirect. I don't want to</p> <p>21 spend my time --</p> <p>22 MR. HAYES: Okay. Just read back --</p> <p>23 let me restate my statement because the</p> <p>24 court reporter didn't get it.</p> <p>25 The question is do you want to read</p>	<p style="text-align: center;">76</p> <p>1 Prince</p> <p>2 with products. And I believe I started taking</p> <p>3 them, rephotographing them because of those</p> <p>4 qualities.</p> <p>5 Q. Do you see further down on the</p> <p>6 second page of Exhibit 7 -- withdrawn.</p> <p>7 Have you ever heard of Jim Krantz,</p> <p>8 K-R-A-N-T-Z, before?</p> <p>9 A. No.</p> <p>10 Q. Well, he apparently was at least one</p> <p>11 of the people who did the ads for Marlboro.</p> <p>12 A. He did?</p> <p>13 Q. According to this article.</p> <p>14 And I'm just going to call your</p> <p>15 attention to what he is quoted as saying at the</p> <p>16 bottom of page 2. Fourth paragraph from the</p> <p>17 bottom it says, Mr. Krantz said he considered</p> <p>18 his ad work distinctive, comma, not simply the</p> <p>19 kind of anonymous commercial imagery that he</p> <p>20 feels Mr. Prince considers it to be.</p> <p>21 I take it you disagree with</p> <p>22 Mr. Krantz's statement?</p> <p>23 MR. HAYES: Well, objection on</p> <p>24 several grounds. First of all, we don't</p> <p>25 know that Mr. Krantz actually said this.</p>

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<p>1 Prince</p> <p>2 MR. BROOKS: Right.</p> <p>3 MR. HAYES: And what you're now</p> <p>4 doing is you're taking this entirely out</p> <p>5 of context without consenting, for</p> <p>6 example, to read the paragraph above that</p> <p>7 I asked you to read in to put the entire</p> <p>8 article into context.</p> <p>9 MS. BART: I think you should do</p> <p>10 that now for the record --</p> <p>11 MR. HAYES: That article -- that</p> <p>12 paragraph says Mr. Krantz --</p> <p>13 MR. BROOKS: Now, I -- listen, if</p> <p>14 you're going to enforce the seven-hour</p> <p>15 rule, I object to your saying anything</p> <p>16 other than objection, or direct him not to</p> <p>17 answer.</p> <p>18 MR. HAYES: I object to the witness</p> <p>19 being asked questions without it being put</p> <p>20 in context by reading appropriate parts of</p> <p>21 the rest of the article, which --</p> <p>22 MR. BROOKS: Fine.</p> <p>23 MR. HAYES: -- by the way, is two</p> <p>24 sentences --</p> <p>25 MR. BROOKS: Which you can read when</p>	<p>1 Prince</p> <p>2 incorporated in the question. I think the</p> <p>3 question is improper, and I join with</p> <p>4 Ms. Bart's objection.</p> <p>5 Q. So now you can answer.</p> <p>6 Do you disagree with that statement</p> <p>7 attributed to --</p> <p>8 A. I'm sure he has -- I mean, you know,</p> <p>9 I respect his feelings.</p> <p>10 Q. So you agree with what he's saying?</p> <p>11 MR. HAYES: Well, what he's saying,</p> <p>12 you're agreeing with his statement about</p> <p>13 that Mr. Krantz considers his work</p> <p>14 distinctive or imagery that he feels or</p> <p>15 what Mr. Prince considers it to be.</p> <p>16 You're asking for Mr. Prince's state of</p> <p>17 mind about Mr. Krantz's artwork --</p> <p>18 MR. BROOKS: Mr. Hayes, you're</p> <p>19 starting to obstruct.</p> <p>20 MR. HAYES: I'm not. There are two</p> <p>21 statements in there. Which one are you</p> <p>22 asking about?</p> <p>23 BY MR. BROOKS:</p> <p>24 Q. Do you agree that the Marlboro ads</p> <p>25 that you rephotographed are distinctive?</p>
78	80
<p>1 Prince</p> <p>2 you do redirect, if you wish.</p> <p>3 A. No. Listen, I'll -- here's the</p> <p>4 thing. You know, I don't know Mr. Krantz, and I</p> <p>5 have no -- I'm sure he's a great guy and a great</p> <p>6 photographer, you know, and I'm sure he took</p> <p>7 great photographs for the Marlboro. I don't</p> <p>8 know if he did or not.</p> <p>9 But, you know, it had -- what he did</p> <p>10 has nothing to do with what I do.</p> <p>11 Q. I understand.</p> <p>12 There's a statement attributed to</p> <p>13 him. He may or may not have made it. Let me</p> <p>14 just ask you, do you disagree with the statement</p> <p>15 that's attributed to him?</p> <p>16 MS. BART: Objection, form, rule of</p> <p>17 optional completeness.</p> <p>18 Q. The statement is Mr. Krantz said he</p> <p>19 considered his ad work distinctive, not simply</p> <p>20 the kind of anonymous commercial imagery that he</p> <p>21 feels Mr. Prince considers it to be.</p> <p>22 MR. HAYES: Objection, calls for</p> <p>23 speculation, it's improper complete.</p> <p>24 The quote -- the attributed quote,</p> <p>25 it calls for speculation. That's</p>	<p>1 Prince</p> <p>2 A. Well, they're distinctive for me,</p> <p>3 yes.</p> <p>4 Q. What does that mean?</p> <p>5 A. They're distinctive for me in many,</p> <p>6 many ways. I mean I can talk about it for an</p> <p>7 hour. You know, they're cowboys but they're not</p> <p>8 cowboys. They seem to represent something about</p> <p>9 America. They're political I suppose. With me</p> <p>10 not really being a political artist. They're</p> <p>11 great-looking images.</p> <p>12 Again, you know, when I first took</p> <p>13 them -- I mean had a show of cowboys in 1984.</p> <p>14 No one paid any attention. There was nothing</p> <p>15 ever written on them. And no one bought any.</p> <p>16 I like them. I mean that's as</p> <p>17 simple as I can say. I think they're great</p> <p>18 images.</p> <p>19 THE VIDEOGRAPHER: Two minutes.</p> <p>20 A. Sorry --</p> <p>21 Q. No, I appreciate that.</p> <p>22 Now, if you would go back to</p> <p>23 Exhibit 6, remember I said we were going to go</p> <p>24 back --</p> <p>25 MS. BART: I think he wants to --</p>

<p style="text-align: center;">81</p> <p>1 Prince</p> <p>2 MR. BROOKS: Five minutes?</p> <p>3 MS. BART: Two minutes.</p> <p>4 MR. BROOKS: Shall we stop now?</p> <p>5 THE VIDEOGRAPHER: Yes.</p> <p>6 11:37. Off the record.</p> <p>7 End of tape 1.</p> <p>8 (Recess taken: 11:37 a.m.)</p> <p>9 (Proceedings resumed: 11:46 a.m.)</p> <p>10 THE VIDEOGRAPHER: 11:46.</p> <p>11 On the record. Beginning of tape 2.</p> <p>12 BY MR. BROOKS:</p> <p>13 Q. We were looking at Exhibit 7, and</p> <p>14 there's a -- on the first page of it there's a</p> <p>15 picture of one of those cowboys.</p> <p>16 A. Mm-hmm.</p> <p>17 Q. Is that one of your rephotographs</p> <p>18 that you sold?</p> <p>19 A. No.</p> <p>20 Q. No? That's an original?</p> <p>21 A. I don't know.</p> <p>22 Q. Okay. It's not one of yours?</p> <p>23 A. It's not one of mine.</p> <p>24 Q. Now, could you go back to Exhibit 6,</p> <p>25 please, and the second page of it?</p>	<p style="text-align: center;">83</p> <p>1 Prince</p> <p>2 guess I felt that I was lucky that I didn't have</p> <p>3 those kinds of concerns because I believe -- you</p> <p>4 know, they operate in the real world, and I</p> <p>5 don't.</p> <p>6 Q. You're aware that they spend a lot</p> <p>7 of effort trying to prevent knock-offs, right?</p> <p>8 A. They made me aware of that, yes.</p> <p>9 And I was glad of the fact that I didn't have to</p> <p>10 be in their shoes.</p> <p>11 Q. Right.</p> <p>12 A. I felt it was kind of silly, to tell</p> <p>13 you the truth.</p> <p>14 Q. Well, they spent a lot of money</p> <p>15 designing that collection I assume, right?</p> <p>16 A. I believe they did, yes.</p> <p>17 Q. So somebody could knock it off in</p> <p>18 China and they would lose sales, right?</p> <p>19 MS. BART: Objection to form.</p> <p>20 MR. HAYES: Objection.</p> <p>21 Q. Right?</p> <p>22 A. I guess so, yeah.</p> <p>23 Q. You, on the other hand, in Exhibit 6</p> <p>24 said, However, it would not bother me in the</p> <p>25 slightest for someone to appropriate my work.</p>
<p style="text-align: center;">82</p> <p>1 Prince</p> <p>2 A. Which is Exhibit 6?</p> <p>3 MR. HAYES: Exhibit 6 is this.</p> <p>4 MR. BROOKS: That's the translation.</p> <p>5 MR. HAYES: Translation of the</p> <p>6 portion of the article.</p> <p>7 MR. BROOKS: Right.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. At the bottom you said it's -- and</p> <p>10 it's rather funny for me to work with a company</p> <p>11 Louis Vuitton whose sales revenue depends in</p> <p>12 large part on defending its copyright.</p> <p>13 That was a reference to the 2008</p> <p>14 collection that you helped Mark Jacobs with?</p> <p>15 A. Yes.</p> <p>16 Q. And what was funny about that?</p> <p>17 A. I just felt that this was a</p> <p>18 situation, a new situation for me, which I was</p> <p>19 providing them with images, and they needed to</p> <p>20 make sure that they had -- I believe I provided</p> <p>21 them with very obscure images of cartoons.</p> <p>22 And I just thought it was funny</p> <p>23 because, you know, I'm -- they're a commercial</p> <p>24 outfit, very big, and I'm just -- I was just an</p> <p>25 artist. They needed to know -- you know, I</p>	<p style="text-align: center;">84</p> <p>1 Prince</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Do you copyright your work?</p> <p>5 A. No, I don't.</p> <p>6 Q. Do you realize that there's a</p> <p>7 copyright notice in the Canal Zone book?</p> <p>8 A. No, I didn't know. I didn't really</p> <p>9 look at the Canal Zone book.</p> <p>10 Q. Ever?</p> <p>11 A. I've looked at it. I approved I</p> <p>12 believe what they call the galleys.</p> <p>13 Q. Did you look at the inserts?</p> <p>14 A. You mean -- what do you mean</p> <p>15 inserts?</p> <p>16 Q. Well, for one thing, the James Frey,</p> <p>17 F-R-E-Y, story?</p> <p>18 A. Yes.</p> <p>19 Q. By insert I mean the pages are</p> <p>20 smaller than the regular pages.</p> <p>21 A. Yes.</p> <p>22 Q. So you looked at that?</p> <p>23 A. Yes.</p> <p>24 Q. And there were some cartoon drawings</p> <p>25 with the James Frey --</p>





85	87
<p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. -- essay or story?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know where those cartoons</p> <p>6 came from?</p> <p>7 A. They came from my collecting cartoon</p> <p>8 books.</p> <p>9 Q. But then there were little captions,</p> <p>10 were those original into the cartoons?</p> <p>11 A. I don't recall if they were original</p> <p>12 or not.</p> <p>13 Q. For instance, How do I know you</p> <p>14 won't kiss and tell?</p> <p>15 A. Right. I don't know if they were --</p> <p>16 I might have made up my own captions, I often</p> <p>17 do, to mismatch. And I believe those cartoons</p> <p>18 were collaged onto palm trees, which I -- it was</p> <p>19 part of my contribution to the cartoon to make</p> <p>20 it different and suggested again the jungles of</p> <p>21 Panama.</p> <p>22 MR. BROOKS: Okay. Just so my</p> <p>23 outline doesn't get all screwed up, I'm</p> <p>24 going to mark this as Exhibit 42.</p> <p>25 MR. HAYES: 42?</p>	<p>1 Prince</p> <p>2 that a reference to his story?</p> <p>3 MR. HAYES: If you know.</p> <p>4 Q. If you know.</p> <p>5 A. No, I don't know.</p> <p>6 Q. Everything is if you know.</p> <p>7 A. No, I don't know.</p> <p>8 Q. And it says all artworks copyright</p> <p>9 2008 Richard Prince, insert images copyright</p> <p>10 2008 Richard Prince. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever seen that before?</p> <p>13 A. If I did I never really paid</p> <p>14 attention to it.</p> <p>15 Q. And then at the bottom of the page</p> <p>16 it says all rights reserved, no part of this</p> <p>17 publication may be used or reproduced in any</p> <p>18 manner whatsoever without prior written</p> <p>19 permission from the copyright holders.</p> <p>20 Do you see that language?</p> <p>21 A. Yes.</p> <p>22 Q. So you created some artworks that</p> <p>23 are depicted in this book Exhibit 42, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And you spent some time and effort</p>
86	88
<p>1 Prince</p> <p>2 MR. BROOKS: Out of order.</p> <p>3 So this will be the exhibit I guess.</p> <p>4 (Plaintiff's Exhibit 42, Canal Zone</p> <p>5 book, was marked for identification, as of</p> <p>6 this date.)</p> <p>7 MR. BROOKS: These pages are Bates</p> <p>8 stamped -- Mr. Hayes, could you help him</p> <p>9 find the page Bates stamped 213? It's in</p> <p>10 the very back.</p> <p>11 MR. HAYES: You can find it faster</p> <p>12 than me, but sure.</p> <p>13 There we go.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. Mr. Prince, this is the book I was</p> <p>16 referring to before.</p> <p>17 A. Mm-hmm.</p> <p>18 Q. And it was published in connection</p> <p>19 with an exhibition at the Gagosian Gallery in</p> <p>20 November-December 2008, is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. It says -- in the third paragraph</p> <p>23 I guess it says publication copyright 2008,</p> <p>24 Gagosian Gallery, Ding Dong the Witch is Dead,</p> <p>25 copyright 2008, James Frey, and that's -- is</p>	<p>1 Prince</p> <p>2 doing it?</p> <p>3 A. Yes.</p> <p>4 Q. And you spent some money I assume,</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. And you don't mind if somebody just</p> <p>8 copies some of these images and sells them?</p> <p>9 A. No, I don't.</p> <p>10 If they can make a contribution --</p> <p>11 Q. You answered.</p> <p>12 A. -- I'm all for it.</p> <p>13 MR. BROOKS: Let's mark as</p> <p>14 Plaintiff's Exhibit 8 an interview of</p> <p>15 Mr. Prince. And those pages have been</p> <p>16 Bates stamped in our initial disclosure</p> <p>17 C59 to 64.</p> <p>18 This is going to get very congested</p> <p>19 there. Maybe you might just want to put</p> <p>20 that -- because I'm not going to come back</p> <p>21 to that book for a while, maybe just --</p> <p>22 MR. HAYES: Sure.</p> <p>23 MR. BROOKS: Plaintiff's Exhibit 8.</p> <p>24 (Plaintiff's Exhibit 8, interview,</p> <p>25 was marked for identification, as of this</p>

<p style="text-align: center;">89</p> <p>1 Prince</p> <p>2 date.)</p> <p>3 Q. Mr. Prince, you've been handed</p> <p>4 what's been marked as Plaintiff's Exhibit 8.</p> <p>5 Do you, first of all, know</p> <p>6 Brian Appel, A-P-P-E-L?</p> <p>7 A. I know who he is, yes.</p> <p>8 Q. And do you recall being interviewed</p> <p>9 by him sometime in 2007?</p> <p>10 A. Yes, I do.</p> <p>11 Q. Have you ever seen this I guess</p> <p>12 publication of that interview before?</p> <p>13 A. No, I've never seen it before.</p> <p>14 Q. At the time you gave this interview</p> <p>15 you were still being represented by the Barbara</p> <p>16 Gladstone Gallery, is that right?</p> <p>17 A. When was this, 2007?</p> <p>18 Q. Yes. I'm not sure what month.</p> <p>19 Let me help you. If you look at the</p> <p>20 very top --</p> <p>21 A. I was showing with her, yes, 2007 --</p> <p>22 Q. If you just look at the very first</p> <p>23 statement Mr. Appel made, he says hope you had a</p> <p>24 chance to read my review of your last show at</p> <p>25 Barbara Gladstone. Do you see that?</p>	<p style="text-align: center;">91</p> <p>1 Prince</p> <p>2 Q. It's just a handshake?</p> <p>3 A. There's not even a handshake.</p> <p>4 Q. When he sells -- withdrawn.</p> <p>5 When Gagosian Gallery sells your art</p> <p>6 for you do they keep a percentage and give you a</p> <p>7 percentage?</p> <p>8 A. Yes.</p> <p>9 Q. And is it always 60 percent that you</p> <p>10 get?</p> <p>11 A. No.</p> <p>12 Q. No?</p> <p>13 A. It's different. It depends on what</p> <p>14 work sells.</p> <p>15 Q. Okay. And is it negotiated on a</p> <p>16 work-by-work basis rather than in some</p> <p>17 underlying agreement?</p> <p>18 A. It's very fluid. It depends upon my</p> <p>19 mood at the time that it sells. I can fluctuate</p> <p>20 this, whatever you call it, a sliding scale. I</p> <p>21 don't know.</p> <p>22 Q. So whatever arrangement you have</p> <p>23 with Gagosian Gallery, it's just a set of oral</p> <p>24 understandings --</p> <p>25 A. Yes.</p>
<p style="text-align: center;">90</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. Do you remember when you switched,</p> <p>4 if you did, from Barbara Gladstone to Gagosian</p> <p>5 Gallery as your representative?</p> <p>6 A. I've never really switched.</p> <p>7 Q. Does Barbara Gladstone Gallery still</p> <p>8 represent you as well?</p> <p>9 A. She represents some of my work, yes.</p> <p>10 Q. Currently?</p> <p>11 A. Currently.</p> <p>12 Q. And does Gagosian Gallery represent</p> <p>13 some of your work?</p> <p>14 A. He has some of my work on</p> <p>15 consignment, yes.</p> <p>16 Q. Okay. But doesn't he do other --</p> <p>17 render other services for you, for instance,</p> <p>18 help sell your art?</p> <p>19 A. That's what they're -- both of them</p> <p>20 are supposed to do.</p> <p>21 Q. Market it?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have a written contract with</p> <p>24 Gagosian Gallery?</p> <p>25 A. I have no contracts.</p>	<p style="text-align: center;">92</p> <p>1 Prince</p> <p>2 Q. -- is that right?</p> <p>3 No written contract?</p> <p>4 A. No written contract.</p> <p>5 Q. Now, turning to Plaintiff's</p> <p>6 Exhibit 8, the -- I guess the second question</p> <p>7 Mr. Appel asked you. I'll read it. One of the</p> <p>8 highlights of the summer for me was having the</p> <p>9 pleasure of seeing two of your controversial</p> <p>10 rephotography pieces from 1983 turning up in two</p> <p>11 excellent survey shows, semicolon, the</p> <p>12 subversively seductive, quote, Untitled</p> <p>13 Girlfriend on Motorbike, unquote, a</p> <p>14 44-by-64-inch ectocolor print of a scrawny nude</p> <p>15 biker girl awkwardly splayed on top of a Harley</p> <p>16 Davidson motorcycle in the Christine Bell</p> <p>17 curated, quote, Girls on Film, unquote, exhibit</p> <p>18 at Zwimmer, Z-W-I-M --</p> <p>19 MR. HAYES: Zwimer I believe it is.</p> <p>20 Q. -- Zwimer, Zwimer, Zwimer,</p> <p>21 Z-W-I-R-N-E-R, and Wirth, W-I-R-T-H, and the</p> <p>22 notorious, quote/unquote, Spiritual America, a</p> <p>23 24-by-20-inch ectocolor print after an original</p> <p>24 by Garry Gross of a prepubescent Brooke Shields</p> <p>25 emerging nude from a steamy bathtub in the</p>

93	95
<p>1 Prince</p> <p>2 Donna-De-Salvo-curated, quote/unquote, landscape</p> <p>3 exhibit from the permanent collection at the</p> <p>4 Whitney Museum of Art.</p> <p>5 That was a mouthful, but --</p> <p>6 MR. HAYES: And it goes on more. Do</p> <p>7 you want to read it?</p> <p>8 MR. BROOKS: It does go on. It goes</p> <p>9 on for six pages. I'm not going to read</p> <p>10 it all.</p> <p>11 MR. HAYES: No, I mean that question</p> <p>12 went on or that statement went on more.</p> <p>13 MR. BROOKS: Yeah, I know. But this</p> <p>14 is the part I'm focusing on.</p> <p>15 BY MR. BROOKS:</p> <p>16 Q. The scrawny nude biker girl, is that</p> <p>17 the photo to the right of the text?</p> <p>18 There appears to be a photo called</p> <p>19 Untitled Girlfriend 1993?</p> <p>20 A. I don't know.</p> <p>21 Q. Okay. Fair enough.</p> <p>22 You don't remember rephotographing</p> <p>23 that image?</p> <p>24 Do you see the girl on the</p> <p>25 motorcycle?</p>	<p>1 Prince</p> <p>2 MS. BART: Objection, form.</p> <p>3 Q. Now, why is Spiritual America, if</p> <p>4 you -- I don't know if you agree with this or</p> <p>5 not, but he calls it notorious, do you agree</p> <p>6 with that characterization?</p> <p>7 A. No.</p> <p>8 Q. Do you realize the police in London</p> <p>9 just seized it in the Tate Gallery the other</p> <p>10 day?</p> <p>11 A. I was informed of that fact I</p> <p>12 believe while I was breaking down on the</p> <p>13 Palisades Parkway on Thursday afternoon.</p> <p>14 Q. And were you told why the police in</p> <p>15 London confiscated it?</p> <p>16 A. No. I didn't.</p> <p>17 Q. Obscenity laws?</p> <p>18 A. I have been told nothing at all why.</p> <p>19 I don't -- to tell you the truth, I don't know</p> <p>20 if the police seized it. If you're telling me</p> <p>21 this, it's news to me.</p> <p>22 Q. I don't know.</p> <p>23 Well, you say it's news to you but</p> <p>24 somebody told you --</p> <p>25 A. Well, the police --</p>
94	96
<p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. Okay. You don't -- that's not your</p> <p>4 work?</p> <p>5 A. That's my work.</p> <p>6 Q. Oh, okay.</p> <p>7 A. I don't know if that's what he's</p> <p>8 referring to though.</p> <p>9 Q. Okay. Forget about him. Let's just</p> <p>10 ask you. Is that your work?</p> <p>11 A. Yes, it is.</p> <p>12 Q. Okay. And where did you -- did you</p> <p>13 take that photo yourself or rephotograph it?</p> <p>14 A. No. No, I didn't. I rephotographed</p> <p>15 that image from an image that appeared in a</p> <p>16 motorcycle magazine.</p> <p>17 Q. Without authorization?</p> <p>18 MS. BART: Objection, form.</p> <p>19 MR. HAYES: Objection to form.</p> <p>20 A. No, I --</p> <p>21 Q. Without asking for permission?</p> <p>22 A. I gave myself permission.</p> <p>23 Q. Yes. But did you ask the magazine</p> <p>24 or the person who took the picture?</p> <p>25 A. No, I didn't.</p>	<p>1 Prince</p> <p>2 (Interruption by court reporter.)</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. Let's just withdraw it.</p> <p>5 Somebody told you the police had</p> <p>6 seized it?</p> <p>7 A. Yes.</p> <p>8 Q. Could you turn to the second page of</p> <p>9 what's been marked as Exhibit 8. There's a</p> <p>10 picture there in the upper right-hand corner?</p> <p>11 A. Yes.</p> <p>12 Q. Is that Spiritual America?</p> <p>13 A. Yes, it is.</p> <p>14 Q. And it says after an original by</p> <p>15 commercial photographer Garry Gross, edition of</p> <p>16 ten plus one AP -- what does AP mean?</p> <p>17 A. Artist proof.</p> <p>18 There's actually two. It should --</p> <p>19 Q. It should say two.</p> <p>20 And this was done by you in 1983?</p> <p>21 A. Not the edition of ten plus two APs,</p> <p>22 no.</p> <p>23 Q. Oh, he's testified about that. That</p> <p>24 was done subsequently in connection with the</p> <p>25 Whitney show?</p>

97	99
1 Prince	1 Prince
2 A. Yes.	2 believe the last one was maybe \$150,000.
3 Q. Okay, sorry.	3 Q. Now, if you could look back at
4 And the one you did in 1938 you say	4 page 1 of Exhibit 8, there's a quote there from
5 you gave away?	5 you beneath that question, a part of which I
6 A. Yes.	6 read where you said -- I'm going to just quote,
7 Q. The ten you did in 1992, did you	7 it's part of the question, I just want to ask
8 sell them?	8 you if that part of your statement -- the part
9 A. I believe the ten started to be	9 of the answer reflects your thinking.
10 editioned around 1987 through 1992 they were	10 I like to think about making it
11 sold.	11 again instead of making it new.
12 Q. Okay. And who is Donna De Salvo,	12 MR. HAYES: Can you just show me
13 what was she --	13 where you are? I'm sorry, I don't know
14 A. She's a curator --	14 where you are.
15 Q. -- can you explain what that --	15 MR. BROOKS: Yeah, I'm sorry. First
16 A. -- curator at the Whitney.	16 page, it says -- it's the second answer.
17 Q. Of a show called Landscape?	17 MR. HAYES: Oh, got it. The second
18 A. I don't know that.	18 sentence -- the third sentence in the
19 Q. Spiritual America was one of the	19 answer, right?
20 works -- you don't?	20 MR. BROOKS: I'll read the whole
21 A. I don't recall. A lot of times I	21 answer, but it's not necessary.
22 don't get that type of information.	22 BY MR. BROOKS:
23 Q. Have you exhibited Spiritual America	23 Q. The machinery of America,
24 at the Whitney?	24 quote/unquote, that's a pretty good way of
25 A. That's a good question. Did I	25 describing the way images get out there. I like
98	100
1 Prince	1 Prince
2 exhibit it in my show in nineteen -- that would	2 to think about making it again instead of making
3 have been 1992?	3 it new. Making it new was an Ezra Pound way of
4 Q. I guess.	4 thinking, paren, industrial, close paren, and,
5 A. I believe I did.	5 quote, making it again, unquote, is a more
6 Q. Do you know how much that	6 R. Prince way of doing it, paren, technological,
7 rephotography -- withdrawn -- that work sells	7 close paren. Advertising images aren't really
8 for now?	8 associated with an author, more with a product
9 A. No, I don't.	9 slash company, and for the most part put out or,
10 Q. Do you know what the most one of	10 quote, art directed, unquote. They kind of end
11 them is sold for is? I'm talking about	11 up having a life of their own. It's not like
12 Spiritual America.	12 you're taking them from anyone.
13 A. Spiritual America?	13 I know the answer goes on, but that
14 I believe -- you mean the original	14 part that I quoted is similar to what you were
15 Spiritual America of the edition?	15 testifying to about half an hour ago, correct?
16 Q. The edition.	16 A. Yes.
17 A. The edition?	17 Q. That's your view, okay.
18 Q. I'm sorry, when you say edition are	18 A. Yes.
19 you saying A-D or E-D, because I'm not --	19 Q. Do you have a different standard or
20 MR. HAYES: E-D.	20 artistic practice for taking images when there
21 Q. E-D.	21 is a disclosed author and it's not an
22 A. E-D.	22 advertisement?
23 Q. Edition, okay.	23 A. No, not really. It's just a
24 A. The edition, I don't believe there's	24 question of whether I like the image.
25 been one up for sale for quite some time. But I	25 Q. If you like it then you'll consider

<p style="text-align: center;">101</p> <p>1 Prince</p> <p>2 appropriating it?</p> <p>3 MR. HAYES: Object to the form.</p> <p>4 You can answer.</p> <p>5 THE WITNESS: I'm sorry?</p> <p>6 Q. You can answer.</p> <p>7 MR. HAYES: I objected to form, but</p> <p>8 you can answer it.</p> <p>9 A. That's very difficult to answer</p> <p>10 because it really depends on the --</p> <p>11 Q. Okay.</p> <p>12 A. -- my mood of the day.</p> <p>13 Q. I understand. But when you do take</p> <p>14 images, let's just say when you do, you don't,</p> <p>15 in your own mind, differentiate between</p> <p>16 advertisements and things where you know who the</p> <p>17 author is and it's not an advertisement, is that</p> <p>18 what you're saying?</p> <p>19 MS. BART: Objection, form.</p> <p>20 A. No, I -- I mean it's a good example</p> <p>21 right here because the girlfriend is editorial.</p> <p>22 Q. Right.</p> <p>23 A. And the cowboy is advertisement.</p> <p>24 Girlfriend came from a lifestyle</p> <p>25 magazine which was a whole new type of magazine</p>	<p style="text-align: center;">103</p> <p>1 Prince</p> <p>2 it was auctioned at Christie's in 2007?</p> <p>3 A. I believe the top one is -- probably</p> <p>4 the -- I was told in excess of two-million</p> <p>5 dollars.</p> <p>6 Q. Right.</p> <p>7 A. Is that true?</p> <p>8 Q. Let's look at page 2 of the article.</p> <p>9 In the middle of the page in quotes</p> <p>10 Mr. Appel, speaking of number 1, dash, your,</p> <p>11 quote/unquote, Untitled Cowboy from 2001 that</p> <p>12 sold at Christie's this last May reset your</p> <p>13 world auction record for a photograph of</p> <p>14 2.8-million dollars. Does that sound right?</p> <p>15 A. I wasn't aware it was that much, but</p> <p>16 yes, it sounds right.</p> <p>17 Q. And beneath the Brooke Shields photo</p> <p>18 there's a nurse with a -- like a mask, right?</p> <p>19 A. Yes.</p> <p>20 Q. And you've done a series of</p> <p>21 portraits of these nurses, right?</p> <p>22 A. Portraits --</p> <p>23 Q. Portraits is the wrong word?</p> <p>24 A. -- would be a good way to describe</p> <p>25 them, yes.</p>
<p style="text-align: center;">102</p> <p>1 Prince</p> <p>2 for me.</p> <p>3 Q. Right.</p> <p>4 A. You're talking about after I left</p> <p>5 Time Life.</p> <p>6 Q. Right.</p> <p>7 A. Whole new subject matter was opened</p> <p>8 to me.</p> <p>9 Q. But in both cases you felt you could</p> <p>10 give yourself permission, as you said --</p> <p>11 A. Yes, I like --</p> <p>12 Q. -- to take both images, right?</p> <p>13 A. You have the green light, yes.</p> <p>14 Q. For both?</p> <p>15 A. Yes.</p> <p>16 Q. And then you referred to this, but</p> <p>17 above the girlfriend, is that from a series, the</p> <p>18 girlfriend, is that a series you did?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Above that there's another of</p> <p>21 these Marlboro cowboys?</p> <p>22 A. Yes.</p> <p>23 Q. Is that your work?</p> <p>24 A. Yes.</p> <p>25 Q. And how much was that one sold when</p>	<p style="text-align: center;">104</p> <p>1 Prince</p> <p>2 Q. Okay, fine.</p> <p>3 And these were taken from the covers</p> <p>4 of pulp novels?</p> <p>5 A. Pulp paperbacks that I collect, yes.</p> <p>6 Q. And those sell in the range of five</p> <p>7 to six-million dollars apiece, is that right,</p> <p>8 the nurse paintings?</p> <p>9 A. No.</p> <p>10 Q. What range do they sell for, if you</p> <p>11 know?</p> <p>12 A. Today?</p> <p>13 Q. Yeah.</p> <p>14 A. Maybe two-million dollars.</p> <p>15 Q. How about a year and a half ago --</p> <p>16 A. Well, that was --</p> <p>17 Q. -- before Lehman Brothers?</p> <p>18 A. That's at auction. Are you talking</p> <p>19 about at auction price or primary price?</p> <p>20 Q. Either.</p> <p>21 A. Secondary?</p> <p>22 Q. Either.</p> <p>23 A. I don't have any idea what auction,</p> <p>24 but primary is --</p> <p>25 Q. From the dealer?</p>

<p style="text-align: center;">105</p> <p>1 Prince</p> <p>2 A. From the dealer it's about -- it</p> <p>3 depends on the size. A small one may be half a</p> <p>4 million dollars. A large one, depends upon --</p> <p>5 again, it depends upon what I think, how I feel</p> <p>6 about it.</p> <p>7 I mean I have one in my house you</p> <p>8 could have today for -- I would, you know, if</p> <p>9 you want to give me eight-million dollars I'll</p> <p>10 sell it to you.</p> <p>11 Q. Okay. We'll talk about that after</p> <p>12 the deposition.</p> <p>13 A. Okay.</p> <p>14 Q. Can you finance it?</p> <p>15 MS. BART: For life.</p> <p>16 Q. You've said you collected -- I read</p> <p>17 about some of your collections. You have On the</p> <p>18 Road, Jack Kerouac, an original?</p> <p>19 A. Yes.</p> <p>20 Q. And you have the copy that was owned</p> <p>21 by Cassidy, right? Neal Cassidy, the Neal</p> <p>22 Cassidy--</p> <p>23 A. Yes, we are quite certain that it</p> <p>24 was owned by both Neal Cassidy and his wife</p> <p>25 Carolyn Cassidy.</p>	<p style="text-align: center;">107</p> <p>1 Prince</p> <p>2 A. I think I know what you're talking</p> <p>3 about.</p> <p>4 MR. HAYES: Let's just get it so we</p> <p>5 all know. 157?</p> <p>6 MR. BROOKS: 157, yes.</p> <p>7 A. Okay.</p> <p>8 Q. So that image is from her Sex book,</p> <p>9 Madonna's Sex book?</p> <p>10 A. No. That is not from her Sex book.</p> <p>11 I believe it appeared -- that image I believe I</p> <p>12 bought, that's a real signature --</p> <p>13 Q. Whose signature?</p> <p>14 A. I bought it. It's her signature.</p> <p>15 Q. Madonna's?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You bought the --</p> <p>18 A. I bought the image probably at some</p> <p>19 kind of Glamourcon convention.</p> <p>20 Q. Right, okay.</p> <p>21 There's also a photo in there from</p> <p>22 Planet of the Apes?</p> <p>23 A. Yes.</p> <p>24 Q. The movie.</p> <p>25 Did you get permission to use that?</p>
<p style="text-align: center;">106</p> <p>1 Prince</p> <p>2 Q. And then you collected photographs</p> <p>3 of celebrities that you then autographed in</p> <p>4 their names?</p> <p>5 A. I started to collect autographs --</p> <p>6 no, I started to collect images of celebrities,</p> <p>7 8-by-10 publicity pictures, which I then had the</p> <p>8 stupid idea of signing them to myself. Which I</p> <p>9 thought was --</p> <p>10 Q. Like Dear Richard, Love Madonna?</p> <p>11 A. Which I thought was a great idea at</p> <p>12 the time.</p> <p>13 Q. Right. In this book there's a</p> <p>14 picture of Madonna and another woman --</p> <p>15 A. Yes.</p> <p>16 Q. -- taken from her Sex book, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Did you get permission from her to</p> <p>19 do that?</p> <p>20 A. To reproduce it where?</p> <p>21 In this book?</p> <p>22 Q. In this Canal Zone book?</p> <p>23 A. Can I see it?</p> <p>24 MR. HAYES: Sure.</p> <p>25 MS. BART: What page is it on?</p>	<p style="text-align: center;">108</p> <p>1 Prince</p> <p>2 A. Permission to use it?</p> <p>3 Q. Yes, in this book.</p> <p>4 A. In the book?</p> <p>5 Q. Yes.</p> <p>6 A. No.</p> <p>7 Q. And there's one of Tarzan and Jane?</p> <p>8 A. Yeah.</p> <p>9 Q. Did you get permission to use it?</p> <p>10 A. No.</p> <p>11 MR. BROOKS: All right. I'd like to</p> <p>12 mark as Plaintiff's Exhibit 9 an article</p> <p>13 Bates stamped C234 and 235.</p> <p>14 (Plaintiff's Exhibit 9, article, was</p> <p>15 marked for identification, as of this</p> <p>16 date.)</p> <p>17 Q. Who is Sante D'Orazio?</p> <p>18 A. Who is he? Are you asking me?</p> <p>19 Q. Yes.</p> <p>20 A. He is a fashion photographer.</p> <p>21 Q. Is he friend of yours?</p> <p>22 A. Yes -- well, he was.</p> <p>23 No, he's a friend.</p> <p>24 Q. Okay. This has a picture of an</p> <p>25 image. It says Richard Prince Spiritual America</p>

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<p style="text-align: center;">109</p> <p>1 Prince</p> <p>2 four, Roman four, 2005. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recognize that photo?</p> <p>5 A. Yes.</p> <p>6 Q. Before I ask you about it, was there</p> <p>7 a Spiritual America two and three?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. What were those? What do</p> <p>10 those depict?</p> <p>11 A. I believe they were collections of</p> <p>12 memorabilia that were associated with the</p> <p>13 gallery that I constructed in order to show the</p> <p>14 original Spiritual America, like the invitation.</p> <p>15 Q. Right. Was that -- I'm sorry.</p> <p>16 A. The invitation and things of that</p> <p>17 matter.</p> <p>18 Q. Was that down on the Lower East</p> <p>19 Side?</p> <p>20 A. Yes.</p> <p>21 Q. On Rivington Street?</p> <p>22 A. Yes.</p> <p>23 Q. Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And what's the name of that gallery?</p>	<p style="text-align: center;">111</p> <p>1 Prince</p> <p>2 Q. The photo --</p> <p>3 A. Yes.</p> <p>4 Q. -- that Mr. D'Orazio took?</p> <p>5 A. Yes. By not being there is a</p> <p>6 transformative -- the absence of the author is</p> <p>7 I believe a way to transform an image.</p> <p>8 Q. Okay.</p> <p>9 A. Especially from its original intent.</p> <p>10 It's to do with the history of</p> <p>11 portraiture. Usually traditional portraiture</p> <p>12 usually you associate a man or a woman behind a</p> <p>13 camera with the subject in front of them.</p> <p>14 Q. Right.</p> <p>15 A. My way of taking portraits is to be</p> <p>16 nowhere near both the subject and the camera.</p> <p>17 Completely revolutionary. Completely new. And</p> <p>18 therefore, a way to transform what Sante was --</p> <p>19 I made suggestions about let's put a motorcycle,</p> <p>20 let's put some smoke in, have her put a bikini</p> <p>21 on, and have her try to replicate the original</p> <p>22 image.</p> <p>23 Q. I got that.</p> <p>24 A. Okay. Well, you asked me the</p> <p>25 question and I'm just trying to answer it.</p>
<p style="text-align: center;">110</p> <p>1 Prince</p> <p>2 A. It doesn't exist anymore. The name</p> <p>3 of the gallery was Spiritual America.</p> <p>4 Q. So whose idea was it to take this</p> <p>5 picture, photo, of Brooke Shields?</p> <p>6 A. Mine.</p> <p>7 Q. And why did you collaborate with a</p> <p>8 photographer, comma, Sante D'Orazio?</p> <p>9 A. He told me he knew her.</p> <p>10 Q. So you did not?</p> <p>11 A. No, I've never met her.</p> <p>12 Q. Well, did you meet her when you took</p> <p>13 this picture?</p> <p>14 A. No.</p> <p>15 Q. He took the picture?</p> <p>16 A. Yes.</p> <p>17 Q. You weren't there?</p> <p>18 A. No, I wasn't.</p> <p>19 Q. Are there some hard feelings --</p> <p>20 A. No. No.</p> <p>21 Q. You just weren't there?</p> <p>22 A. I just -- well, I wasn't there by</p> <p>23 purpose.</p> <p>24 Q. Okay. What was the purpose?</p> <p>25 A. To transform the image.</p>	<p style="text-align: center;">112</p> <p>1 Prince</p> <p>2 Q. But once he took the photo,</p> <p>3 Mr. D'Orazio --</p> <p>4 A. Yes.</p> <p>5 Q. -- did you do anything physically to</p> <p>6 change it?</p> <p>7 A. Yes.</p> <p>8 Q. Tell us what you did.</p> <p>9 A. I showed it --</p> <p>10 Q. Besides not being there?</p> <p>11 A. I showed it in the original -- I</p> <p>12 mean, get this, the original gallery that</p> <p>13 Spiritual America had originally been shown in</p> <p>14 in 1983.</p> <p>15 Q. In the same frame?</p> <p>16 A. In the same -- no, differently. I</p> <p>17 didn't show it in the frame.</p> <p>18 Q. But the same gallery?</p> <p>19 A. The same space.</p> <p>20 Q. The same space?</p> <p>21 A. Yes.</p> <p>22 Q. Because that wasn't the name of it</p> <p>23 in 1983?</p> <p>24 A. No, the space in 1983 was Spiritual</p> <p>25 America and the space in nineteen --</p>

<p style="text-align: center;">113</p> <p>1 Prince</p> <p>2 Q. 2005.</p> <p>3 A. -- 2005 was, again, named -- for two</p> <p>4 weeks I rented the same space and called it</p> <p>5 Spiritual America.</p> <p>6 Q. So that was your contribution, if</p> <p>7 you will, to this?</p> <p>8 A. Yes. My contribution was to also</p> <p>9 edit the shoot.</p> <p>10 Q. Can you explain that?</p> <p>11 A. He gave me 300 images that he took</p> <p>12 that day. And I said this is the one.</p> <p>13 Q. And once you picked the one that you</p> <p>14 wanted to use, did you do anything to change it</p> <p>15 in any way?</p> <p>16 A. I took it to a commercial lab and</p> <p>17 told them to blow it up as big as they could.</p> <p>18 Q. But keep it high definition?</p> <p>19 A. We did a bit of retouching. And I</p> <p>20 decided to pushpin it to the wall so that when</p> <p>21 it hung, the bottom would curl up just above the</p> <p>22 floor, which I thought was a pretty good idea.</p> <p>23 Q. Right.</p> <p>24 A. Very different from the original,</p> <p>25 which was an 8 by 10, totally different scale,</p>	<p style="text-align: center;">115</p> <p>1 Prince</p> <p>2 A. I mean every -- you know, it's what</p> <p>3 the image imagines.</p> <p>4 Q. But this photo, the appeal of this</p> <p>5 photo assumes that one knows what Spiritual</p> <p>6 America, the original Spiritual America --</p> <p>7 A. No.</p> <p>8 Q. No? Okay.</p> <p>9 A. Not at all.</p> <p>10 Q. It doesn't matter?</p> <p>11 A. I did not tell anybody about the</p> <p>12 show. I did not invite anybody to the show. No</p> <p>13 one was privileged. There was no press release</p> <p>14 about the showing of this image.</p> <p>15 Q. So people wandered in off the street</p> <p>16 and saw it?</p> <p>17 A. People were invited to dinner and</p> <p>18 ended up at the gallery.</p> <p>19 Q. And how long was it showing there?</p> <p>20 A. Two weeks.</p> <p>21 Q. It also says there are two -- well,</p> <p>22 how many copies of the originals of this were</p> <p>23 there?</p> <p>24 A. Of this particular photograph?</p> <p>25 Q. Spiritual America.</p>
<p style="text-align: center;">114</p> <p>1 Prince</p> <p>2 in a gold frame.</p> <p>3 Q. Did you -- withdrawn.</p> <p>4 Somewhere in here I read that that</p> <p>5 steam is actually liquid nitrogen, is that</p> <p>6 right?</p> <p>7 A. I don't know.</p> <p>8 Q. Where did I read that?</p> <p>9 Nitrogen fog. She's mired ankle</p> <p>10 deep in a nitrogen fog. But you don't know?</p> <p>11 A. No.</p> <p>12 Q. In the original one, the one where</p> <p>13 she was ten years old, there was actual steam</p> <p>14 from the bathtub? You don't know?</p> <p>15 A. I don't know that.</p> <p>16 Q. Okay. All right.</p> <p>17 So the idea here is it's evoking in</p> <p>18 a humorous way the original Spiritual America</p> <p>19 with the subject as a willing participant with a</p> <p>20 bathing suit on?</p> <p>21 MR. HAYES: Object to the form, but</p> <p>22 you can answer.</p> <p>23 A. I wouldn't say that. But if that's</p> <p>24 your impression --</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">116</p> <p>1 Prince</p> <p>2 A. Four. Maybe six in the edition.</p> <p>3 Q. Did you sell them?</p> <p>4 A. I believe Barbara Gladstone sold</p> <p>5 some of them.</p> <p>6 Q. For you?</p> <p>7 A. For me.</p> <p>8 Q. Do you notice here, this is in 2009,</p> <p>9 it's stating that -- you know Phillips de Pury,</p> <p>10 do you know that auction house?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. They're offering this, apparently,</p> <p>13 photo for sale for between 400,000 and 600,000</p> <p>14 British pounds?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Does that strike you as the correct</p> <p>17 price for this?</p> <p>18 A. I don't know what the correct price</p> <p>19 would be for that photograph.</p> <p>20 Q. Do you know if it was sold in that</p> <p>21 price range?</p> <p>22 A. It was -- I don't believe it was</p> <p>23 sold.</p> <p>24 Q. Do you believe it's a valuable piece</p> <p>25 that has some value?</p>



<p style="text-align: center;">117</p> <p>1 Prince</p> <p>2 MR. HAYES: Object to the form.</p> <p>3 Q. Some market value?</p> <p>4 A. I never get involved in the market</p> <p>5 value. I have no interest in the market.</p> <p>6 Q. When Barbara Gladstone sold some of</p> <p>7 your copies of that original or some of the</p> <p>8 originals from the edition, you received money,</p> <p>9 right?</p> <p>10 A. From the original which, this or --</p> <p>11 Q. Spiritual America Four?</p> <p>12 A. Four?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So it has some value?</p> <p>16 Somebody bought it and you got some</p> <p>17 of the money, right?</p> <p>18 A. If that's what you mean by value,</p> <p>19 yes. I received money from the sale of</p> <p>20 Spiritual America Four, yes.</p> <p>21 Q. Any recollection of about how much</p> <p>22 you received for the ones that Barbara Gladstone</p> <p>23 sold?</p> <p>24 A. No, I really don't know.</p> <p>25 Q. Do you know if Spiritual America</p>	<p style="text-align: center;">119</p> <p>1 Prince</p> <p>2 A. They already have.</p> <p>3 Q. You can scan it --</p> <p>4 A. I saw it on someone's screen --</p> <p>5 MS. BART: Objection, form.</p> <p>6 (Multiple speakers talking at once.)</p> <p>7 (Interruption by reporter.)</p> <p>8 (Discussion off the record.)</p> <p>9 (Record read.)</p> <p>10 MR. HAYES: Can I make a suggestion?</p> <p>11 Withdraw both questions, restate the</p> <p>12 first question.</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. You wouldn't mind if somebody sold</p> <p>15 Spiritual America Four, somebody else?</p> <p>16 A. No.</p> <p>17 Q. Without your permission?</p> <p>18 A. They don't need my permission.</p> <p>19 Q. And you're saying it has been done?</p> <p>20 A. I don't know whether they've been</p> <p>21 able to sell it. I haven't been able to sell</p> <p>22 mine. Whether they've sold theirs, I don't</p> <p>23 know.</p> <p>24 Q. Well, you sold some of yours, right?</p> <p>25 A. I sold some of mine, yes.</p>
<p style="text-align: center;">118</p> <p>1 Prince</p> <p>2 Four is copyrighted?</p> <p>3 A. No, I don't know.</p> <p>4 Q. Do you share the proceeds when it</p> <p>5 was sold with Mr. D'Orazio?</p> <p>6 A. No. No, I don't.</p> <p>7 Q. You keep the proceeds?</p> <p>8 A. When there's a sale of this image,</p> <p>9 yes, it's between myself and the dealer who</p> <p>10 sells it.</p> <p>11 He was -- I gave him a print.</p> <p>12 I also gave Brooke Shields a print.</p> <p>13 Q. She must have been appreciative?</p> <p>14 A. I'm a, you know, agreeable guy.</p> <p>15 Q. So getting back to in Exhibit 6</p> <p>16 where you said, However, it would not bother me</p> <p>17 in the slightest -- excuse me -- for someone to</p> <p>18 appropriate my work.</p> <p>19 A. Yes.</p> <p>20 Q. Would that extend to Spiritual</p> <p>21 America Four?</p> <p>22 A. Yeah. I mean I don't -- I don't try</p> <p>23 to control those kinds of things.</p> <p>24 Q. But I mean just you wouldn't mind if</p> <p>25 somebody did exactly what you did --</p>	<p style="text-align: center;">120</p> <p>1 Prince</p> <p>2 Q. And how do you know somebody else is</p> <p>3 trying to sell Spiritual America Four?</p> <p>4 A. I've seen it. That's the thing</p> <p>5 about technology, it's what's new, it's what one</p> <p>6 has to adjust to. I've seen it on the web.</p> <p>7 Q. And that's fine with you?</p> <p>8 A. It's fine with me, yeah. I have no</p> <p>9 control over it. I mean it's their piece, not</p> <p>10 mine.</p> <p>11 Q. It's their piece?</p> <p>12 A. They're putting their name on it.</p> <p>13 Q. Who is they?</p> <p>14 A. I don't recall. I don't know who</p> <p>15 the person is.</p> <p>16 Q. Okay. So your view is if you create</p> <p>17 a work of art -- do you consider this a work of</p> <p>18 art?</p> <p>19 A. Yes, I do.</p> <p>20 Q. If you create a work of art anyone</p> <p>21 else who wants to is free to copy it and sell</p> <p>22 it?</p> <p>23 A. That's the optional or the operative</p> <p>24 word you just said. Free.</p> <p>25 Q. Right.</p>

<p style="text-align: center;">121</p> <p>1 Prince</p> <p>2 A. And art is about freedom. It's not</p> <p>3 about being restricted. If I was restricted</p> <p>4 then I couldn't transform these images.</p> <p>5 Q. So but as far as you're concerned,</p> <p>6 somebody else can just copy Spiritual America</p> <p>7 Four, make no changes to it, and sell it, and</p> <p>8 that's fine with you?</p> <p>9 A. Yes, that's fine with me.</p> <p>10 Q. That's part of your artistic</p> <p>11 philosophy?</p> <p>12 A. I believe that, yes.</p> <p>13 Q. Does it matter if the person copying</p> <p>14 your work is known as an appropriation artist or</p> <p>15 does it not matter, can anyone do it, as far as</p> <p>16 you're concerned?</p> <p>17 A. There have been people who are known</p> <p>18 as appropriation artists who have done what I've</p> <p>19 done because of what I did.</p> <p>20 Q. Right. But let me ask you this.</p> <p>21 Do you feel that because you are known for</p> <p>22 appropriating the work of others your reputation</p> <p>23 itself entitles you to engage in that artistic</p> <p>24 practice?</p> <p>25 MS. BART: Objection to form.</p>	<p style="text-align: center;">123</p> <p>1 Prince</p> <p>2 Q. I know. It was badly worded.</p> <p>3 You said before, you think people</p> <p>4 are free to take the work of others, copy it,</p> <p>5 and sell it, right?</p> <p>6 MR. HAYES: Objection.</p> <p>7 A. I believe artists --</p> <p>8 Q. Artists?</p> <p>9 A. -- should be as free as possible,</p> <p>10 yes, in their studios.</p> <p>11 Q. And does it matter if those artists</p> <p>12 are known for the practice of appropriating or</p> <p>13 not?</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 A. It could be an art student. I would</p> <p>16 encourage it.</p> <p>17 Q. Okay. I understand.</p> <p>18 MR. BROOKS: Let's mark as</p> <p>19 Plaintiff's Exhibit 10 a two-page article</p> <p>20 in something called the Copyright</p> <p>21 Litigation Blog, Bates stamps C55 and 56.</p> <p>22 (Plaintiff's Exhibit 10, Copyright</p> <p>23 Litigation Blog, was marked for</p> <p>24 identification, as of this date.)</p> <p>25 Q. Mr. Prince, the person who wrote</p>
<p style="text-align: center;">122</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection.</p> <p>3 A. Reputation is a tricky word.</p> <p>4 Q. Well, you have a reputation for</p> <p>5 borrowing, appropriating things from other</p> <p>6 people, right?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection also.</p> <p>9 A. My intentions were never to make</p> <p>10 myself a reputation. It was always -- my</p> <p>11 intentions were always to make great art.</p> <p>12 Q. Okay. But are you aware that you</p> <p>13 are known as somebody -- prominently known as</p> <p>14 somebody who appropriates work of others?</p> <p>15 MR. HAYES: Objection.</p> <p>16 MS. BART: Same.</p> <p>17 A. I am told that, yes. I don't</p> <p>18 necessarily acknowledge it.</p> <p>19 Q. And whether you are or not, you</p> <p>20 don't feel that your reputation for that</p> <p>21 practice has anything to do with your right to</p> <p>22 do it, your freedom to do it, right?</p> <p>23 MR. HAYES: Objection.</p> <p>24 MS. BART: Objection to form.</p> <p>25 A. I don't understand the question.</p>	<p style="text-align: center;">124</p> <p>1 Prince</p> <p>2 this blog, again, states that the occasion is</p> <p>3 your one-man show at the Guggenheim, do you see</p> <p>4 that, entitled Spiritual America?</p> <p>5 A. Yes. You're referring to this man</p> <p>6 Ray Dowd?</p> <p>7 Q. Yes, he's an attorney I believe.</p> <p>8 You don't know him I take it?</p> <p>9 A. No. Is he an art critic or -- you</p> <p>10 say he's an attorney?</p> <p>11 Q. Yes. I think he does copyright law.</p> <p>12 I don't really know.</p> <p>13 A. And this is a blog?</p> <p>14 Q. It looks like -- it's the Copyright</p> <p>15 Litigation Blog. And he also has written a</p> <p>16 textbook on that.</p> <p>17 MR. HAYES: That's what the title of</p> <p>18 the document is --</p> <p>19 Q. Anyway, I'm not going to ask you</p> <p>20 about any legal questions.</p> <p>21 A. No, I just want to make sure I know</p> <p>22 what I'm looking at.</p> <p>23 Q. I think he's an attorney and he's</p> <p>24 written -- it tells you in the lower right-hand</p> <p>25 corner the name of the book he wrote.</p>

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<p style="text-align: center;">125</p> <p>1 Prince</p> <p>2 A. Okay.</p> <p>3 Q. On the second page of this -- and</p> <p>4 take your time, if you want to read the first</p> <p>5 page --</p> <p>6 A. No, I was just going over this</p> <p>7 eight-track photograph little -- I wonder where</p> <p>8 he got that. That's kind of cool.</p> <p>9 Anyway -- I'm sorry.</p> <p>10 Q. He didn't get that from you?</p> <p>11 A. Yeah, he got that from me. That's</p> <p>12 very early.</p> <p>13 Q. Well, now, for the record, we better</p> <p>14 have you explain what you're referring to about</p> <p>15 the Eight-Track. I wasn't going to ask you, but</p> <p>16 since you mentioned it --</p> <p>17 A. Oh. No, no --</p> <p>18 Q. -- you should explain what you're</p> <p>19 talking about.</p> <p>20 A. The Eight-Track photograph, I think</p> <p>21 I was -- again, I was talking about -- I think I</p> <p>22 was talking about hip-hop, and sampling was</p> <p>23 coming in at the time.</p> <p>24 Pirating was the term that was being</p> <p>25 used by rappers in the late '70s. This is very</p>	<p style="text-align: center;">127</p> <p>1 Prince</p> <p>2 And then it refers to you.</p> <p>3 His -- that means you. His</p> <p>4 appropriation may foreshadow the copyright</p> <p>5 battles of the future and a weakening of the</p> <p>6 visual artist's copyright.</p> <p>7 With reference to the first sentence</p> <p>8 that I read, do you agree with that?</p> <p>9 MR. HAYES: Objection.</p> <p>10 MS. BART: I'm going to object to</p> <p>11 form, especially using this blog as</p> <p>12 evidence.</p> <p>13 MR. BROOKS: Okay.</p> <p>14 MR. HAYES: It also calls for a</p> <p>15 legal conclusion, and I join in her</p> <p>16 objections.</p> <p>17 MR. BROOKS: Well, the first</p> <p>18 sentence has nothing to do with any legal</p> <p>19 conclusions.</p> <p>20 I asked him if he agrees that</p> <p>21 appropriating is becoming -- has become a</p> <p>22 widespread phenomenon, thanks to advances</p> <p>23 in technology.</p> <p>24 A. I don't believe I'm -- have the</p> <p>25 knowledge to answer that question properly.</p>
<p style="text-align: center;">126</p> <p>1 Prince</p> <p>2 early, when that practice of sampling -- and I</p> <p>3 was always trying to hook my art up with musical</p> <p>4 terms. That's all.</p> <p>5 So the Eight-Track photograph was</p> <p>6 eight different ways in which you could make a</p> <p>7 photograph.</p> <p>8 Q. So it's an analogy, is that what --</p> <p>9 A. I think it was just a description.</p> <p>10 Q. But you're analogizing your</p> <p>11 practices in the visual arts with what --</p> <p>12 A. I just -- I probably was just trying</p> <p>13 to talk about what was possible to do with the</p> <p>14 mechanism, the apparatus. It's kind of esoteric</p> <p>15 mumbo jumbo to tell you the truth.</p> <p>16 Q. Got it.</p> <p>17 On the second page there's a</p> <p>18 statement --</p> <p>19 A. Sorry.</p> <p>20 Q. There's a statement which says --</p> <p>21 I'll read it -- as we move into a world where</p> <p>22 digital photography and sophisticated</p> <p>23 consumer-level photo-retouching software is</p> <p>24 available, appropriating and manipulating images</p> <p>25 has become a widespread phenomenon.</p>	<p style="text-align: center;">128</p> <p>1 Prince</p> <p>2 Q. Fine, okay.</p> <p>3 A. I don't know whether it's become</p> <p>4 widespread.</p> <p>5 Q. How about the second sentence, do</p> <p>6 you agree that your artistic practices are</p> <p>7 weakening visual artists' copyright?</p> <p>8 MR. HAYES: Objection. That calls</p> <p>9 for a legal conclusion.</p> <p>10 A. Again, I would have no idea.</p> <p>11 Q. Now, when you had the retrospective</p> <p>12 at the Guggenheim -- and we all know what the</p> <p>13 Guggenheim looks like, it spirals up from the</p> <p>14 bottom to the top -- was the entire museum</p> <p>15 dedicated to exhibiting your works, or was it</p> <p>16 just a part of the museum?</p> <p>17 When you had your --</p> <p>18 A. The majority of the museum.</p> <p>19 Q. Starting at the bottom or the middle</p> <p>20 or where?</p> <p>21 A. Starting in what they call the</p> <p>22 rotunda.</p> <p>23 Q. When you walk in?</p> <p>24 A. Yes.</p> <p>25 Q. But it didn't go all the way up to</p>

<p style="text-align: center;">129</p> <p>1 Prince</p> <p>2 the top?</p> <p>3 A. Yes, it did.</p> <p>4 Q. It did? Oh, so it was the entire</p> <p>5 spiral?</p> <p>6 A. Oh, you're talking about the spiral?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 MR. BROOKS: Okay, fine.</p> <p>10 MR. HAYES: Just for clarity, there</p> <p>11 are other exhibit spaces at the</p> <p>12 Guggenheim.</p> <p>13 MR. BROOKS: I'm aware of that.</p> <p>14 MR. HAYES: Gotcha.</p> <p>15 BY MR. BROOKS:</p> <p>16 Q. And did you exhibit the most recent</p> <p>17 works -- withdrawn.</p> <p>18 As you walked up -- as one walked up</p> <p>19 the spiral was there a chronological sequence to</p> <p>20 the works being exhibited?</p> <p>21 A. Not really.</p> <p>22 Q. No? Okay.</p> <p>23 A. No. We tried to -- can I say deejay</p> <p>24 the show. I mean for lack of a better -- I mean</p> <p>25 that's actually how I saw --</p>	<p style="text-align: center;">131</p> <p>1 Prince</p> <p>2 question. It calls for speculation and it</p> <p>3 calls for a legal conclusion.</p> <p>4 MR. BROOKS: It doesn't --</p> <p>5 MS. BART: And continuing objection</p> <p>6 on the use of a blog as, quote, evidence.</p> <p>7 BY MR. BROOKS:</p> <p>8 Q. Okay. You can tell us whether you</p> <p>9 agree with what he wrote that I just read.</p> <p>10 A. I disagree.</p> <p>11 Q. You don't behave more cautiously now</p> <p>12 because you have more assets than you did in the</p> <p>13 1970s?</p> <p>14 MS. BART: Objection, form.</p> <p>15 MR. HAYES: Objection.</p> <p>16 Q. You can answer.</p> <p>17 A. No.</p> <p>18 Q. And so those things you wrote in</p> <p>19 those essays in your early career still describe</p> <p>20 your artistic practice?</p> <p>21 MR. HAYES: Objection, form.</p> <p>22 A. Part of my -- part of the -- I mean</p> <p>23 I'm into all kinds of things these days.</p> <p>24 Q. Okay. But you still find it</p> <p>25 satisfying to appropriate?</p>
<p style="text-align: center;">130</p> <p>1 Prince</p> <p>2 Q. Right.</p> <p>3 A. Because I had a large hand in</p> <p>4 curating the show.</p> <p>5 Q. Let me just read you what he said</p> <p>6 and then you can tell me whether he's correct in</p> <p>7 your view or incorrect.</p> <p>8 MR. HAYES: This is back in</p> <p>9 Exhibit 10?</p> <p>10 MR. BROOKS: It is.</p> <p>11 A. Sorry.</p> <p>12 Q. He says, But as you go up the</p> <p>13 Guggenheim spiral, comma, you will note less</p> <p>14 wholesale appropriation, comma, and more</p> <p>15 borrowing of bits and pieces, period. Once an</p> <p>16 artist is successful and no longer judgment</p> <p>17 proof, dot dot dot, remaining an outlaw becomes</p> <p>18 problematic. His latest series consists of</p> <p>19 scanning faces from the works of De Kooning and</p> <p>20 sticking pornographic cutouts onto their bodies.</p> <p>21 Do you see what I just read?</p> <p>22 A. Yes.</p> <p>23 Q. Is there any -- do you agree with</p> <p>24 his observation or disagree?</p> <p>25 MR. HAYES: Object to the form of</p>	<p style="text-align: center;">132</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection,</p> <p>3 mischaracterizes the testimony and it</p> <p>4 calls for speculation.</p> <p>5 MR. BROOKS: I'm not referring to</p> <p>6 his testimony. I'm referring to the</p> <p>7 exhibit.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. Do you still find it more satisfying</p> <p>10 to appropriate --</p> <p>11 MR. HAYES: What exhibit are you</p> <p>12 referring to? Is it Exhibit 10?</p> <p>13 MR. BROOKS: No, I'm referring to</p> <p>14 his own website Exhibit 3.</p> <p>15 A. Website?</p> <p>16 Q. Yeah; where you said in the essay --</p> <p>17 MR. HAYES: Oh, I see.</p> <p>18 A. I have nothing to do with my</p> <p>19 website.</p> <p>20 Q. No, no, no.</p> <p>21 A. I'm sorry.</p> <p>22 Q. In the website there's a quote from</p> <p>23 an essay you wrote in 1978.</p> <p>24 A. Okay.</p> <p>25 Q. Which you already testified to.</p>

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133	135
1 Prince	1 Prince
2 A. Yes.	2 Q. -- for 11-and-a-half-million
3 Q. Where you said it was more	3 dollars?
4 satisfying to appropriate?	4 MR. HAYES: Object to the form of
5 A. Is it -- are you asking is it still	5 the question.
6 satisfying?	6 A. Townhouse.
7 Q. Yes, right, because it makes it more	7 Q. Townhouse.
8 believable. Is that still your impression --	8 For 11-and-a-half-million dollars?
9 A. It's still exciting, yes.	9 A. Yes.
10 Q. Now, you certainly are very	10 Q. Which was less than Jeff Koons spent
11 successful now, wouldn't you agree?	11 for his nearby townhouse, right?
12 A. Compared to?	12 A. I don't know what Jeff did.
13 Q. Okay. Well, let me give you	13 MR. BROOKS: All right. Let's mark
14 some examples. Instead of living in a	14 as Plaintiff's Exhibit 11 an article from
15 75-dollar-a-month apartment in the East Village,	15 Art Info --
16 you have a house in the Hamptons, right?	16 THE WITNESS: Am I being punished
17 A. Yes.	17 for --
18 Q. Where in the Hamptons?	18 MR. HAYES: No. Just wait for the
19 A. Wainscott.	19 next question.
20 Q. Near East Hampton?	20 THE WITNESS: I'm just kidding.
21 A. Yes. I mean, yes, if you want to	21 It was a joke.
22 make a long story -- yes, I guess.	22 (Plaintiff's Exhibit 11, article,
23 Q. All right.	23 was marked for identification, as of this
24 A. By standard measurements I am	24 date.)
25 successful in terms of -- are you talking about	25 Q. This exhibit Plaintiff's 11 has been
134	136
1 Prince	1 Prince
2 money?	2 Bates stamped C236 to 238.
3 Q. Yes.	3 You're familiar with the New York
4 A. I guess so. I don't know what	4 Observer?
5 other -- you know, I don't really compare myself	5 A. Yes.
6 to --	6 Q. And do you have the article in front
7 Q. You belong to a country club in	7 of you, the exhibit?
8 Bridgehampton?	8 A. Yes, I have it in front of me.
9 A. I'm an honorary member. I play	9 Q. Fine. And is this correct that as
10 golf.	10 described in this exhibit you bought this
11 Q. Do you curate their shows?	11 11-and-a-half-million-dollar house?
12 A. No, I don't.	12 A. That's what I paid for the house.
13 Q. Did you ever?	13 Q. Okay. Cash?
14 A. No.	14 MR. HAYES: Objection. What's the
15 Q. You have a house and studio in	15 relevance of what he paid for the house
16 Rensselaerville, New York?	16 and whether he paid cash in this lawsuit?
17 A. Yes, I do.	17 You can answer it if you want to
18 Q. And the Guggenheim built -- you have	18 answer it, but I think --
19 a museum there or --	19 A. I'm not going to answer that. It's
20 A. No. I built a museum, which burned	20 no one's -- well.
21 down.	21 Q. What does that mean, there's a
22 Q. I understand that.	22 humidification system and a backup generator?
23 And you recently bought a six-story	23 Is that true?
24 mansion at 57 East 78th Street --	24 MR. HAYES: Objection to the form of
25 MR. HAYES: Objection.	25 the question.

<p style="text-align: center;">137</p> <p>1 Prince</p> <p>2 A. I'm not going to answer these</p> <p>3 questions.</p> <p>4 Q. Do you live there?</p> <p>5 A. I live there, yes.</p> <p>6 I mean seriously.</p> <p>7 Q. All right. Let's move on.</p> <p>8 Do you have your own airplane?</p> <p>9 A. No.</p> <p>10 Q. You're taking flying lessons though,</p> <p>11 right?</p> <p>12 A. No, I made that up.</p> <p>13 Q. Okay. All right, you said --</p> <p>14 A. I make -- I say a lot of things --</p> <p>15 Q. That aren't true?</p> <p>16 A. That aren't -- well, no. It's more</p> <p>17 about -- it depends upon the interviewer. I try</p> <p>18 to be creative, let's put it that way.</p> <p>19 Q. Okay. So when you said you were</p> <p>20 taking flying lessons in your own airplane, that</p> <p>21 was not true?</p> <p>22 A. I was being creative.</p> <p>23 Q. Which means it wasn't true?</p> <p>24 MR. HAYES: Objection to the form</p> <p>25 of the question. It's been asked and</p>	<p style="text-align: center;">139</p> <p>1 Prince</p> <p>2 MR. HAYES: Wait a second.</p> <p>3 You asked him questions about --</p> <p>4 MR. BROOKS: All right. Let's not</p> <p>5 argue about what I asked him.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Go on.</p> <p>8 MR. HAYES: No, wait. Wait.</p> <p>9 You asked him about --</p> <p>10 MR. BROOKS: I asked him if he owned</p> <p>11 an airplane and if he took flying lessons</p> <p>12 in his airplane.</p> <p>13 MR. HAYES: Okay. So are you asking</p> <p>14 him that question again?</p> <p>15 Do you own an airplane?</p> <p>16 A. No, I don't.</p> <p>17 Q. Have you ever taken flying lessons?</p> <p>18 A. No, I have not.</p> <p>19 Q. But you understand the difference</p> <p>20 between taking flying lessons and never having</p> <p>21 taken flying lessons?</p> <p>22 A. Yes.</p> <p>23 MR. HAYES: Object to the form.</p> <p>24 Q. One is -- I mean those are two</p> <p>25 different things, right?</p>
<p style="text-align: center;">138</p> <p>1 Prince</p> <p>2 answered.</p> <p>3 A. I would leave that up to the</p> <p>4 audience. I mean I don't want to tell -- I</p> <p>5 don't want to say whether or not -- I might --</p> <p>6 I might be flying, taking flying lessons. I</p> <p>7 don't see the relevance of that.</p> <p>8 Q. That's fine. But you understand</p> <p>9 you're under oath right now?</p> <p>10 A. Oh.</p> <p>11 Q. Do you understand that?</p> <p>12 A. Yes.</p> <p>13 Q. Did anyone tell you that?</p> <p>14 A. Yes.</p> <p>15 Q. So do you understand it's important</p> <p>16 in this deposition to tell the actual truth?</p> <p>17 A. Yes, I do. But I'm trying to</p> <p>18 explain what I meant when you asked me --</p> <p>19 Q. I asked you if you owned an</p> <p>20 airplane.</p> <p>21 A. And I said no.</p> <p>22 MR. HAYES: Well, no, you asked him</p> <p>23 several questions. Do you want to read</p> <p>24 them back --</p> <p>25 A. And then you said --</p>	<p style="text-align: center;">140</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. And one could be true and the</p> <p>4 other -- I mean one is true and the other can't</p> <p>5 be true?</p> <p>6 MR. HAYES: Objection.</p> <p>7 Q. You either have taken flying lessons</p> <p>8 or you haven't.</p> <p>9 MR. HAYES: Objection to the form of</p> <p>10 the question.</p> <p>11 A. I understand that.</p> <p>12 Q. So in this deposition I will ask you</p> <p>13 to do your best to give us the actual truth</p> <p>14 instead of like what somebody might imagine the</p> <p>15 truth could be.</p> <p>16 A. But you asked me about that</p> <p>17 interview.</p> <p>18 MR. HAYES: That's the point.</p> <p>19 A. When I said did I -- you said, you</p> <p>20 quoted --</p> <p>21 Q. I asked you if you had taken flying</p> <p>22 lessons in your own plane. I didn't mention an</p> <p>23 interview. You did.</p> <p>24 MR. HAYES: Well, wait a second now.</p> <p>25 MS. BART: That's not true.</p>

<p style="text-align: center;">141</p> <p>1 Prince</p> <p>2 MR. HAYES: Let's go back and read</p> <p>3 that back.</p> <p>4 MR. BROOKS: No, we're not going to</p> <p>5 read it back.</p> <p>6 MR. HAYES: It's not true.</p> <p>7 MR. BROOKS: All right, fine. It is</p> <p>8 what it is. All right?</p> <p>9 MR. HAYES: I know. But you just</p> <p>10 said --</p> <p>11 MR. BROOKS: No, I don't want to</p> <p>12 waste --</p> <p>13 MR. HAYES: But you did talk about</p> <p>14 the interview. That's not a truthful</p> <p>15 statement.</p> <p>16 MR. BROOKS: He said I might have</p> <p>17 said that in an interview when I wasn't</p> <p>18 telling the truth.</p> <p>19 I didn't say there was an</p> <p>20 interview -- I didn't know there was an</p> <p>21 interview, okay, until he said it.</p> <p>22 MR. HAYES: Then read it back.</p> <p>23 MR. BROOKS: We'll read it back</p> <p>24 later.</p> <p>25 MS. BART: He certainly was sworn in</p>	<p style="text-align: center;">142</p> <p>1 Prince</p> <p>2 at the beginning to tell the truth --</p> <p>3 MR. BROOKS: I understand.</p> <p>4 MS. BART: -- and he agreed to do</p> <p>5 that.</p> <p>6 MR. BROOKS: Hopefully that's what</p> <p>7 we'll get.</p> <p>8 MR. HAYES: Why don't you give us</p> <p>9 some other questions so we can move along?</p> <p>10 MR. BROOKS: I'm going to move</p> <p>11 along. I would try to move along faster</p> <p>12 if there were not constant interruptions</p> <p>13 that violate Rule 30(c)(2) --</p> <p>14 MR. HAYES: There has been violation</p> <p>15 of the rule.</p> <p>16 MR. BROOKS: -- of the federal</p> <p>17 rules.</p> <p>18 MR. HAYES: Ask a question.</p> <p>19 MR. BROOKS: Constantly.</p> <p>20 MR. HAYES: Not true.</p> <p>21 Ask a question.</p> <p>22 BY MR. BROOKS:</p> <p>23 Q. Do you know how much you made on</p> <p>24 selling the paintings that were part of the</p> <p>25 Canal Zone exhibit and Canal Zone book?</p>
<p style="text-align: center;">143</p> <p>1 Prince</p> <p>2 A. No, I don't.</p> <p>3 Q. Do you have any rough idea?</p> <p>4 A. Ballpark figure -- that I made?</p> <p>5 Q. Yes.</p> <p>6 A. Maybe two-million dollars, three,</p> <p>7 two-point-five.</p> <p>8 MR. HAYES: Don't guess. If you</p> <p>9 know, say so.</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know how many of those</p> <p>12 paintings were sold?</p> <p>13 A. No, I don't.</p> <p>14 Q. Do you know if any of them were</p> <p>15 sold?</p> <p>16 A. Yes, I believe some were sold.</p> <p>17 Q. How do you know that?</p> <p>18 A. I know that because I get</p> <p>19 statements.</p> <p>20 Q. From?</p> <p>21 A. Gagosian Gallery.</p> <p>22 MR. BROOKS: Let's mark as</p> <p>23 Plaintiff's Exhibit 12 -- I'm just</p> <p>24 anticipating an objection.</p> <p>25 This is a French interview in</p>	<p style="text-align: center;">144</p> <p>1 Prince</p> <p>2 Le Figaro Magazine, which you've had since</p> <p>3 whenever we made our initial disclosure in</p> <p>4 April of this year.</p> <p>5 It's Bates stamped C78 through C82.</p> <p>6 And you were free to make a</p> <p>7 translation of it if you wanted to. I</p> <p>8 made a translation of the part I want to</p> <p>9 ask him about.</p> <p>10 So let's mark as Exhibit 12 the</p> <p>11 French interview and Le Figaro as</p> <p>12 Exhibit 13.</p> <p>13 MR. HAYES: But since you now made a</p> <p>14 statement about position I can now make a</p> <p>15 statement, correct?</p> <p>16 Which is, I have no idea when you</p> <p>17 produced documents you were going to ask</p> <p>18 about certain documents at the deposition.</p> <p>19 MR. BROOKS: We made our initial</p> <p>20 disclosure in April of this year. This is</p> <p>21 Bates stamped C78 --</p> <p>22 MR. HAYES: Yes, sir:</p> <p>23 MR. BROOKS: -- through 82. That</p> <p>24 was part of our initial disclosure.</p> <p>25 MS. BART: Mr. Brooks --</p>

<p style="text-align: center;">145</p> <p>1 Prince</p> <p>2 MR. BROOKS: Excuse me, I'm not</p> <p>3 finished. I'm not finished.</p> <p>4 MS. BART: I'm trying to cut --</p> <p>5 MR. BROOKS: I'm not finished.</p> <p>6 MS. BART: Fine. Let him make his</p> <p>7 speech.</p> <p>8 MR. BROOKS: It's an interview in</p> <p>9 French. Given the consternation I</p> <p>10 witnessed last time, I'm going to mark the</p> <p>11 English translation as Exhibit 13 at the</p> <p>12 same time and hand him 12 and 13.</p> <p>13 I'm simply telling you that 13 does</p> <p>14 not purport to translate the entire French</p> <p>15 article.</p> <p>16 MR. HAYES: That's all you do.</p> <p>17 MR. BROOKS: It translates the part</p> <p>18 I'm interested in.</p> <p>19 If you want to translate the other</p> <p>20 parts, you could have done that at any</p> <p>21 time since April to now.</p> <p>22 MR. HAYES: And of course I had no</p> <p>23 idea you were going to be asking questions</p> <p>24 about it because you never said you were</p> <p>25 going to ask questions about it --</p>	<p style="text-align: center;">146</p> <p>1 Prince</p> <p>2 MR. BROOKS: It was produced, so --</p> <p>3 MR. HAYES: But go ahead and mark it</p> <p>4 and ask what you want to ask --</p> <p>5 MR. BROOKS: You don't have to look</p> <p>6 at it. If it's produced --</p> <p>7 MR. HAYES: You just finished making</p> <p>8 a speech that took up a certain amount of</p> <p>9 time. I want to respond to it.</p> <p>10 You never said you were going to ask</p> <p>11 questions about it. Mark it. I have an</p> <p>12 objection. Go ahead. Move forward.</p> <p>13 MR. BROOKS: Of course I never said</p> <p>14 I was going to ask questions on it.</p> <p>15 MR. HAYES: Then I would have no</p> <p>16 idea you were going to.</p> <p>17 But just mark it, I have an</p> <p>18 objection, and we'll move forward.</p> <p>19 MR. BROOKS: Okay. So 12 is an</p> <p>20 interview in Le Figaro Bates stamped C78</p> <p>21 through 82.</p> <p>22 And 13 is a translation of a portion</p> <p>23 of that article Bates stamped C239 through</p> <p>24 241.</p> <p>25 (Plaintiff's Exhibit 12, Le Figaro</p>
<p style="text-align: center;">147</p> <p>1 Prince</p> <p>2 interview in French, was marked for</p> <p>3 identification, as of this date.)</p> <p>4 (Plaintiff's Exhibit 13, portion of</p> <p>5 Le Figaro interview translated, was marked</p> <p>6 for identification, as of this date.)</p> <p>7 MR. HAYES: For clarity, Exhibit 12</p> <p>8 is the full article in French?</p> <p>9 MR. BROOKS: Correct.</p> <p>10 MR. HAYES: And Exhibit 13 is what</p> <p>11 we're told is a translation of a portion</p> <p>12 of the article into English?</p> <p>13 MR. BROOKS: Correct. Correct.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. And so if you look at 12,</p> <p>16 Mr. Prince, which is the one with the</p> <p>17 photograph. It's in French.</p> <p>18 A. Yes.</p> <p>19 Q. The one there in French.</p> <p>20 No, you're looking at 13.</p> <p>21 The one there --</p> <p>22 A. In French. You want me to look --</p> <p>23 Q. No, no. Do you remember being</p> <p>24 interviewed by Le Figaro on or about</p> <p>25 November 3rd, 2008?</p>	<p style="text-align: center;">148</p> <p>1 Prince</p> <p>2 A. I don't remember, no.</p> <p>3 Q. But if you were, it was not in</p> <p>4 French, it was you were speaking in English,</p> <p>5 correct?</p> <p>6 A. I was speaking in English, yes.</p> <p>7 Q. Fine. So that's 12.</p> <p>8 Now, 13 is a translation that we</p> <p>9 obtained of a portion of the interview.</p> <p>10 So I'm looking at the page stamped</p> <p>11 C240. Do you see that, Mr. Prince?</p> <p>12 A. Yes.</p> <p>13 Q. Is that a picture of you?</p> <p>14 A. Yes.</p> <p>15 Q. Working on one of the nurse --</p> <p>16 A. Yes.</p> <p>17 Q. -- artworks?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And the question was, When</p> <p>20 will we see your next series on Rastafarians,</p> <p>21 and your answer was, I will be showing them at</p> <p>22 the Larry Gagosian Gallery in New York on</p> <p>23 November 8th.</p> <p>24 That was correct, right, that's when</p> <p>25 the showing was at the Gagosian Gallery?</p>



<p style="text-align: center;">149</p> <p>1 Prince</p> <p>2 A. November 8th, yes.</p> <p>3 Q. And was this interview in -- do you</p> <p>4 know if the occasion for this interview was that</p> <p>5 the show was about to open, if you remember?</p> <p>6 A. I believe -- this doesn't make any</p> <p>7 sense.</p> <p>8 Q. Because?</p> <p>9 A. It says here -- this interview I</p> <p>10 believe was published at the Patrick Seguin</p> <p>11 Gallery.</p> <p>12 Oh, wait a minute. I did this</p> <p>13 interview for the Patrick Seguin Gallery that</p> <p>14 opened in November 29th with Le Figaro.</p> <p>15 Q. Of 2008?</p> <p>16 A. With -- I believe with this person</p> <p>17 from Le Figaro.</p> <p>18 Q. Valerie Duponchelle?</p> <p>19 A. No, with Patrick Seguin.</p> <p>20 Q. It just says -- I'm just telling</p> <p>21 you what it says in English -- interviewed by</p> <p>22 Valerie Duponchelle. That's not your</p> <p>23 recollection?</p> <p>24 A. I don't remember who I was</p> <p>25 interviewed by. But I believe this interview</p>	<p style="text-align: center;">151</p> <p>1 Prince</p> <p>2 found a black-and-white book on Rastafarians</p> <p>3 when I was on vacation in St. Barth's. I</p> <p>4 started drawing directly in the book like I had</p> <p>5 done before in a book of De Kooning's work. For</p> <p>6 two or three years I continued to be inspired by</p> <p>7 three Rastafarians -- I'm sorry, I continued to</p> <p>8 be inspired by these Rastafarians. I drew faces</p> <p>9 on their faces using the shades of the book, the</p> <p>10 different skin colors, the wild hair styles, all</p> <p>11 dreadlocked, their poses and their looks. I was</p> <p>12 listening to Rasta music at the time, one of my</p> <p>13 son's tapes.</p> <p>14 Was that a Bob Marley tape?</p> <p>15 A. No, it wasn't. It was a group</p> <p>16 called Radiodread. One word.</p> <p>17 Q. Now, the black-and-white book on</p> <p>18 Rastafarians that you found, was that this</p> <p>19 Yes Rasta book by Patrick Cariou?</p> <p>20 A. Yes.</p> <p>21 Q. And you said you started drawing in</p> <p>22 the book. You actually -- actually in the book,</p> <p>23 you didn't copy, you just write in the book, you</p> <p>24 were drawing things?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">150</p> <p>1 Prince</p> <p>2 was for the occasion of a show.</p> <p>3 Q. A show of yours?</p> <p>4 A. Of mine at the Patrick Seguin</p> <p>5 Gallery.</p> <p>6 Q. A show that has nothing to do with</p> <p>7 the Canal Zone?</p> <p>8 A. It had nothing to do with the Canal</p> <p>9 Zone.</p> <p>10 Q. All right. Well, for whatever</p> <p>11 reason, they asked you some questions about the</p> <p>12 Canal Zone --</p> <p>13 A. Yes.</p> <p>14 Q. -- probably because of the temporal</p> <p>15 proximity. So I would like to have you look at</p> <p>16 the second question.</p> <p>17 Your series will be up at a time</p> <p>18 when perhaps Barack Obama will be president.</p> <p>19 It could become iconic if it coincides with a</p> <p>20 pivotal moment in American history. And --</p> <p>21 (Interruption.)</p> <p>22 (Record read.)</p> <p>23 Q. So then the answer apparently was,</p> <p>24 That's possible. It is strange for a white man</p> <p>25 like myself to start painting black people. I</p>	<p style="text-align: center;">152</p> <p>1 Prince</p> <p>2 Q. Which you had done with some</p> <p>3 De Kooning works before?</p> <p>4 MS. BART: Objection, form.</p> <p>5 Q. Go ahead.</p> <p>6 A. I had done the same thing to a</p> <p>7 De Kooning book.</p> <p>8 Q. Right. Now, you said -- I'm reading</p> <p>9 what you said -- for two or three years I</p> <p>10 continued to be inspired by these Rastafarians.</p> <p>11 So, given --</p> <p>12 A. That's the translation. This --</p> <p>13 Q. Okay.</p> <p>14 A. Can I just say that this is --</p> <p>15 Q. Yes.</p> <p>16 A. I've read this interview.</p> <p>17 Q. Yes. In French?</p> <p>18 A. Because it just came out in a book.</p> <p>19 Q. Yes.</p> <p>20 A. It's one of the worst translations</p> <p>21 I've ever read. Anyway, I'm just -- I just</p> <p>22 would like to get that on the record.</p> <p>23 Q. Okay. But this translation was done</p> <p>24 for my law firm, so you certainly haven't read</p> <p>25 this translation. You may have read another bad</p>

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<p>1 Prince</p> <p>2 translation, but you haven't read this one.</p> <p>3 A. Oh. Well --</p> <p>4 Q. This was done for us recently.</p> <p>5 A. Okay. All right.</p> <p>6 Q. But -- fine. If it's incorrect, I</p> <p>7 would like to know.</p> <p>8 So is it correct that you were</p> <p>9 drawing in the Yes Rasta book?</p> <p>10 A. Yes.</p> <p>11 Q. And is it correct that given that</p> <p>12 this is 2008, this interview, that this drawing</p> <p>13 in the book went on for two or three years?</p> <p>14 A. The drawing in the book -- no, I</p> <p>15 believe it started when I bought the book.</p> <p>16 Q. In 2008?</p> <p>17 A. When I was on vacation. So 2005.</p> <p>18 I bought the book and I started -- I was on</p> <p>19 vacation, and I started to make drawings in the</p> <p>20 book.</p> <p>21 Q. Okay.</p> <p>22 A. And --</p> <p>23 Q. You were on vacation?</p> <p>24 MR. HAYES: Hold on. He hasn't</p> <p>25 finished his answer.</p>	<p>1 Prince</p> <p>2 wasn't continuous, but did you start writing in</p> <p>3 the book right then or did you --</p> <p>4 A. I believe I did probably the next</p> <p>5 day.</p> <p>6 Q. And then at some point you put it</p> <p>7 aside?</p> <p>8 A. I started writing first. I used it</p> <p>9 as a notebook. I started making notes because</p> <p>10 of my Canal Zone idea.</p> <p>11 Q. For the pitch?</p> <p>12 A. Because I was -- yeah, I was writing</p> <p>13 about the pitch because of -- yeah, there was</p> <p>14 some blank pages.</p> <p>15 Q. In the book?</p> <p>16 A. In the book.</p> <p>17 Q. You wrote things like CIA, Jack</p> <p>18 Ruby?</p> <p>19 A. Yes.</p> <p>20 Q. Lee Harvey Oswald, CIA?</p> <p>21 A. Yes.</p> <p>22 Q. Kennedy?</p> <p>23 A. Right.</p> <p>24 Q. Something about the Kennedy</p> <p>25 assassination apparently?</p>
154	156
<p>1 Prince</p> <p>2 A. Because you had asked me if I had</p> <p>3 been doing it for two or three years. I did it</p> <p>4 for two weeks out of every year for two years.</p> <p>5 So I was drawing in the book for maybe</p> <p>6 approximately three to four weeks.</p> <p>7 Q. Total?</p> <p>8 A. I'm just trying to answer the</p> <p>9 question.</p> <p>10 Q. Just so I'll understand.</p> <p>11 A. Okay.</p> <p>12 Q. You found this book in St. Barth's?</p> <p>13 A. I bought it at a bookstore.</p> <p>14 Q. In St. Barth's?</p> <p>15 A. Yes.</p> <p>16 Q. Where? In a hotel gift shop or --</p> <p>17 A. It was a regular bookstore.</p> <p>18 Q. A bookstore?</p> <p>19 A. Yes.</p> <p>20 Q. On St. Barth's?</p> <p>21 A. In St. Barth's, yes.</p> <p>22 Q. And you think around 2005?</p> <p>23 A. Yes. To the best of my</p> <p>24 recollection, yes, 2005.</p> <p>25 Q. And then did you -- I understand it</p>	<p>1 Prince</p> <p>2 A. I was thinking out loud, yes.</p> <p>3 Q. Okay, good.</p> <p>4 Then what was it -- and I realize</p> <p>5 the translation may not be --</p> <p>6 A. That's okay.</p> <p>7 Q. And feel free to tell us it's wrong.</p> <p>8 But it says for two or three years I continued</p> <p>9 to be inspired by these Rastafarians. What, if</p> <p>10 anything, inspired you about them?</p> <p>11 MR. HAYES: Objection to the form.</p> <p>12 You can answer.</p> <p>13 A. I believed at the time that I had</p> <p>14 maybe made a connection to the De Kooning</p> <p>15 paintings that I was painting. And I believe</p> <p>16 I had found subject matter that I knew nothing</p> <p>17 about, which is a position I like to put myself</p> <p>18 in, in order to discover new things and be able</p> <p>19 transform something that once existed over here</p> <p>20 to over here.</p> <p>21 Q. Okay.</p> <p>22 A. So therefore, when I say perhaps I</p> <p>23 was inspired, I decided with the De Kooning</p> <p>24 women paintings my contribution would be a man.</p> <p>25 And I felt -- I mean and this is, again, it's a</p>

<p style="text-align: center;">157</p> <p>1 Prince</p> <p>2 long time ago, but I believe I was thinking that</p> <p>3 the man in the De Kooning paintings should be a</p> <p>4 Rastafarian.</p> <p>5 Q. Let me just back up.</p> <p>6 You said something about this</p> <p>7 brought back to you growing up in the Canal Zone</p> <p>8 for six years?</p> <p>9 MR. HAYES: In his prior answer?</p> <p>10 Q. No, earlier today.</p> <p>11 Do you remember saying something</p> <p>12 like that?</p> <p>13 MS. BART: Can I hear the question</p> <p>14 back, please?</p> <p>15 A. Yes, I remember you, yeah, you</p> <p>16 asking me a question about the Canal Zone.</p> <p>17 Q. Right.</p> <p>18 A. Yeah. I mean I remember the</p> <p>19 question.</p> <p>20 MR. HAYES: Could I have this</p> <p>21 question read back, the last question?</p> <p>22 (Record read.)</p> <p>23 MR. HAYES: In this book?</p> <p>24 MR. BROOKS: Yes.</p> <p>25 THE WITNESS: I'm sorry, so can I</p>	<p style="text-align: center;">159</p> <p>1 Prince</p> <p>2 Well, you've been going there 12</p> <p>3 years, right?</p> <p>4 A. Yes, I would agree with that.</p> <p>5 Q. Now, the show that you were being</p> <p>6 asked about that was going to be at the Gagosian</p> <p>7 Gallery several days after the interview, was</p> <p>8 that your first solo exhibition at the Gagosian</p> <p>9 Gallery?</p> <p>10 A. At that space or with Gagosian?</p> <p>11 Q. Okay. Let's start with that space,</p> <p>12 which is on West 24th Street.</p> <p>13 A. 24th Street?</p> <p>14 Q. Yes.</p> <p>15 A. My first solo, yes.</p> <p>16 Q. Okay. Now, you broadened the</p> <p>17 question, which is fine. How about the other</p> <p>18 Gagosian galleries of which there are a number,</p> <p>19 right?</p> <p>20 A. I've had shows at other galleries.</p> <p>21 Q. But as of November 8th, 2008, had</p> <p>22 you had any solo shows at the Gagosian Gallery</p> <p>23 prior to November 8th, 2008, at any Gagosian</p> <p>24 Gallery?</p> <p>25 MR. HAYES: Any location he's asking</p>
<p style="text-align: center;">158</p> <p>1 Prince</p> <p>2 have --</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. Did seeing this book Yes Rasta</p> <p>5 somehow make a connection in your mind with the</p> <p>6 Canal Zone?</p> <p>7 A. Yes. I would -- yes, I'd say that.</p> <p>8 Q. Now, have you been back to the Canal</p> <p>9 Zone -- you said you went to Panama?</p> <p>10 A. I had gone to Panama. And I had</p> <p>11 just seen the jungles.</p> <p>12 Q. Fairly recently?</p> <p>13 A. Probably -- probably, yes.</p> <p>14 In approximate to when I found the</p> <p>15 book -- yes.</p> <p>16 Q. In approximation to 2005?</p> <p>17 A. Yes.</p> <p>18 Q. Are there Rastafarians in the Canal</p> <p>19 Zone now known as Panama, that part of the Canal</p> <p>20 Zone?</p> <p>21 A. No, there aren't.</p> <p>22 Q. Are there any in St. Barth's?</p> <p>23 A. No.</p> <p>24 Q. Is the population of St. Barth's</p> <p>25 primarily white, French white people?</p>	<p style="text-align: center;">160</p> <p>1 Prince</p> <p>2 you about.</p> <p>3 A. Any location?</p> <p>4 Q. Any Gagosian Gallery location?</p> <p>5 A. Prior to? Yes.</p> <p>6 Q. Okay. But this was the first one at</p> <p>7 that Chelsea gallery?</p> <p>8 A. Yes.</p> <p>9 Q. Did you believe that the photos in</p> <p>10 the Yes Rasta book, did you believe they were</p> <p>11 distinctive?</p> <p>12 A. Well, I didn't really --</p> <p>13 MS. BART: Objection, form --</p> <p>14 A. -- look at them as --</p> <p>15 MS. BART: Hold on one second,</p> <p>16 please.</p> <p>17 Objection, form, calls for a legal</p> <p>18 conclusion. The witness is here as a fact</p> <p>19 witness, not an expert.</p> <p>20 MR. HAYES: I join in the objection.</p> <p>21 Q. Did you believe they were</p> <p>22 distinctive?</p> <p>23 MS. BART: Same objections.</p> <p>24 A. I didn't think I would describe my</p> <p>25 reaction. Also, I didn't really look at them as</p>

<p style="text-align: center;">161</p> <p>1 Prince</p> <p>2 photographs.</p> <p>3 Q. What did you look at them as?</p> <p>4 A. Images in a book.</p> <p>5 Q. Do you have any reason to doubt that</p> <p>6 they're photographs?</p> <p>7 A. I don't know if he made original --</p> <p>8 I mean I'm not in a position to say whether they</p> <p>9 were original photographs to begin with. I</p> <p>10 don't know. I just saw them in -- I saw images,</p> <p>11 reproductions of images in a book.</p> <p>12 I mean that's my -- that was my</p> <p>13 reaction. I believe my initial reaction was one</p> <p>14 of which I associated with the Canal Zone.</p> <p>15 Q. Did you like the pictures?</p> <p>16 A. Yes.</p> <p>17 Q. In the book?</p> <p>18 A. I liked the pictures.</p> <p>19 Q. You liked them a lot?</p> <p>20 A. I liked them, yes.</p> <p>21 Q. You thought they were original?</p> <p>22 MS. BART: Objection, form, calls</p> <p>23 for a legal conclusion.</p> <p>24 MR. HAYES: Objection.</p> <p>25 MR. BROOKS: No, it doesn't.</p>	<p style="text-align: center;">163</p> <p>1 Prince</p> <p>2 THE VIDEOGRAPHER: 1:05 p.m.</p> <p>3 Off the record. End of tape 2.</p> <p>4 (Recess taken: 1:05 p.m.)</p> <p>5 (Proceedings resumed: 1:53 p.m.)</p> <p>6 THE VIDEOGRAPHER: 1:53. On the</p> <p>7 record. Beginning of tape 3.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. Mr. Prince, we were looking before</p> <p>10 we broke for lunch at Exhibit 13. And we had</p> <p>11 talked about the first question and answer that</p> <p>12 you were asked and that you gave.</p> <p>13 Then there's a second question which</p> <p>14 says, What will the format for this new series</p> <p>15 be, a large format like the nurse paintings,</p> <p>16 question mark. And then your answer, Larger,</p> <p>17 there are several figures white or black female</p> <p>18 nudes beside clothed Rastafarians --</p> <p>19 MR. HAYES: It's not the second</p> <p>20 question, actually it's the third, just</p> <p>21 for clarity.</p> <p>22 Go ahead.</p> <p>23 A. Okay, I got it.</p> <p>24 MR. BROOKS: You're right, third</p> <p>25 question.</p>
<p style="text-align: center;">162</p> <p>1 Prince</p> <p>2 MS. BART: Please check 17 U.S.C.</p> <p>3 A. I didn't have that reaction, no.</p> <p>4 I mean my reaction was they were documentary I</p> <p>5 suppose.</p> <p>6 Q. Had you seen pictures like that</p> <p>7 before of Rastafarians?</p> <p>8 MR. HAYES: Objection.</p> <p>9 A. Yes, I had had a book on Bob Marley</p> <p>10 that I was also looking at at the same time.</p> <p>11 Q. Right.</p> <p>12 And did you consider incorporating a</p> <p>13 picture from the Bob Marley book into this Canal</p> <p>14 Zone exhibition?</p> <p>15 A. I did.</p> <p>16 Q. And what made you decide not to do</p> <p>17 that?</p> <p>18 A. I did do it.</p> <p>19 Q. It's in the book?</p> <p>20 A. I believe there's an image --</p> <p>21 Q. Of Bob Marley?</p> <p>22 A. Not of Bob Marley. It was an image</p> <p>23 that was in the Bob Marley book.</p> <p>24 Q. We'll get to that later because I</p> <p>25 wouldn't begin to know where it is.</p>	<p style="text-align: center;">164</p> <p>1 Prince</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. Larger with several figures white or</p> <p>4 black female nudes beside clothed Rastafarians,</p> <p>5 a forest contrast like in the Luncheon on the</p> <p>6 Grass by Manet from 1862-63 which still struck</p> <p>7 me in the Picasso exhibition at the Musée</p> <p>8 d'Orsay. I combined the Rastafarians from the</p> <p>9 book with a series of hands playing the guitar</p> <p>10 that I cut out and pasted. The nurses -- played</p> <p>11 on the uniform, the Rastafarians's uniform is</p> <p>12 merely a pair of shorts, almost nothing.</p> <p>13 Sometimes they are nude like the women painted</p> <p>14 from magazines or from photos of models in my</p> <p>15 studio. In pictorial terms there is little</p> <p>16 difference between white and black. It is this</p> <p>17 kind of formal question that interests me. I've</p> <p>18 already had a small Rastafarian exhibition in</p> <p>19 St. Barth's. I called it Canal Zone as a</p> <p>20 reference to the Panama Canal of my childhood.</p> <p>21 I had put together a scene with gangs portrayed</p> <p>22 by the Rastafarians to music by Ziggy Marley,</p> <p>23 Bob Marley's oldest son, and the Wailers, his</p> <p>24 original group.</p> <p>25 With respect to this Manet painting,</p>

<p style="text-align: center;">165</p> <p>1 Prince</p> <p>2 Le déjeuner sur l'herbe --</p> <p>3 A. Right.</p> <p>4 Q. Le déjeuner sur l'herbe, do you know</p> <p>5 it by that name?</p> <p>6 A. Yeah, the Luncheon on the Grass?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. There are men, clothed men and naked</p> <p>10 women in that, as I recall, in that painting,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And you had just seen it at the</p> <p>14 Musée d'Orsay?</p> <p>15 A. Yes. At that time there were</p> <p>16 several -- yes, I did.</p> <p>17 Q. Were you trying in the photos in the</p> <p>18 Canal Zone book or some of the -- not photos.</p> <p>19 Let me start again.</p> <p>20 Was it your intention when you made,</p> <p>21 created the paintings that are in the Canal Zone</p> <p>22 book, to evoke the Luncheon on the Grass, Manet</p> <p>23 painting?</p> <p>24 A. I was aware of Picasso's homage to</p> <p>25 Manet. And I was also in the middle of making</p>	<p style="text-align: center;">167</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. -- is that what you're referring to?</p> <p>4 A. Yeah. Feet that I would paint on</p> <p>5 the paintings.</p> <p>6 Q. So correct me if I'm wrong, but are</p> <p>7 you saying that these, some of these Canal Zone</p> <p>8 paintings were a tribute -- I'll say tribute</p> <p>9 instead of homage -- to Picasso, De Kooning, and</p> <p>10 Cézanne?</p> <p>11 MR. HAYES: Object to the form, but</p> <p>12 you can answer.</p> <p>13 A. Well, I'm really interested in</p> <p>14 making art that, you know, transforms something</p> <p>15 that's already existed without getting involved</p> <p>16 in the original intent of the image. I like</p> <p>17 to -- I want to transform the existing image.</p> <p>18 And by doing, by quoting, or in the</p> <p>19 style of Picasso or in the style of De Kooning,</p> <p>20 or even thinking about the composition of</p> <p>21 Cézanne's bathers, it was a way in which I could</p> <p>22 transform those images, yes.</p> <p>23 Q. Which images?</p> <p>24 A. The images that I first found in the</p> <p>25 Yes Rasta book.</p>
<p style="text-align: center;">166</p> <p>1 Prince</p> <p>2 an homage to De Kooning at the time.</p> <p>3 I don't believe there was a direct</p> <p>4 interest in making or pointing to that</p> <p>5 particular painting. It was more about the fact</p> <p>6 that I was interested in Picasso paying homage</p> <p>7 to a previous artist.</p> <p>8 And I think, point of fact, I would</p> <p>9 cite Cézanne's bathers as a more -- interest in</p> <p>10 mine of making the Canal Zone paintings.</p> <p>11 Q. Okay. Are you saying that one of</p> <p>12 the points or one of the messages in the Canal</p> <p>13 Zone paintings was to evoke Cézanne's bather</p> <p>14 paintings?</p> <p>15 A. I think if in fact there was a</p> <p>16 message, it was -- there was three people, yes,</p> <p>17 specifically Cézanne's bathers because of the</p> <p>18 composition, Picasso's hands and feet, and the</p> <p>19 masks that were on the De Kooning women.</p> <p>20 Q. Did you put the masks on the</p> <p>21 De Kooning women or were they there already?</p> <p>22 A. Sometimes yes, sometimes no.</p> <p>23 Q. And the feet, some of these</p> <p>24 paintings -- and we'll look at them later --</p> <p>25 have very large elephantine types of feet --</p>	<p style="text-align: center;">168</p> <p>1 Prince</p> <p>2 Q. Where did you get the series of</p> <p>3 hands playing the guitar?</p> <p>4 A. There are several magazines</p> <p>5 published. I mean to be -- you know, what I</p> <p>6 remember specifically is Guitar Magazine. But</p> <p>7 there were other magazines. I don't recall the</p> <p>8 names, but I do recall they were like -- there</p> <p>9 are several that you can buy on the newsstand.</p> <p>10 Q. And did you cut those out as well?</p> <p>11 A. Cut them out with -- yes, I did.</p> <p>12 Q. And did you paste them onto the</p> <p>13 other images?</p> <p>14 A. Yes.</p> <p>15 Q. And then you sent the whole thing to</p> <p>16 that lab?</p> <p>17 A. NancyScans.</p> <p>18 Q. NancyScans. So they can be scanned</p> <p>19 onto the canvas?</p> <p>20 A. I'm not sure I would word it like</p> <p>21 that.</p> <p>22 MR. HAYES: Object to the form.</p> <p>23 Q. So it could be transferred onto the</p> <p>24 canvas?</p> <p>25 A. What I -- no, I'm not sure I would</p>

<p style="text-align: center;">169</p> <p>1 Prince</p> <p>2 word what I would -- that I sent to NancyScans.</p> <p>3 Q. What did you send to NancyScans?</p> <p>4 A. I sent a collage.</p> <p>5 Q. What does that mean?</p> <p>6 A. A collage.</p> <p>7 Q. Well, in this case what do you mean</p> <p>8 by collage?</p> <p>9 A. It means I ripped out a reproduction</p> <p>10 from a book or a magazine and cut it up, pasted</p> <p>11 it, scotch taped, and then mounted it on a piece</p> <p>12 of white paper and drew some dimensions,</p> <p>13 60 inches wide and --</p> <p>14 Q. So it could be enlarged?</p> <p>15 A. So it could be enlarged -- yeah, I</p> <p>16 mean I just say 60, yes, various sizes.</p> <p>17 Q. And then NancyScan would enlarge it</p> <p>18 to the size you told them?</p> <p>19 A. Yes.</p> <p>20 Q. And then they would send it back to</p> <p>21 you?</p> <p>22 A. They would send it back to me.</p> <p>23 Q. By electronically or physically?</p> <p>24 A. Physically. They would send me --</p> <p>25 Q. So in this process that you've</p>	<p style="text-align: center;">171</p> <p>1 Prince</p> <p>2 Q. And what kind of magazine is that?</p> <p>3 A. It's a publishing. They publish</p> <p>4 books.</p> <p>5 Q. When you said men's magazines --</p> <p>6 A. They published a book on men's</p> <p>7 magazines.</p> <p>8 Q. And that's where you got the --</p> <p>9 A. That's where I got some of the</p> <p>10 images.</p> <p>11 Q. Did you get some from -- I'll use</p> <p>12 the term loosely -- porno magazines?</p> <p>13 A. Porno?</p> <p>14 MR. HAYES: Objection to form.</p> <p>15 How loosely?</p> <p>16 Q. Pomographic magazines.</p> <p>17 A. Pornographic?</p> <p>18 Q. I'm only asking you that because</p> <p>19 I've read that in a number of the articles.</p> <p>20 A. Yeah.</p> <p>21 Q. I don't know if it's true, so that's</p> <p>22 why I'm asking you.</p> <p>23 A. I mean -- I suppose you're talking</p> <p>24 about like something that's like triple X or --</p> <p>25 you know -- I'm trying to think here.</p>
<p style="text-align: center;">170</p> <p>1 Prince</p> <p>2 described you never actually used a camera,</p> <p>3 correct, you personally?</p> <p>4 A. For this, for the Canal Zone series,</p> <p>5 no, I've never used a camera, no.</p> <p>6 Q. And where did you get the nude</p> <p>7 females that are in many of these paintings?</p> <p>8 A. Mostly from Taschen, a lot from --</p> <p>9 they had published a series of books on men's</p> <p>10 magazines that was edited by a friend of mine,</p> <p>11 that she sent me the books. And also --</p> <p>12 (Interruption.)</p> <p>13 A. Should I continue?</p> <p>14 Q. Yes.</p> <p>15 A. I remember some of the women came</p> <p>16 out of two specific photographers' books,</p> <p>17 Richard Kern and Eric Kroll.</p> <p>18 Q. With a K?</p> <p>19 A. Kroll with a -- K-R-O-L-L.</p> <p>20 And Kern with a K.</p> <p>21 Q. Now, you said Taschen, is that what</p> <p>22 you said, T-A --</p> <p>23 A. Taschen Publishers. T-A-C-H --</p> <p>24 MR. HAYES: T-A-S-C-H-E-N.</p> <p>25 A. T-A-S-C-H-E-N.</p>	<p style="text-align: center;">172</p> <p>1 Prince</p> <p>2 I mean Richard Kern and Eric Kroll's</p> <p>3 images have been described -- I wouldn't</p> <p>4 describe their images as pornographic, but they</p> <p>5 have been by other people.</p> <p>6 Q. Were some of the nude females just</p> <p>7 anonymous where you didn't know who the</p> <p>8 photographer was who had taken the pictures?</p> <p>9 A. Especially the ones from the Taschen</p> <p>10 publications they were -- even some of the</p> <p>11 credits I suppose were anonymous where I didn't</p> <p>12 know the models, I didn't know -- you know, I</p> <p>13 didn't really pay attention.</p> <p>14 Q. And were some of them, some of the</p> <p>15 nude females in these paintings, models you had</p> <p>16 hired for those paintings?</p> <p>17 A. I hired a nude model, yes.</p> <p>18 Q. The woman with the apron?</p> <p>19 A. Yes.</p> <p>20 Q. But she's not in the Canal Zone</p> <p>21 paintings, right? Or maybe she is. I don't</p> <p>22 think she is --</p> <p>23 A. She was in -- I know -- I recall one</p> <p>24 painting she's painted out, but there's a very</p> <p>25 thin -- there's a lot of ghosts in some of these</p>

<p style="text-align: center;">173</p> <p>1 Prince</p> <p>2 paintings. A lot of things got painted out.</p> <p>3 That's part of the process. That's part of my</p> <p>4 technique of how I transfer images and how I</p> <p>5 make them different.</p> <p>6 Q. Right.</p> <p>7 A. So it's hard to say whether or not</p> <p>8 she's in the painting. She's in the painting</p> <p>9 physically in her representation, but it's very</p> <p>10 difficult to see her. However, she is in the</p> <p>11 catalog.</p> <p>12 Q. Right. And to the extent she's in</p> <p>13 the painting did somebody take her photograph?</p> <p>14 A. I hired her and I took -- I spent an</p> <p>15 afternoon taking her photograph, yes.</p> <p>16 Q. So the photograph of that --</p> <p>17 photographs of that woman in the inserts are</p> <p>18 photographs that you took?</p> <p>19 A. I took, yes, I took them.</p> <p>20 Q. Did you have any assistants helping</p> <p>21 you with cutting out, pasting, sending things to</p> <p>22 NancyScan or did you do it yourself?</p> <p>23 A. I did it myself.</p> <p>24 Q. You do have at least two assistants,</p> <p>25 right, Betsy and -- Betsy Biscone and Eric</p>	<p style="text-align: center;">175</p> <p>1 Prince</p> <p>2 Q. In your garage, okay.</p> <p>3 And in the summer do you do some of</p> <p>4 your artwork there rather than in</p> <p>5 Rensselaerville?</p> <p>6 A. Yes.</p> <p>7 Q. And these Rasta paintings, that's</p> <p>8 what they've been called in a lot of articles,</p> <p>9 that were in the Canal Zone, were those done in</p> <p>10 your Long Island studio?</p> <p>11 A. Well, the Canal Zone paintings were</p> <p>12 mostly done by myself in the garage studio or</p> <p>13 the studio in Long Island, yes.</p> <p>14 Q. In Wainscott?</p> <p>15 A. In Wainscott.</p> <p>16 Q. Okay. Now, in this interview in</p> <p>17 Figaro you also said you had a small Rastafarian</p> <p>18 exhibition in St. Barth's, correct?</p> <p>19 A. I don't believe -- is that what I</p> <p>20 said?</p> <p>21 Q. That's what it says here.</p> <p>22 MR. HAYES: That's what the</p> <p>23 translation said.</p> <p>24 Q. I already had a small Rastafarian</p> <p>25 exhibition in St. Barth's, and this is in</p>
<p style="text-align: center;">174</p> <p>1 Prince</p> <p>2 Brown?</p> <p>3 A. Yes.</p> <p>4 Q. Do you have other assistants as</p> <p>5 well?</p> <p>6 A. Yes.</p> <p>7 Q. How many others?</p> <p>8 A. Do you want their names?</p> <p>9 Q. No.</p> <p>10 A. No, no. I have -- you mean</p> <p>11 assistants that help me maybe in the studio</p> <p>12 while I was doing these paintings?</p> <p>13 Q. Right.</p> <p>14 A. Two.</p> <p>15 Q. In addition to those two?</p> <p>16 A. Yes.</p> <p>17 Q. So that's a total of four?</p> <p>18 A. Yes.</p> <p>19 Q. And some of the e-mails and things</p> <p>20 refer to a Long Island studio?</p> <p>21 A. Yes.</p> <p>22 Q. And where is that?</p> <p>23 A. It's in Wainscott.</p> <p>24 Q. In your house in Wainscott?</p> <p>25 A. I have a little studio in my garage.</p>	<p style="text-align: center;">176</p> <p>1 Prince</p> <p>2 November of 2008.</p> <p>3 A. Well, I was probably wrong in</p> <p>4 describing the exhibition that way, although I</p> <p>5 did probably -- if that's the translation, I did</p> <p>6 call the exhibition Canal Zone.</p> <p>7 I don't believe -- I don't</p> <p>8 remember -- I don't think -- it was a fairly</p> <p>9 casual exhibition, so I don't believe there was</p> <p>10 an invitation card. So I don't know if there</p> <p>11 was a title to the show. I doubt very much --</p> <p>12 usually you make up a postcard and you put the</p> <p>13 title, but I don't think we did that for that</p> <p>14 show.</p> <p>15 Q. Let me just ask you this. This is</p> <p>16 in late 2007, there was a show at the Eden Rock</p> <p>17 Hotel in St. Barth's of some of your work,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And it was called the Eden Rock</p> <p>21 show?</p> <p>22 A. I don't think we called it anything,</p> <p>23 but I might be mistaken.</p> <p>24 Q. But it was about maybe 14 or 15</p> <p>25 different works, right?</p>

<p style="text-align: center;">177</p> <p>1 Prince</p> <p>2 A. Yes, I believe that would be about,</p> <p>3 yes.</p> <p>4 Q. And were any of those works -- and</p> <p>5 I'm not talking about the Canal Zone, I'm sorry,</p> <p>6 I don't want to confuse you.</p> <p>7 A. That's okay.</p> <p>8 Q. I'm talking about the one the year</p> <p>9 before in St. Barth's.</p> <p>10 A. Right.</p> <p>11 Q. Were any of those works --</p> <p>12 withdrawn.</p> <p>13 Did any of those works contain</p> <p>14 materials, images appropriated from the</p> <p>15 Yes Rasta book?</p> <p>16 MS. BART: Objection to form.</p> <p>17 MR. HAYES: Objection as to form.</p> <p>18 A. Yes.</p> <p>19 Q. How many of those 14 or 15</p> <p>20 paintings?</p> <p>21 A. There was one collage.</p> <p>22 Q. Right. And that was called Canal</p> <p>23 Zone, right?</p> <p>24 A. I believe it was, yes.</p> <p>25 Q. We're going to look at that in a</p>	<p style="text-align: center;">179</p> <p>1 Prince</p> <p>2 one you did in 2007, was that either in the</p> <p>3 Canal Zone book or exhibited at the Canal Zone</p> <p>4 show at the Gagosian Gallery?</p> <p>5 A. It was never exhibited at -- it</p> <p>6 didn't get in the show at the Canal Zone exhibit</p> <p>7 at Larry Gagosian's.</p> <p>8 Q. Okay. And it's not in the book?</p> <p>9 A. It's not in the book.</p> <p>10 MR. BROOKS: Let's mark as</p> <p>11 Plaintiff's Exhibit 14 a document produced</p> <p>12 by Gagosian defendants Bates stamped</p> <p>13 GGP003781.</p> <p>14 (Plaintiff's Exhibit 14, GGP003781,</p> <p>15 was marked for identification, as of this</p> <p>16 date.)</p> <p>17 Q. Mr. Prince, does this refresh your</p> <p>18 recollection that the title of that work of art</p> <p>19 was The Canal Zone, comma, 2007?</p> <p>20 A. That's what it says here, yes.</p> <p>21 Q. And is this the work of art you've</p> <p>22 been describing that was part of the show at the</p> <p>23 Eden Rock?</p> <p>24 A. Yes.</p> <p>25 Q. And this is the only one on display</p>
<p style="text-align: center;">178</p> <p>1 Prince</p> <p>2 second, but of those paintings that were</p> <p>3 exhibited at the Eden Rock Hotel, are any of</p> <p>4 those in the Canal Zone book?</p> <p>5 A. There wasn't a painting that was</p> <p>6 exhibited in that particular exhibition. It was</p> <p>7 a collage.</p> <p>8 Q. Well, there are 14 or 15 works,</p> <p>9 right?</p> <p>10 A. No, there were -- the 14 -- I</p> <p>11 thought you were referring to -- the other 14 or</p> <p>12 15 paintings in that show were different</p> <p>13 paintings.</p> <p>14 Q. No, I understand that. I</p> <p>15 understand. They don't have material images</p> <p>16 taken from Yes Rasta?</p> <p>17 A. Right. Right.</p> <p>18 Q. I'm just asking you, those</p> <p>19 paintings, were any of those in the Canal Zone</p> <p>20 book or the Canal Zone show at Gagosian</p> <p>21 Gallery --</p> <p>22 A. Oh, no. No.</p> <p>23 Q. --in 2007?</p> <p>24 Now, how about the one collage which</p> <p>25 does have images from the Yes Rasta book, the</p>	<p style="text-align: center;">180</p> <p>1 Prince</p> <p>2 at that show that had images taken from the</p> <p>3 Yes Rasta book, is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And all of these images in this --</p> <p>6 what did you call it, a --</p> <p>7 A. Collage.</p> <p>8 Q. Collage. These were all taken from</p> <p>9 the Yes Rasta book, correct?</p> <p>10 A. These images were what I would refer</p> <p>11 to as -- it was sort of like, yes, they were</p> <p>12 torn out, they were pages that were torn out of</p> <p>13 the Yes Rasta book.</p> <p>14 Q. And does this relate back to what</p> <p>15 you were saying before that over the course of a</p> <p>16 couple years you intermittently wrote in the</p> <p>17 book and looked at it?</p> <p>18 A. Yes, I think this probably was done</p> <p>19 over the course of probably three seasons in</p> <p>20 St. Barth.</p> <p>21 Q. Is that because you left the book</p> <p>22 there when you --</p> <p>23 A. I left a number of, you know -- also</p> <p>24 there was -- yes, I left a number of art-related</p> <p>25 materials at the house.</p>



October 6, 2009

181	183
1 Prince	1 Prince
2 Q. In St. Barth's?	2 Q. And you did not obtain Mr. Cariou's
3 A. In St. Barth.	3 permission to create Canal Zone 2007, did you?
4 Q. Including Yes Rasta?	4 MS. BART: Objection, form.
5 A. Including the book.	5 MR. HAYES: Objection as to form.
6 Q. The one you bought?	6 Q. You can answer.
7 A. Yes.	7 A. No.
8 Q. I got it. Okay.	8 MR. BROOKS: I'd like to mark as
9 What does mixed media on homasote	9 Plaintiff's Exhibit 15 a one-page document
10 mean, do you know?	10 Bates stamped GGP004296.
11 A. It's a description of the different	11 (Plaintiff's Exhibit 15, GGP004296,
12 mediums that I -- the fact that I did use	12 was marked for identification, as of this
13 different mediums, meaning paint --	13 date.)
14 Q. That explains the mixed media part.	14 (Discussion off the record.)
15 MS. BART: Let him finish, please.	15 Q. Mr. Prince, Plaintiff's Exhibit 15
16 MR. HAYES: He's asking about	16 depicts the same work of art that we've been
17 homasote, what that means.	17 looking at as Exhibit 14, is that correct?
18 Q. Yes, what does that mean?	18 A. Yes.
19 A. It's the material which the pages	19 Q. Canal Zone 2007?
20 were pushpinned on. It's approximately an	20 A. Yes.
21 8-by-4 piece of, for lack of a better word,	21 Q. Where are we seeing this, is this at
22 plywood.	22 the Eden Rock Hotel or somewhere else or what?
23 MR. HAYES: It's wood?	23 A. It's at the Eden Rock gallery.
24 THE WITNESS: Yeah.	24 Q. So this is actually a photo of that
25 MR. HAYES: Like a masonite type of	25 show, that exhibition, a part of it?
182	184
1 Prince	1 Prince
2 wood?	2 A. Part of it, yes.
3 THE WITNESS: Yeah.	3 Q. So are each of the pictures, the
4 MR. BROOKS: I'm sorry?	4 photos in this collage, an entire -- represent
5 MR. HAYES: It's like masonite, like	5 an entire page from Yes Rasta?
6 masonite manufactured wood.	6 A. I think they're individual pages.
7 MR. BROOKS: Okay.	7 Q. Right. Because this was not
8 BY MR. BROOKS:	8 enlarged?
9 Q. Now, did you have an assistant	9 A. No.
10 helping you with the creation of Canal Zone 2007	10 Q. Do you remember when the show at the
11 or did you do it yourself?	11 Eden Rock was put together or planned?
12 A. I did it myself.	12 A. Probably November of 2007.
13 Q. And did you send it to a lab to be	13 You know, I -- that's a guess.
14 completed?	14 MR. BROOKS: Let's mark as
15 A. No. This is a -- this is just what	15 Exhibit Plaintiff's 16 a series of e-mails
16 I would refer to as an original collage.	16 Bates stamped GGP004309, 4317 and 4325.
17 Q. Okay. So you tore out these	17 (Plaintiff's Exhibit 16, series of
18 pictures -- you nailed them to the piece of	18 e-mails, was marked for identification, as
19 plywood?	19 of this date.)
20 A. Yes.	20 Q. If you could look at the first page
21 Q. So it wasn't -- then it wasn't	21 of Exhibit 16, it appears to be an e-mail to you
22 enlarged?	22 dated August 8th, 2007. Do you see that?
23 A. This particular piece?	23 A. Mm-hmm.
24 Q. Yes.	24 Q. And Jazz Man 611, is that somebody
25 A. No.	25 from the Eden Rock Hotel that you know?

<p style="text-align: center;">185</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. And he was responding to an e-mail</p> <p>4 from you dated August 3rd it looks like, saying</p> <p>5 that Larry Gagosian was going to handle</p> <p>6 everything. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And that right now he's previewing</p> <p>9 three other works at his house out here on</p> <p>10 Long Island. What did you mean by that, if you</p> <p>11 remember?</p> <p>12 A. There were three works that were</p> <p>13 going to be part of the show.</p> <p>14 Q. The Eden -- we're calling it the</p> <p>15 Eden Rock show. I know that might not have been</p> <p>16 the name.</p> <p>17 A. Okay.</p> <p>18 Q. And what do you mean -- what does</p> <p>19 that mean to you, previewing? Was he showing</p> <p>20 them to potential buyers, is that it?</p> <p>21 A. He -- I had given him -- we were</p> <p>22 sort of -- I like to refer to Larry's house</p> <p>23 as off-off-off-broadway, sort of a way of</p> <p>24 previewing different works that have never</p> <p>25 been shown before.</p>	<p style="text-align: center;">187</p> <p>1 Prince</p> <p>2 where you're -- it's almost like a graphic</p> <p>3 novel, where in instead of words you're drawing</p> <p>4 pictures of different scenes.</p> <p>5 Q. Scenes of a potential movie?</p> <p>6 A. Yes, I suppose so, yes.</p> <p>7 Q. Now, if you look on the second page</p> <p>8 of this Exhibit 16, there's an e-mail from</p> <p>9 somebody named David Matthew. Is that -- that</p> <p>10 is the person at the Eden Rock Hotel?</p> <p>11 A. I believe he's one of the owners.</p> <p>12 Q. But he's not the David Matthews</p> <p>13 Band, right?</p> <p>14 A. No.</p> <p>15 Q. It's a different -- okay.</p> <p>16 And he says the exhibition to open</p> <p>17 December 18th and close end of February, that's</p> <p>18 down about five paragraphs. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. So in September 14th it was planned</p> <p>21 that the show would be -- would run for</p> <p>22 approximately two-and-a-half months, is that</p> <p>23 right?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. And is that your recollection of</p>
<p style="text-align: center;">186</p> <p>1 Prince</p> <p>2 Q. Okay. And his house is out in</p> <p>3 East Hampton?</p> <p>4 A. Yes.</p> <p>5 Q. And what did you mean when you said</p> <p>6 he'll be the one handling the percentages? What</p> <p>7 did that mean?</p> <p>8 A. I believe at the time I didn't want</p> <p>9 to do the show independently. I wanted someone</p> <p>10 to represent my interests in the show.</p> <p>11 Q. Was this the first time you worked</p> <p>12 with Mr. Gagosian?</p> <p>13 A. No.</p> <p>14 Q. You had worked with him before then?</p> <p>15 A. Yes.</p> <p>16 Q. Now, what did you mean when you said</p> <p>17 at the bottom of this first page, it's</p> <p>18 storyboards -- I-T, apostrophe S -- storyboards</p> <p>19 for a screenplay called Eden Rock, everybody</p> <p>20 loves it so far? What were you talking about?</p> <p>21 A. I was talking about the paintings.</p> <p>22 Q. Okay. But what is this -- maybe</p> <p>23 this is my ignorance -- what is a storyboard for</p> <p>24 a screenplay?</p> <p>25 A. It sort of looks like a comic book</p>	<p style="text-align: center;">188</p> <p>1 Prince</p> <p>2 when that show ran, December 18th, '07, to the</p> <p>3 end of February '08?</p> <p>4 A. I didn't have any -- I didn't</p> <p>5 particularly pay attention to when it was going</p> <p>6 to close. So if it says it was going to close</p> <p>7 here in February then I assume that that's what</p> <p>8 it meant.</p> <p>9 Q. Were you there when it opened?</p> <p>10 A. I was there when it opened.</p> <p>11 Q. And then if you look at the third</p> <p>12 page, it appears to indicate there would be</p> <p>13 12 to 14 works for the show --</p> <p>14 A. Yes.</p> <p>15 Q. -- do you see that?</p> <p>16 Does that seem right?</p> <p>17 A. Yes.</p> <p>18 MR. BROOKS: I'd like to mark as</p> <p>19 Plaintiff's Exhibit 17 an e-mail Bates</p> <p>20 stamped GGP004326.</p> <p>21 (Plaintiff's Exhibit 17, e-mail, was</p> <p>22 marked for identification, as of this</p> <p>23 date.)</p> <p>24 Q. Is Plaintiff's Exhibit 17 an e-mail</p> <p>25 that you sent?</p>

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<p style="text-align: center;">189</p> <p>1 Prince</p> <p>2 A. Me?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. And you wanted a friend of yours</p> <p>6 Lisa Evans to look at some of these Eden Rock</p> <p>7 paintings?</p> <p>8 A. Yes.</p> <p>9 Q. Was that with a view to selling her</p> <p>10 one or more paintings?</p> <p>11 A. I was probably thinking that her</p> <p>12 husband might be interested in buying one.</p> <p>13 Q. Her husband is Michael Evans?</p> <p>14 A. Yes.</p> <p>15 Q. Is he a collector?</p> <p>16 A. He had just about started to be one</p> <p>17 about that time.</p> <p>18 Q. What's his occupation?</p> <p>19 A. That's a good question. I believe</p> <p>20 he works for a broker -- what's that -- one of</p> <p>21 those --</p> <p>22 Q. Hedge funds?</p> <p>23 A. No, a -- you know, like Lehman</p> <p>24 Brothers.</p> <p>25 Q. Brokerage firm?</p>	<p style="text-align: center;">191</p> <p>1 Prince</p> <p>2 A. I know which painting it was, I just</p> <p>3 don't know --</p> <p>4 Q. The title?</p> <p>5 A. -- the exact amount.</p> <p>6 Q. All right.</p> <p>7 MR. BROOKS: Let's mark as</p> <p>8 Plaintiff's Exhibit 18 an e-mail from</p> <p>9 Mr. Prince dated July 26, 2007, Bates</p> <p>10 stamped GGP004307.</p> <p>11 (Plaintiff's Exhibit 18, e-mail</p> <p>12 dated July 26, 2007, was marked for</p> <p>13 identification, as of this date.)</p> <p>14 Q. Is this an e-mail that you sent to</p> <p>15 Larry Gagosian?</p> <p>16 A. It looks -- yes, I believe it is.</p> <p>17 Q. And you said you had a couple of</p> <p>18 thoughts about guns and ammo, what did you mean</p> <p>19 about that? What did you mean by using that</p> <p>20 phrase guns and ammo?</p> <p>21 A. I believe it was a way of trying to</p> <p>22 describe the paintings that were going to be</p> <p>23 shown at Eden Rock at that show.</p> <p>24 Q. So it says this is a storyboard for</p> <p>25 a screenplay about some guy named Charles</p>
<p style="text-align: center;">190</p> <p>1 Prince</p> <p>2 A. Yeah, you know --</p> <p>3 MR. HAYES: Investment bank?</p> <p>4 THE WITNESS: What?</p> <p>5 MR. HAYES: An investment bank?</p> <p>6 THE WITNESS: Yeah, an investment</p> <p>7 bank.</p> <p>8 Q. In fact, he later bought one of your</p> <p>9 paintings at the Canal Zone show, didn't he?</p> <p>10 A. Yes.</p> <p>11 Q. Which one?</p> <p>12 A. I believe it was -- I would have to</p> <p>13 look. I mean I know the painting, I just don't</p> <p>14 recall the title.</p> <p>15 Q. Okay. You can visualize it?</p> <p>16 A. I can visualize it, yes.</p> <p>17 Q. Can you visualize how much he paid</p> <p>18 for it?</p> <p>19 MR. HAYES: Objection to form.</p> <p>20 MS. BART: Objection to form.</p> <p>21 Q. You can answer.</p> <p>22 A. I believe he paid around two-million</p> <p>23 dollars, but I don't know that for sure because</p> <p>24 of -- I'm not --</p> <p>25 Q. -- sure which painting it was?</p>	<p style="text-align: center;">192</p> <p>1 Prince</p> <p>2 Company?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. For the record, you have to say yes</p> <p>5 or no.</p> <p>6 A. Oh, I'm sorry. Yes.</p> <p>7 Q. All right. He arrives in</p> <p>8 St. Barth's with his wife and children and finds</p> <p>9 out when he gets to St. Barth's that something</p> <p>10 horrible has happened?</p> <p>11 A. Yes.</p> <p>12 Q. A nuclear war consuming most of</p> <p>13 civilization, is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And then he becomes Charlie Company</p> <p>16 instead of Charles Company by which you meant</p> <p>17 what?</p> <p>18 A. I just thought it was an interesting</p> <p>19 way to change his name. He becomes an action</p> <p>20 hero.</p> <p>21 Q. Becomes weaponized?</p> <p>22 A. Yes.</p> <p>23 Q. So that --</p> <p>24 A. He can fight --</p> <p>25 Q. In the aftermath of nuclear war he</p>

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<p>1 Prince</p> <p>2 has to fend for himself, is that the idea?</p> <p>3 A. Yes.</p> <p>4 Q. You compared him to Steven Segal?</p> <p>5 A. Yes.</p> <p>6 Q. And Under Siege?</p> <p>7 A. Yes.</p> <p>8 Q. Which is a movie where a submarine</p> <p>9 is taken over?</p> <p>10 A. Yes.</p> <p>11 Q. And he kills everyone, right?</p> <p>12 I think I saw that movie.</p> <p>13 I agree with you, it was a good</p> <p>14 movie.</p> <p>15 MR. HAYES: A couple of Steven Segal</p> <p>16 fans here.</p> <p>17 MR. BROOKS: What?</p> <p>18 MR. HAYES: We got a couple of</p> <p>19 Steven Segal fans here.</p> <p>20 MR. BROOKS: Yeah, I liked that</p> <p>21 movie.</p> <p>22 MS. BART: The only two.</p> <p>23 BY MR. BROOKS:</p> <p>24 Q. And then Jimi Hendrix is going to be</p> <p>25 on the soundtrack, right? Is that right?</p>	<p>1 Prince</p> <p>2 to this phrase you wrote.</p> <p>3 Anyway, this is what I'm thinking</p> <p>4 these paintings are about. Do you see that</p> <p>5 language?</p> <p>6 A. Yes.</p> <p>7 Q. So tell me what were they about,</p> <p>8 these paintings?</p> <p>9 A. The guns and ammo paintings?</p> <p>10 Q. The paintings at the Eden Rock show.</p> <p>11 A. Yeah, the ones that we referred to</p> <p>12 as guns and ammo.</p> <p>13 Q. Okay.</p> <p>14 A. You want me to describe them or tell</p> <p>15 you --</p> <p>16 Q. Well, I think we have some images of</p> <p>17 them that have been produced. But just what was</p> <p>18 your thinking in making those paintings?</p> <p>19 A. They reminded me of science fiction</p> <p>20 paintings.</p> <p>21 Q. And did they have anything to do</p> <p>22 with the Canal Zone in your mind?</p> <p>23 A. I believe they were about -- they</p> <p>24 represented a way of how -- or the images in</p> <p>25 these paintings represented survival.</p>
194	196
<p>1 Prince</p> <p>2 A. I believe in this version, yeah.</p> <p>3 Yeah, that's what it says, yes.</p> <p>4 Q. So anyway, at the end you say,</p> <p>5 Anyway, this is what I'm thinking these</p> <p>6 paintings are about. And then you say, In my</p> <p>7 movie is the title of the whole set of paintings</p> <p>8 at least for now, and Eden Rock is the title of</p> <p>9 the screenplay. That was your thinking at the</p> <p>10 time?</p> <p>11 A. I believe I was writing a piece --</p> <p>12 Q. Right.</p> <p>13 A. -- for ArtForum that was called In</p> <p>14 My Movie, or maybe I had already written -- it</p> <p>15 was published. But these were some of the</p> <p>16 things, yes, I was thinking about.</p> <p>17 Q. And when you say you were writing an</p> <p>18 article in Art -- what did you say?</p> <p>19 A. Forum.</p> <p>20 Q. This is separate from what you've</p> <p>21 been calling the pitch, right?</p> <p>22 A. Yes.</p> <p>23 Q. That's a different thing?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Now, I just want to go back</p>	<p>1 Prince</p> <p>2 Q. Now, how did the -- this Canal Zone</p> <p>3 2007, which was Exhibit 14, how did that fit in</p> <p>4 with these guns and ammo paintings, if it did?</p> <p>5 A. It didn't.</p> <p>6 Q. But it was in the same show?</p> <p>7 A. In the same show.</p> <p>8 Q. Okay.</p> <p>9 MR. BROOKS: Let's mark as</p> <p>10 Plaintiff's Exhibit 19 two pages Bates</p> <p>11 stamped GGP004330 and 4332. Or is there a</p> <p>12 third page? No.</p> <p>13 (Plaintiff's Exhibit 19, GGP004330</p> <p>14 and 4332, was marked for identification,</p> <p>15 as of this date.)</p> <p>16 Q. Exhibit 19 has two pages, the first</p> <p>17 has smaller versions of some of these images,</p> <p>18 and on the second page they're slightly larger.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Now, one of these paintings is that</p> <p>22 Canal Zone 2007 mixed media on wood, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And the others are what you were</p> <p>25 saying, referring to as guns and ammo?</p>

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<p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. Now, are these cut off or is that</p> <p>4 all there was in the painting, a person's legs</p> <p>5 and part of a gun, or was there actually a</p> <p>6 face --</p> <p>7 A. That's the painting.</p> <p>8 Q. That's the painting?</p> <p>9 So it's just kind of from the waist</p> <p>10 down and you can kind of see a gun, a machine</p> <p>11 gun I guess, or automatic weapon?</p> <p>12 A. In some of them, yes.</p> <p>13 Q. In some of them.</p> <p>14 And a snake biting somebody or</p> <p>15 something?</p> <p>16 A. Mm-hmm, yes.</p> <p>17 Q. All right. On the first page there</p> <p>18 are names of people. Did they buy these</p> <p>19 paintings as indicated?</p> <p>20 A. I believe so, yes.</p> <p>21 Q. Abby Rosen, best known for having</p> <p>22 been my landlord about eight years on Park</p> <p>23 Avenue, he owns all those buildings, right?</p> <p>24 A. Mm-hmm, yes.</p> <p>25 Q. The Seagrams Building and the Lever</p>	<p>1 Prince</p> <p>2 2007. Take Exhibit 14 if you want and compare</p> <p>3 them. Don't take my word for it.</p> <p>4 Or 15. Either one will do.</p> <p>5 14 is probably better.</p> <p>6 See --</p> <p>7 A. Yes.</p> <p>8 Q. -- there's a guy with a hat?</p> <p>9 A. Mm-hmm, yes.</p> <p>10 Q. There are like eight frames there,</p> <p>11 right, or eight collaged pages. And so that</p> <p>12 comes from --</p> <p>13 A. Yes.</p> <p>14 Q. -- the canal Zone 2007 painting</p> <p>15 work --</p> <p>16 A. It seems like --</p> <p>17 Q. -- apparently?</p> <p>18 A. No, not apparently. It comes from</p> <p>19 this section, the middle of the collage.</p> <p>20 Q. Correct. Indicating the middle of</p> <p>21 Exhibit 14, right?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have any idea of how either</p> <p>24 the Art Newspaper or Andrew Goldstein who wrote</p> <p>25 this piece got a part of Exhibit 14?</p>
198	200
<p>1 Prince</p> <p>2 House and all those, right?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. And we all know who Ron Perelman is.</p> <p>5 Okay. Donny Deutsch is an advertising person or</p> <p>6 public relations person? Don't know him?</p> <p>7 A. I don't know him.</p> <p>8 Q. Did Larry Gagosian buy one of these</p> <p>9 paintings? His name is listed here.</p> <p>10 A. I gave him --</p> <p>11 Q. You gave him.</p> <p>12 A. -- the painting.</p> <p>13 MR. BROOKS: Let's mark as</p> <p>14 Exhibit 20 an article from the Art</p> <p>15 Newspaper Bates stamped C00242 and 243.</p> <p>16 (Plaintiff's Exhibit 20, article</p> <p>17 from Art Newspaper, was marked for</p> <p>18 identification, as of this date.)</p> <p>19 Q. Have you ever seen this article</p> <p>20 before in the Art Newspaper?</p> <p>21 A. Yes, I was aware of it.</p> <p>22 Q. Let me ask you this. There are some</p> <p>23 photos at the top of the article, which, if you</p> <p>24 will compare them with Exhibit 14, seem to</p> <p>25 represent a part of that work, the Canal Zone</p>	<p>1 Prince</p> <p>2 A. No clue. I don't.</p> <p>3 Q. Okay. In the third paragraph he</p> <p>4 states that, among other things, that Garry</p> <p>5 Gross sued you over Spiritual America and that</p> <p>6 the case was settled out of court. That's not</p> <p>7 correct?</p> <p>8 A. That is not correct.</p> <p>9 Q. You also say that -- he also says</p> <p>10 rather that the essay for the show's catalog,</p> <p>11 for instance, was written by James Frey.</p> <p>12 Is it pronounced fray or fry? How</p> <p>13 do you pronounce F-R-E-Y?</p> <p>14 A. I believe it's fray.</p> <p>15 Q. Fray, okay.</p> <p>16 The essay for the show's catalog,</p> <p>17 for instance, was written by James Frey, the</p> <p>18 controversial author who fabricated whole swaths</p> <p>19 of his 2003, quote, memoir, unquote, A Million</p> <p>20 Little Pieces.</p> <p>21 Now, this is a reference to the</p> <p>22 catalog for the Canal Zone show in 2008,</p> <p>23 correct?</p> <p>24 MS. BART: Objection, form.</p> <p>25 A. I -- I don't know. I'm --</p>

<p style="text-align: center;">201</p> <p>1 Prince</p> <p>2 Q. Okay. Well, was there a catalog for</p> <p>3 the Canal Zone show that took place at the</p> <p>4 Gagosian Gallery --</p> <p>5 A. Yes.</p> <p>6 Q. -- in November-December 2008?</p> <p>7 A. Yes.</p> <p>8 Q. And was there a story in there by</p> <p>9 James Frey?</p> <p>10 A. Yes, there was.</p> <p>11 Q. Did you ask him to write it?</p> <p>12 A. I did.</p> <p>13 Q. And did he write it?</p> <p>14 A. He did write it.</p> <p>15 Q. And did he base it on your pitch?</p> <p>16 A. He based it on my pitch.</p> <p>17 Q. And additions to your pitch that you</p> <p>18 wrote in 2008?</p> <p>19 MS. BART: I'm sorry, can I hear the</p> <p>20 question again?</p> <p>21 (Record read.)</p> <p>22 A. I think I told him of the additions.</p> <p>23 I'm not positive but I think, yes.</p> <p>24 Q. And also had an opportunity to see</p> <p>25 some of the Canal Zone paintings in your</p>	<p style="text-align: center;">203</p> <p>1 Prince</p> <p>2 MS. BART: Objection, form.</p> <p>3 Q. Have you ever heard that he was on</p> <p>4 the Oprah Winfrey Show talking about the book</p> <p>5 and then went back on the show and told her this</p> <p>6 was not an actual memoir, it was fiction?</p> <p>7 A. Yes, I was aware of that.</p> <p>8 Q. When did you become aware of that?</p> <p>9 A. That's hard to say.</p> <p>10 Q. Let me ask you this. Was it before</p> <p>11 you met and made his acquaintance or after?</p> <p>12 A. It was before I made his</p> <p>13 acquaintance.</p> <p>14 Q. And how did you become acquainted</p> <p>15 with him?</p> <p>16 A. He was -- I met him because he was a</p> <p>17 collector of art, and an author.</p> <p>18 Q. Yes. And after A Million Little</p> <p>19 Pieces he wrote a book Bright Shiny Morning?</p> <p>20 A. Yes.</p> <p>21 Q. Did you design the cover for him?</p> <p>22 A. No, I did not design it.</p> <p>23 Q. What did you do?</p> <p>24 A. I provided the images.</p> <p>25 Q. For his cover?</p>
<p style="text-align: center;">202</p> <p>1 Prince</p> <p>2 Long Island studio in the summer of 2008,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. You invited him there?</p> <p>6 A. Yes.</p> <p>7 Q. And was his essay based, as far as</p> <p>8 you know, on those paintings as well as your</p> <p>9 pitch and the additions to your pitch?</p> <p>10 A. His essay was essentially based on</p> <p>11 my pitch.</p> <p>12 Q. Last question, was it also based on</p> <p>13 the so-called guns and ammo paintings that were</p> <p>14 part of the 2007 show at the Eden Rock, if you</p> <p>15 remember?</p> <p>16 A. I don't think so, no.</p> <p>17 Q. Okay. Now, how long have you known</p> <p>18 Mr. Frey?</p> <p>19 A. Three years.</p> <p>20 Q. Did you know him when he wrote</p> <p>21 A Million Little Pieces?</p> <p>22 A. No.</p> <p>23 Q. Are you aware that he misrepresented</p> <p>24 that book as a memoir?</p> <p>25 A. No.</p>	<p style="text-align: center;">204</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. What images?</p> <p>4 A. They were images that I had</p> <p>5 published in a previous book of mine.</p> <p>6 Q. What was the name of that book?</p> <p>7 A. Adult Comedy Action Drama.</p> <p>8 Q. So you gave him those images and</p> <p>9 then somebody else designed the cover for his</p> <p>10 book?</p> <p>11 A. Yes.</p> <p>12 Q. All right. We've been talking --</p> <p>13 withdrawn.</p> <p>14 Before we get to this pitch that</p> <p>15 you wrote, I'd like you to go back and look at</p> <p>16 Exhibit 4 again, which is the interview of you</p> <p>17 with Steve Lafreniere.</p> <p>18 Do you remember we were looking at</p> <p>19 this interview before?</p> <p>20 A. Yes.</p> <p>21 Q. It was in 2003, correct?</p> <p>22 A. This was 2003.</p> <p>23 Q. Well, that's what it says on the</p> <p>24 front page, ArtForum March 2003.</p> <p>25 A. Yes, that's what it says.</p>

<p style="text-align: center;">205</p> <p>1 Prince</p> <p>2 Q. Okay. Now, at the bottom of the</p> <p>3 second page -- I don't mean to rush you. If you</p> <p>4 want to look at --</p> <p>5 A. No.</p> <p>6 Q. -- something on the first page, be</p> <p>7 my guest.</p> <p>8 The interviewer at the very bottom</p> <p>9 is asking you, is naming three other well-known</p> <p>10 contemporary artists, right?</p> <p>11 A. Yes.</p> <p>12 Q. Longo, Schnabel, and Sherman.</p> <p>13 You know those people, right?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And he says -- or she -- no, he says</p> <p>16 that they've all made movies and I've wondered</p> <p>17 why you haven't. Do you see that question?</p> <p>18 A. Yes.</p> <p>19 Q. And then, according to this, your</p> <p>20 answer was I'm not very collaborative, I like</p> <p>21 being alone, working alone, I hate actresses,</p> <p>22 I don't like having to ask permission, a green</p> <p>23 light is not something I would be happy waiting</p> <p>24 for. Does that sound like an answer you gave in</p> <p>25 2003?</p>	<p style="text-align: center;">207</p> <p>1 Prince</p> <p>2 stamped PR79 and 80.</p> <p>3 (Plaintiff's Exhibit 22, pitch, was</p> <p>4 marked for identification, as of this</p> <p>5 date.)</p> <p>6 Q. Mr. Prince, is this the pitch you</p> <p>7 wrote for a movie -- for a movie?</p> <p>8 A. Yes.</p> <p>9 Q. And do you remember we were looking</p> <p>10 at an e-mail you sent to Mr. Gagosian, is this</p> <p>11 the pitch that you were referring to in that</p> <p>12 e-mail?</p> <p>13 A. Probably, yes.</p> <p>14 Q. Are there different versions of it?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Did you type it yourself on</p> <p>17 the computer?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Okay. So, again, it's this Charles</p> <p>20 Company, which is a person and not a company,</p> <p>21 and his family, they arrive in St. Barth's,</p> <p>22 everyone is crying because there's a nuclear</p> <p>23 war, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And what are we supposed to do, most</p>
<p style="text-align: center;">206</p> <p>1 Prince</p> <p>2 A. It's the answer I gave, yes.</p> <p>3 Q. And then the interviewer asks you</p> <p>4 anyway, well, what movies do you like, just from</p> <p>5 the '80s, and I see you mentioned Road Warrior</p> <p>6 and Blade Runner, which I guess you would agree</p> <p>7 those are both post-apocalyptic movies, is that</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And I'm not really familiar with</p> <p>11 the others. Are any of the others also</p> <p>12 post-apocalyptic movies?</p> <p>13 A. Terminator.</p> <p>14 Q. Okay, all right. That's an Arnold</p> <p>15 Schwarzenegger movie?</p> <p>16 A. Yes.</p> <p>17 Q. And did that, did your appreciation</p> <p>18 for that genre inform your writing of the pitch,</p> <p>19 of your pitch?</p> <p>20 A. I guess you could say that, yes.</p> <p>21 MR. BROOKS: Let's mark as</p> <p>22 Exhibit 22 -- just so you know, I skipped</p> <p>23 21, I'm not going to -- it's not going to</p> <p>24 be marked.</p> <p>25 Exhibit 22 is the pitch, Bates</p>	<p style="text-align: center;">208</p> <p>1 Prince</p> <p>2 of the world is destroyed, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you say you compare this to</p> <p>5 On the Beach and Lord of the Flies?</p> <p>6 A. Yes.</p> <p>7 Q. For reasons that are probably</p> <p>8 obvious?</p> <p>9 A. Yes.</p> <p>10 Q. And he's an architect in this</p> <p>11 version, this person Charles Company?</p> <p>12 A. Yes.</p> <p>13 Q. And not somebody who's used to</p> <p>14 shooting people or anything like that?</p> <p>15 A. No, he's not used to.</p> <p>16 Q. But he learns, he has to learn?</p> <p>17 A. He adapts, yes.</p> <p>18 Q. And they stay at the Eden Rock Hotel</p> <p>19 with some other people?</p> <p>20 A. I believe his relatives, yes.</p> <p>21 Q. And, again, that's a hotel in</p> <p>22 St. Barth's?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Now, and then at the</p> <p>25 very end it says his son is standing lookout.</p>

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1 Prince	1 Prince
2 Does that refer to these guns and ammo paintings	2 Q. A treatment -- oh, a book.
3 or not?	3 A. It's being published as a book
4 A. I think when it says cut to a year	4 called -- they did not want to use the original
5 later --	5 title, Eden Rock. It doesn't matter.
6 Q. Yes.	6 It's a book, or will be published as
7 A. Does it say that?	7 a book, I have no idea when.
8 Q. Yes, it does.	8 Q. I'm not going to even ask you who
9 A. Those paintings are the substitute	9 it is, just is the ghostwriter James Frey or
10 for what I would call the storyboard.	10 somebody different?
11 Q. In other words, the bottom half of	11 A. It's someone different. I --
12 somebody's body sometimes with a gun?	12 Q. I don't need to know.
13 A. Yes.	13 A. Okay.
14 Q. Did you ever submit this pitch or a	14 Q. Now, the pitch that I just showed
15 subsequent version of it to a movie studio or	15 you, Exhibit 22, was that at some point
16 production company?	16 displayed on the wall at the Eden Rock Hotel
17 A. Production company, I don't know if	17 during what we've been calling the Eden Rock
18 that's how you would describe it. So I can't	18 show?
19 say -- I would have to say no.	19 A. Yes.
20 Q. Who did you submit it to --	20 Q. And why?
21 withdrawn.	21 A. Why -- I felt that it would give a
22 Did you submit it to anyone with a	22 certain type of texture to the show and -- since
23 view to getting it made into a movie?	23 the show -- I believe at the time in 2007 I
24 A. Yes.	24 added on to that pitch, and --
25 Q. To getting a green light?	25 Q. Right. There's another document I'm
210	212
1 Prince	1 Prince
2 A. Yes.	2 going to show you in a minute.
3 Q. And can you tell us who you	3 A. And I felt that it would add a
4 submitted it to?	4 certain texture or another reading, it would
5 MR. HAYES: Is it okay if I consult	5 help perhaps with the interpretation perhaps,
6 with him for a second?	6 give it another interpretation of the
7 MR. BROOKS: Yes.	7 possibility of how one would walk into the
8 (Discussion off the record.)	8 gallery and get a feeling for the works that
9 A. Michael Ovitz.	9 were on the wall.
10 Q. The former talent agent?	10 Q. Right. Now, just look at Exhibit 15
11 A. Yes.	11 for a second, which showed that Eden Rock -- no,
12 Q. Do you know him, is he a friend of	12 that Canal Zone -- no, the one that shows it
13 yours?	13 actually on the wall.
14 A. Yes.	14 MS. BART: 16.
15 Q. Is he a collector?	15 MR. BROOKS: No, I think that was
16 A. Yes.	16 15.
17 Q. And what happened? Did it -- I	17 A. Yeah, I got it.
18 haven't seen it in the local movie theater.	18 MS. BART: 16.
19 MR. HAYES: Yet.	19 MR. BROOKS: 16, okay.
20 Q. Not yet.	20 BY MR. BROOKS:
21 A. Do you want to know?	21 Q. So is that -- so the pitch was
22 Q. Yes, please tell us.	22 posted somewhere in proximity near that Canal
23 A. His -- we hired a ghostwriter.	23 Zone 2007?
24 Q. For the screenplay?	24 A. Yes.
25 A. No, to write a book.	25 Q. Somewhere near there?



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<p>1 Prince</p> <p>2 A. Somewhere.</p> <p>3 Q. With those other works?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And, again, that show was</p> <p>6 December 2007 to, according to the e-mail, the</p> <p>7 end of February 2008, the show at the Eden Rock?</p> <p>8 A. Yes.</p> <p>9 MR. BROOKS: Now, let's mark as</p> <p>10 Exhibit 23, Plaintiffs 23, pages Bates</p> <p>11 stamped PR75 and 76.</p> <p>12 (Plaintiff's Exhibit 23, e-mails,</p> <p>13 was marked for identification, as of this</p> <p>14 date.)</p> <p>15 Q. This e-mail -- there are two</p> <p>16 e-mails. One is -- they're both to Betsy</p> <p>17 Biscone. Does she work for you?</p> <p>18 A. Yes.</p> <p>19 Q. It says she's the Prince studio</p> <p>20 manager, is that her title?</p> <p>21 A. Yes.</p> <p>22 Q. And she's writing to somebody at</p> <p>23 Gagosian, right, Louise Neri?</p> <p>24 A. Yes.</p> <p>25 Q. And she says, I hope -- I'm looking</p>	<p>1 Prince</p> <p>2 Q. And they go to the Hotel Manapanay?</p> <p>3 A. Yes.</p> <p>4 Q. Is that an actual hotel --</p> <p>5 A. Yes.</p> <p>6 Q. -- in St. Barth's?</p> <p>7 And then there are --</p> <p>8 MR. HAYES: You have to answer.</p> <p>9 A. Yes.</p> <p>10 Q. There are backpackers. So this is</p> <p>11 another tribe, if you will?</p> <p>12 A. Yes.</p> <p>13 Q. And are there any backpackers in any</p> <p>14 of the Canal Zone paintings?</p> <p>15 MS. BART: Objection to form.</p> <p>16 Q. As you used the term?</p> <p>17 MR. HAYES: Objection to form.</p> <p>18 A. No, there are no backpackers.</p> <p>19 Q. Then the third group is the Amazons,</p> <p>20 which you refer to as four lesbians who escape a</p> <p>21 second cruise ship. Do they later take over a</p> <p>22 hotel also?</p> <p>23 A. Yes.</p> <p>24 Q. The Guanahani?</p> <p>25 A. Guanahani.</p>
<p>1 Prince</p> <p>2 at the second e-mail. She says, I hope this</p> <p>3 finds you well. And it says, Per Richard's</p> <p>4 request, please find attached the pitch which</p> <p>5 was displayed on the wall at the Eden Rock Hotel</p> <p>6 in St. Barth's the last December 2007 Eden Rock</p> <p>7 show. And then she says, Also find below</p> <p>8 additional writing Richard did this past spring</p> <p>9 of '08. And then at the bottom there are some</p> <p>10 additional Eden Rock slash pitch material</p> <p>11 written March 2008.</p> <p>12 Do you see that?</p> <p>13 A. Mm-hmm, yes.</p> <p>14 Q. Did you write those additional</p> <p>15 points to the pitch?</p> <p>16 A. Yes.</p> <p>17 Q. So let's see. It says more on</p> <p>18 Eden Rock. And you're saying there are Rastas</p> <p>19 who escape from a cruise ship?</p> <p>20 A. Yes.</p> <p>21 Q. And they were a band?</p> <p>22 A. Yes.</p> <p>23 Q. Like a rock-and-roll band on the --</p> <p>24 a reggae band on the cruise ship?</p> <p>25 A. Yes.</p>	<p>1 Prince</p> <p>2 Q. And, again, like why did they take</p> <p>3 over a hotel, because of the nuclear war?</p> <p>4 A. They take it over because I wanted</p> <p>5 them to take it over.</p> <p>6 Q. And why -- I just look at these</p> <p>7 pictures, why are those nude women lesbians?</p> <p>8 I mean how do you know that?</p> <p>9 A. I like lesbians.</p> <p>10 Q. But how does the observer know</p> <p>11 they're lesbians?</p> <p>12 A. The title of the painting --</p> <p>13 Q. Four names?</p> <p>14 A. The four names were very famous</p> <p>15 expatriate lesbians living in Paris.</p> <p>16 Q. Iconic lesbian artists and writers?</p> <p>17 A. Iconic.</p> <p>18 Q. What are their names?</p> <p>19 A. Renée Vivien, Djuna Barnes -- I have</p> <p>20 to refer to the title.</p> <p>21 Q. You don't remember?</p> <p>22 MR. HAYES: Do you want to refer to</p> <p>23 the title?</p> <p>24 MR. BROOKS: No, I want to see if he</p> <p>25 remembers.</p>

<p style="text-align: center;">217</p> <p>1 Prince</p> <p>2 A. Romaine Brooks, and the most famous</p> <p>3 one, she was from the State of Maine and she was</p> <p>4 the one who ran the salon that was the</p> <p>5 alternative to Gertrude Stein.</p> <p>6 Q. In Maine?</p> <p>7 A. The name?</p> <p>8 Q. In Maine?</p> <p>9 A. No, in Paris.</p> <p>10 Q. Something Barnes?</p> <p>11 A. No, Djuna Barnes was a writer,</p> <p>12 friend of --</p> <p>13 Q. All right. Well, when we look at</p> <p>14 the painting it will probably come back.</p> <p>15 So what are four lesbians from the</p> <p>16 early 20th century doing on St. Barth's in --</p> <p>17 now, when there's a nuclear war, like why are</p> <p>18 they there?</p> <p>19 A. Your guess is as good as mine.</p> <p>20 That's what I do, I make things up.</p> <p>21 Q. And when do you decide to do the --</p> <p>22 A. Natalie Barney.</p> <p>23 Q. That's it.</p> <p>24 Barney or Barnes?</p> <p>25 A. Natalie Barney.</p>	<p style="text-align: center;">219</p> <p>1 Prince</p> <p>2 depictions of let's call them, to use your term,</p> <p>3 the ultimate ones?</p> <p>4 A. No.</p> <p>5 Q. And are there any depictions of this</p> <p>6 guy Charlie Company or his family?</p> <p>7 A. You could say his daughter got into</p> <p>8 a couple of the pictures.</p> <p>9 Q. One of the nude women?</p> <p>10 A. Yes.</p> <p>11 Q. Is she a lesbian too?</p> <p>12 A. No.</p> <p>13 Q. So when we get to that painting</p> <p>14 you'll --</p> <p>15 A. I don't think -- it's not -- well,</p> <p>16 you probably have it. It's not in the catalog.</p> <p>17 Q. All right. I already asked you</p> <p>18 about this, but let's mark as Plaintiff's 24</p> <p>19 pages Bates stamped PR88 through 91.</p> <p>20 (Plaintiff's Exhibit 24, PR88</p> <p>21 through 91, was marked for identification,</p> <p>22 as of this date.)</p> <p>23 Q. Mr. Prince, I've placed in front of</p> <p>24 you Plaintiff's Exhibit 24. If you could look</p> <p>25 at -- start out by looking at the second page,</p>
<p style="text-align: center;">218</p> <p>1 Prince</p> <p>2 Q. When did you decide to do the Canal</p> <p>3 Zone paintings, the ones that are in the Canal</p> <p>4 Zone book?</p> <p>5 A. June of 2008, late June.</p> <p>6 Q. So after you wrote this let's call</p> <p>7 it an addendum to your pitch?</p> <p>8 A. Yes.</p> <p>9 Q. By the way, in the paintings -- I</p> <p>10 didn't finish, besides the Amazons there are</p> <p>11 also the ultimate ones. Those are like masters</p> <p>12 of the universe?</p> <p>13 A. Ultimate ones? That I don't -- I</p> <p>14 don't -- to tell you the truth, I don't know</p> <p>15 what I was referring to -- power.</p> <p>16 Oh, maybe the people who owned</p> <p>17 things.</p> <p>18 Q. Like the hedge fund people who go</p> <p>19 there at Christmas time?</p> <p>20 A. Maybe, yeah.</p> <p>21 Q. And then also Charlie Company also</p> <p>22 represents family, and that's also a tribe</p> <p>23 according to this?</p> <p>24 A. Yes.</p> <p>25 Q. Now, in the paintings are there any</p>	<p style="text-align: center;">220</p> <p>1 Prince</p> <p>2 which appears to be an e-mail from Betsy Biscone</p> <p>3 at Prince Studio to James Frey, do you see that?</p> <p>4 At the top of the second page?</p> <p>5 A. Yes.</p> <p>6 Q. She says, Lovely speaking with you</p> <p>7 just now, and she is attaching the pitch,</p> <p>8 capital T, capital P, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And then she says, And a few images</p> <p>11 from last December's Eden Rock show. So those</p> <p>12 are images of what you called before guns and</p> <p>13 ammo, those paintings, from the Eden Rock show?</p> <p>14 A. Yes.</p> <p>15 Q. And then -- that was September 9th,</p> <p>16 2008. And then on September 11th, 2008, the</p> <p>17 same person Betsy writes to Melissa -- do you</p> <p>18 know Melissa at Gagolian Gallery?</p> <p>19 A. Yes.</p> <p>20 Q. She says towards the bottom of that</p> <p>21 e-mail, Lastly, we love James' draft, I just</p> <p>22 sent Richard off to the city and ask that he</p> <p>23 touch base with him today. Can you believe he</p> <p>24 wrote all that in just one night?</p> <p>25 Were you aware that he had taken</p>

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<p style="text-align: center;">221</p> <p>1 Prince</p> <p>2 your pitch and changed it quickly like that in</p> <p>3 September?</p> <p>4 MS. BART: Objection, form.</p> <p>5 A. No.</p> <p>6 Q. You can answer.</p> <p>7 A. No, I wasn't aware of it.</p> <p>8 Q. Well, you gave him the pitch, right?</p> <p>9 I mean we agreed to that, right?</p> <p>10 A. I believe I verbally gave him the</p> <p>11 pitch, yes.</p> <p>12 Q. And it looks like Betsy actually</p> <p>13 emailed it to him?</p> <p>14 A. If she did -- if she says she did,</p> <p>15 I believe her.</p> <p>16 Q. But then she said -- she also said</p> <p>17 he did a draft. Okay, my question is did you</p> <p>18 ever see that draft?</p> <p>19 A. No.</p> <p>20 Q. To this day?</p> <p>21 A. A draft by James Frey?</p> <p>22 Q. Yes.</p> <p>23 A. No.</p> <p>24 Q. You know he wrote an essay that's in</p> <p>25 the Canal Zone book?</p>	<p style="text-align: center;">223</p> <p>1 Prince</p> <p>2 Q. Okay.</p> <p>3 A. -- bad for him.</p> <p>4 Q. He was getting paid for this I</p> <p>5 assume, right?</p> <p>6 A. I don't know if he -- I doubt he got</p> <p>7 paid --</p> <p>8 Q. Not by you?</p> <p>9 A. -- but I don't know.</p> <p>10 Q. If he got paid it wasn't by you?</p> <p>11 A. No, it wasn't by me.</p> <p>12 MR. BROOKS: Let's mark as</p> <p>13 Plaintiff's Exhibit 25 pages PR92 to 95.</p> <p>14 (Plaintiff's Exhibit 25, PR92 to 95,</p> <p>15 was marked for identification, as of this</p> <p>16 date.)</p> <p>17 Q. This is Exhibit 25. It's a --</p> <p>18 I believe it's a draft of what later was</p> <p>19 incorporated into the Canal Zone book by</p> <p>20 James Frey.</p> <p>21 Just take a look at it, and you may</p> <p>22 have seen it, you may not have seen it, I just</p> <p>23 want to know if you think you've seen this</p> <p>24 before as opposed to the essay that's actually</p> <p>25 in the book?</p>
<p style="text-align: center;">222</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. Have you ever read it?</p> <p>4 A. I've read it.</p> <p>5 Q. When was the first time you read it?</p> <p>6 A. I think just before he might have</p> <p>7 submitted it. I don't know exactly the</p> <p>8 sequence.</p> <p>9 Q. When you say submitted it, you mean</p> <p>10 submitted it for inclusion in the Canal Zone</p> <p>11 book?</p> <p>12 A. I think so.</p> <p>13 Q. And when you read it before it was</p> <p>14 submitted what was your reaction, if any?</p> <p>15 A. To be honest with you, I was a</p> <p>16 little disturbed by it.</p> <p>17 Q. Because?</p> <p>18 A. I thought it was misogynistic.</p> <p>19 Q. Did you try to get him to change it</p> <p>20 or get somebody to have him change it?</p> <p>21 A. No.</p> <p>22 Q. Was that because there wasn't enough</p> <p>23 time or was there some other reason?</p> <p>24 A. He had just lost a child, and I</p> <p>25 felt --</p>	<p style="text-align: center;">224</p> <p>1 Prince</p> <p>2 A. Yes. Are you -- yes.</p> <p>3 Q. The question is have you seen this</p> <p>4 before?</p> <p>5 A. Yes. Yes.</p> <p>6 Q. And when was that?</p> <p>7 A. Early September of 2008.</p> <p>8 Q. Besides being misogynistic did you</p> <p>9 find this also to be racist?</p> <p>10 MS. BART: Objection, form.</p> <p>11 A. No.</p> <p>12 Q. Did you find it to -- well, let me</p> <p>13 ask you, if you look at the second page at the</p> <p>14 top it says, You go to sleep on sheets that cost</p> <p>15 more than most people on the island make in a</p> <p>16 year, who cares fuck 'em, fuck them, let them</p> <p>17 sleep in dirt. As long as the food is warm and</p> <p>18 the drinks are cold and everything stays</p> <p>19 perfect, you go to sleep.</p> <p>20 Did you have a reaction to that</p> <p>21 paragraph that I just read?</p> <p>22 A. I felt he was probably closer to the</p> <p>23 mark with that kind of paragraph in terms of</p> <p>24 creating a very violent and trying to describe a</p> <p>25 difficult situation that people found themselves</p>

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<p>1 Prince 2 in trying to survive. 3 Q. Now, this part where he goes to 4 sleep, no one knows yet about the nuclear 5 exchange, right, this is before a difficult 6 situation arises, correct? 7 A. In his time line I believe, yes, it 8 seems like that was before people found out. 9 Q. Right. Because then he goes to 10 sleep and then he's shaken awake and then he 11 finds out, right? 12 Okay, so in that context you still 13 have the same reaction to that paragraph I just 14 read about the sheets costing more than what 15 people on the island make in the year? 16 MR. HAYES: In the context of the 17 time line of it coming before? 18 MR. BROOKS: Well, and his reaction 19 to it given that that was the timing of 20 that paragraph. 21 MR. HAYES: I'm going to object as 22 to form. 23 MS. BART: Join. 24 A. It's an impression I have. I mean 25 I'm not really a literary critic. I mean I'm an</p>	<p>1 Prince 2 Q. But you before -- you said before, I 3 mean I didn't ask you this, you said you found 4 some of it misogynistic, is that an example? 5 MS. BART: Objection, form. 6 A. My interpretation of that, I could 7 say that that's misogynistic and I probably had 8 a little bit of a problem with it. But we were 9 trying to make kind of realistic -- I wanted to 10 make -- my idea for the movie was to make 11 something that was, again, like the Road 12 Warrior. 13 Q. Right. 14 A. Like 28 Days Later. 15 Q. Is that a movie? 16 A. Yes. 17 Q. Oh. I never heard of it. 18 A. It's a zombie -- very realistic -- 19 Q. Okay. Let me ask you this. 20 Were you finished? 21 A. Yes. 22 Q. At the beginning it starts out you 23 are 46 years old; you are married and have two 24 children; teenage girls 13 and 15; they are 25 supple, budding, on the edge of becoming women;</p>
226	228
<p>1 Prince 2 artist and I kind of go with -- but, yes, I 3 still believe that paragraph is probably -- 4 would hold up. I probably wouldn't edit it out 5 if I was his editor, which I'm not. 6 Q. On the third page, under the third 7 set of asterisks, is this what you meant by some 8 of the misogynistic material: The hotel is 9 becoming encampments; water, food and bullets 10 become currency; women become slaves; some cook, 11 some clean, some carry children, some take care 12 of children, some care for the sick and the 13 wounded, some care for prisoners; some of the 14 women become objects of pleasure and they are 15 defiled, they are defiled every day, they are 16 defiled in every way you can imagine; et cetera; 17 is that an example of the misogyny that troubled 18 you about the essay? 19 MS. BART: Objection, form. 20 MR. HAYES: Objection to form also. 21 A. I think that's probably a reflection 22 about how he was feeling at the time that he was 23 writing. 24 Q. He being James Frey? 25 A. Yes.</p>	<p>1 Prince 2 you work in finance; you are a partner in your 3 company; you have 40-million dollars in the 4 bank, a Fifth Avenue co-op, a house on the pond 5 in Sagaponack; you belong to a club in the city 6 and a club at the beach; you have a driver in 7 the city, a Mercedes and a Range Rover out east; 8 your daughters both have horses; you never fly 9 commercial; you never buy off the rack; you 10 never cook or clean, you have people who do that 11 for you. 12 Is that -- was that supposed to be, 13 in your interpretation, a description of 14 somebody who's likeable, who you want to root 15 for him in this bad movie or -- 16 MS. BART: Objection, form. 17 MR. HAYES: Objection, form. 18 Q. You can answer. 19 MR. BROOKS: Can you read the 20 question back, please? 21 A. Umm -- 22 Q. I just want to make sure you heard 23 the question. 24 A. I heard the question. 25 Q. Okay.</p>

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<p style="text-align: center;">229</p> <p>1 Prince</p> <p>2 A. It's a movie. I love -- I love</p> <p>3 Gekko in Wall Street. He's not a character</p> <p>4 that's very -- he's not a nice guy. I think</p> <p>5 sometimes -- you know, you write -- in the</p> <p>6 course of a screenplay or a pitch you write</p> <p>7 about people that aren't very nice.</p> <p>8 Q. Well, like in Road Warrior you're</p> <p>9 supposed to root for the Mel Gibson character,</p> <p>10 right?</p> <p>11 A. I guess some people would. I don't</p> <p>12 know.</p> <p>13 Q. Do you know if in this case you're</p> <p>14 supposed to root for this 46-year-old guy who</p> <p>15 never flies commercial or not?</p> <p>16 MR. HAYES: Objection to form.</p> <p>17 MS. BART: Objection to form.</p> <p>18 Q. I mean are you supposed to hope that</p> <p>19 somebody kills him and takes over his house or</p> <p>20 whatever, his hotel room?</p> <p>21 MR. HAYES: Objection to form.</p> <p>22 MS. BART: Same.</p> <p>23 MR. HAYES: Objection.</p> <p>24 A. I mean you're asking me to be a</p> <p>25 movie critic. I --</p>	<p style="text-align: center;">231</p> <p>1 Prince</p> <p>2 Q. You can answer.</p> <p>3 A. You mean does his essay?</p> <p>4 Q. Have any bearing on your paintings</p> <p>5 in the Canal Zone show and book?</p> <p>6 A. I think there are parts of his essay</p> <p>7 that are fairly close to my original pitch,</p> <p>8 not -- but I wouldn't say all of his essay.</p> <p>9 Q. But are they also --</p> <p>10 MS. BART: I had attempted to</p> <p>11 interpose an objection before the witness</p> <p>12 started speaking, and I will do that now.</p> <p>13 Q. I think maybe you misunderstood my</p> <p>14 question. My question was whether the pitch or</p> <p>15 the essay had a bearing on your paintings that</p> <p>16 are in the show and the book?</p> <p>17 MS. BART: Objection, form.</p> <p>18 MR. HAYES: Form also.</p> <p>19 A. Does my pitch have anything to do --</p> <p>20 is that the question?</p> <p>21 Q. Let's start with your pitch.</p> <p>22 A. I'm sorry, I'm getting just a little</p> <p>23 confused here.</p> <p>24 Q. There's a Canal Zone book and a</p> <p>25 show, right, that was at the Gagosian Gallery at</p>
<p style="text-align: center;">230</p> <p>1 Prince</p> <p>2 Q. Well, it's your movie, right?</p> <p>3 MR. HAYES: No.</p> <p>4 MS. BART: But that's not his</p> <p>5 script.</p> <p>6 A. It's not my -- it's his essay based</p> <p>7 on -- based.</p> <p>8 Q. Right. On your pitch?</p> <p>9 A. Really, I mean I think you would</p> <p>10 have to ask him this question.</p> <p>11 Q. I'm going to.</p> <p>12 A. I think this would have to be more</p> <p>13 fleshed out in order to answer that kind of</p> <p>14 question, whether or not I would root for a guy</p> <p>15 like that. I mean I don't know what that has to</p> <p>16 do with anything --</p> <p>17 MS. BART: Me neither.</p> <p>18 A. -- that we're talking about, but --</p> <p>19 Q. Well, let me ask you this. Does</p> <p>20 this pitch or the essay that ended up in the</p> <p>21 Canal Zone book, do either of them have anything</p> <p>22 to do with the paintings, your paintings in the</p> <p>23 Canal Zone book and show?</p> <p>24 MS. BART: Objection to form.</p> <p>25 MR. HAYES: Objection to form.</p>	<p style="text-align: center;">232</p> <p>1 Prince</p> <p>2 the end of 2008, right?</p> <p>3 A. Yes.</p> <p>4 Q. Those were your paintings, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay, first, your pitch that you did</p> <p>7 in 2007 and modified in March 2008 --</p> <p>8 A. Yes.</p> <p>9 Q. -- does that relate to your</p> <p>10 paintings?</p> <p>11 A. Yes.</p> <p>12 Q. Does his modification of your pitch</p> <p>13 relate to your paintings?</p> <p>14 MR. HAYES: Objection to form.</p> <p>15 MS. BART: Join.</p> <p>16 A. Does his modification -- again, part</p> <p>17 of his modification I would say, not all of it.</p> <p>18 Q. Can you tell me which part?</p> <p>19 Well, bear in mind that's not the</p> <p>20 final draft.</p> <p>21 MR. HAYES: So you -- what you want</p> <p>22 him to do is compare the draft to the</p> <p>23 painting --</p> <p>24 MR. BROOKS: Well, I'm going to --</p> <p>25 (Multiple speakers talking at once.)</p>

<p style="text-align: center;">233</p> <p>1 Prince 2 (Interruption by reporter.) 3 MR. HAYES: You want him to compare 4 the draft or -- 5 MR. BROOKS: Well, that's what we're 6 talking about now. 7 MR. HAYES: Let me just finish. 8 Or the essay? 9 MR. BROOKS: Right now the draft. 10 (Discussion off the record.) 11 MR. BROOKS: Let's get this answer 12 and then we'll take a break. 13 A. Yeah, I would say every year at 14 Christmas you and your family go to St. Barth. 15 That has to do with my original pitch. 16 You stay at Eden Rock -- 17 (Clarification by reporter.) 18 A. You stay in Eden Rock. 19 Everything is gone. Everything 20 is gone. 21 Every major city in North America, 22 Russia, Europe, Middle East, that has to do with 23 my original pitch. 24 First day you're shocked, second day 25 you're scared, third day you're confused, fourth</p>	<p style="text-align: center;">235</p> <p>1 Prince 2 might not remember what the question was. It 3 was something about whether there were things in 4 the draft essay by Mr. Frey that related to the 5 paintings in the Canal Zone show, and I think 6 you mentioned a few. And if you have any others 7 you want to add, please do. 8 A. I don't really think that anything 9 that James ultimately wrote for the essay for 10 the Canal Zone publication had anything to do 11 with the paintings really. 12 I told him he could write anything 13 he wanted. I gave him carte blanche. 14 And ultimately he wrote, as far as 15 I can see, a variation, a very tiny -- again, 16 there's one paragraph of a pitch that I had made 17 to him and was continually updating at the time. 18 Whether he even got the updates, I really 19 can't -- I don't know. 20 But ultimately what I think he 21 turned in was something that had to do with his 22 own problems, which, as I said, he had just lost 23 a baby. 24 Q. Do you have anything else to add to 25 that answer?</p>
<p style="text-align: center;">234</p> <p>1 Prince 2 day you're panicked, fall apart on the fifth, 3 sixth day it is a riot, seventh day is doom. 4 He could have written -- he could 5 have just submitted that and that would have 6 been enough for me, personally. 7 But, as I said, I'm not -- I'm not a 8 censor, and I'm not an editor. And I was the 9 one who asked him to write what he wanted to 10 write, you know. I wasn't about to change 11 anything that he had given me. 12 I mean these are his words. 13 Your money is worthless, your job 14 title, that's all -- 15 Q. I think he's run out of film. 16 A. I'm sorry. 17 THE VIDEOGRAPHER: 3:17. Off the 18 record. End of tape 3. 19 (Recess taken: 3:17 p.m.) 20 (Proceedings resumed: 3:29 p.m.) 21 THE VIDEOGRAPHER: 3:29. On the 22 record. Beginning of tape 4. 23 BY MR. BROOKS: 24 Q. I think, Mr. Prince, you might have 25 been interrupted at the end of your answer. You</p>	<p style="text-align: center;">236</p> <p>1 Prince 2 A. No. 3 MS. BART: Objection, form. 4 Q. Now, you mentioned that you bought a 5 copy of Yes Rasta in a bookstore you think in 6 about 2005 in St. Barth's? 7 A. Yes. 8 Q. When you decided to make the 9 paintings did you then buy additional copies of 10 Yes Rasta? 11 A. I believe we were informed that the 12 book was out of print when I bought the -- I 13 don't actually know -- I believe we got them on 14 eBay. I really don't know where we got the 15 additional books. 16 Q. All right. But you did get 17 additional books? 18 A. Yes. 19 Q. How many? 20 A. I think we bought maybe four 21 additional books. 22 Q. In 2008? 23 A. Yes. 24 MR. BROOKS: Let's mark as 25 Plaintiff's Exhibit 27 a one-page document</p>

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<p style="text-align: center;">237</p> <p>1 Prince</p> <p>2 Bates stamped PR38.</p> <p>3 (Plaintiff's Exhibit 27, PR38, was</p> <p>4 marked for identification, as of this</p> <p>5 date.)</p> <p>6 (Discussion off the record.)</p> <p>7 MR. BROOKS: It's been pointed out</p> <p>8 to me -- and, for the record, I skipped</p> <p>9 Exhibit 26 as well.</p> <p>10 MR. HAYES: So this is 27?</p> <p>11 MR. BROOKS: This is 27. There will</p> <p>12 not be an Exhibit Plaintiff's 26.</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. Mr. Prince, you say you bought the</p> <p>15 three -- well, you said you bought four books.</p> <p>16 Does this refresh your recollection that you</p> <p>17 actually bought three additional books?</p> <p>18 A. As I said, I wasn't sure -- three or</p> <p>19 four, I guess it says three here.</p> <p>20 Q. Right. And it also says you didn't</p> <p>21 buy them from eBay, you bought them from a</p> <p>22 company called Powerhouse Books. Do you see</p> <p>23 that?</p> <p>24 A. Yes.</p> <p>25 Q. How did you know to order the books</p>	<p style="text-align: center;">239</p> <p>1 Prince</p> <p>2 MR. BROOKS: But I will give you the</p> <p>3 books for use during the deposition.</p> <p>4 Actually, I only have two, you're going to</p> <p>5 have to share.</p> <p>6 MS. BART: I'm not sharing with him.</p> <p>7 MR. HAYES: That's what a lot of</p> <p>8 people say.</p> <p>9 (Plaintiff's Exhibit 41, Yes Rasta</p> <p>10 book, was marked for identification, as of</p> <p>11 this date.)</p> <p>12 Q. So we've handed you what's been</p> <p>13 marked as Plaintiff's 41. And is this the book</p> <p>14 that you bought in about 2005?</p> <p>15 A. Yes.</p> <p>16 Q. And then you bought three more</p> <p>17 copies in 2008 apparently?</p> <p>18 A. Apparently I did, yes.</p> <p>19 Q. From Powerhouse Books?</p> <p>20 A. Yes.</p> <p>21 Q. Can you turn to the last page of the</p> <p>22 book?</p> <p>23 MR. HAYES: The last page of</p> <p>24 printing or the last page --</p> <p>25 MR. BROOKS: The last page.</p>
<p style="text-align: center;">238</p> <p>1 Prince</p> <p>2 from Powerhouse Books?</p> <p>3 A. I didn't. I think Betsy was the one</p> <p>4 who took care of that.</p> <p>5 Q. Okay.</p> <p>6 (Discussion off the record.)</p> <p>7 MR. BROOKS: Okay. I have four</p> <p>8 copies of this book, and I'm going to have</p> <p>9 one of the copies deemed marked as</p> <p>10 Exhibit 42.</p> <p>11 MR. HAYES: Exhibit 42?</p> <p>12 MR. BROOKS: I'm sorry, 41.</p> <p>13 No, not that. 41.</p> <p>14 And I'm going to distribute copies</p> <p>15 of the book so counsel can follow along</p> <p>16 with me, but I'm not proposing to give you</p> <p>17 these books because these are the only</p> <p>18 four we have.</p> <p>19 However, at some point if you</p> <p>20 desire, if you don't have the book already</p> <p>21 yourselves, we'll make a copy of this. I</p> <p>22 can tell you it's almost impossible to</p> <p>23 make a good copy of this. So that's why</p> <p>24 we're doing it this way.</p> <p>25 MR. HAYES: Okay.</p>	<p style="text-align: center;">240</p> <p>1 Prince</p> <p>2 MR. HAYES: Okay.</p> <p>3 MR. BROOKS: There's a word for that</p> <p>4 but I am blanking on it. Colophon page or</p> <p>5 something like that.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. It says Yes Rasta, copyright 2000,</p> <p>8 Powerhouse Cultural Entertainment Inc.;</p> <p>9 photographs copyright 2000, Patrick Cariou;</p> <p>10 essay copyright 2000, Perry Henzell.</p> <p>11 And further down -- and then it says</p> <p>12 all rights reserved, no part of this book may be</p> <p>13 reproduced in any manner or transmitted by any</p> <p>14 means whatsoever, electronic or mechanical</p> <p>15 including photocopying, recording, and Internet</p> <p>16 posting display and retrieval without the prior</p> <p>17 written permission of the publisher.</p> <p>18 And then it says it's published in</p> <p>19 the United States by Powerhouse Books.</p> <p>20 Did you see all that?</p> <p>21 Do you see that now?</p> <p>22 A. I see it now, yes.</p> <p>23 Q. And did you notice that when you</p> <p>24 bought the book in 2005?</p> <p>25 A. No, I didn't.</p>

<p style="text-align: center;">241</p> <p>1 Prince</p> <p>2 Q. Did you look to see who the</p> <p>3 publisher was so you could order more books?</p> <p>4 A. I think probably by 2008 we --</p> <p>5 that's probably how we got hold of the</p> <p>6 additional books.</p> <p>7 Q. Right.</p> <p>8 MO MS. BART: Objection. Move to</p> <p>9 strike answer as speculative.</p> <p>10 Q. Did you personally ever notice that</p> <p>11 there was a copyright notice in the Yes Rasta</p> <p>12 book?</p> <p>13 A. No.</p> <p>14 Q. Do you know what I mean by copyright</p> <p>15 notice?</p> <p>16 MR. HAYES: Objection as to form.</p> <p>17 A. Do you mean the little C with the</p> <p>18 circle on it?</p> <p>19 Q. Yes.</p> <p>20 A. Yes.</p> <p>21 Q. Now, in the -- withdrawn.</p> <p>22 In your book do you know who the</p> <p>23 copyright owner is of the essay?</p> <p>24 A. No, I don't.</p> <p>25 MR. BROOKS: Let's mark as</p>	<p style="text-align: center;">243</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. You've known him a long time, right?</p> <p>4 A. Yes.</p> <p>5 Q. You did some illustrations for a</p> <p>6 book of poems that Glenn O'Brien wrote a long</p> <p>7 time ago?</p> <p>8 A. Yes.</p> <p>9 Q. Lozenge eyes?</p> <p>10 A. Yes.</p> <p>11 Q. Is that a technique that you</p> <p>12 borrowed from John Baldessari?</p> <p>13 A. No.</p> <p>14 Q. Did you borrow it from someone?</p> <p>15 A. No.</p> <p>16 Q. It's your own technique?</p> <p>17 A. What do you mean by technique?</p> <p>18 Q. Putting lozenge eyes on --</p> <p>19 A. It's my own. I came up with the</p> <p>20 idea, yes.</p> <p>21 Q. And you did it for Glenn O'Brien's</p> <p>22 book?</p> <p>23 A. Yes.</p> <p>24 Q. To illustrate his poetry?</p> <p>25 A. To illustrate his poetry, yes.</p>
<p style="text-align: center;">242</p> <p>1 Prince</p> <p>2 Plaintiff's Exhibit 28 an interview in</p> <p>3 Interview Magazine Bates stamped C65</p> <p>4 through C77.</p> <p>5 (Plaintiff's Exhibit 28, interview</p> <p>6 in Interview Magazine, was marked for</p> <p>7 identification, as of this date.)</p> <p>8 Q. Mr. Prince, do you recall being</p> <p>9 interviewed in Interview Magazine by Glenn</p> <p>10 O'Brien?</p> <p>11 A. Yes. Yes.</p> <p>12 Q. And that was when, do you remember?</p> <p>13 A. I believe it was early September,</p> <p>14 the actual interview.</p> <p>15 Q. And part of the interview is about</p> <p>16 the upcoming Canal Zone show?</p> <p>17 A. Yes.</p> <p>18 Q. Was that the reason the interview</p> <p>19 was set up or one of the reasons?</p> <p>20 A. No.</p> <p>21 Q. Okay. But before the interview --</p> <p>22 let me back up. Glenn O'Brien in the beginning</p> <p>23 of the interview says that in the spirit of full</p> <p>24 disclosure he is good friends with you, is that</p> <p>25 true?</p>	<p style="text-align: center;">244</p> <p>1 Prince</p> <p>2 Q. Now, before he interviewed you isn't</p> <p>3 it true that he asked you if you could get him</p> <p>4 images of the paintings that were going to be</p> <p>5 displayed at the Canal Zone exhibition?</p> <p>6 A. He asked me that?</p> <p>7 Q. Yes.</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you see on the very first page of</p> <p>10 this interview beneath -- there's a photograph,</p> <p>11 is that a photograph of you?</p> <p>12 A. Yes.</p> <p>13 Q. There are it looks like five images?</p> <p>14 A. Mm-hmm, yes.</p> <p>15 Q. And those, all five of those are</p> <p>16 paintings of yours that were on display at the</p> <p>17 Canal Zone exhibition at the Gagosian Gallery in</p> <p>18 November-December 2008?</p> <p>19 A. Yes.</p> <p>20 Q. And do you know how he got them?</p> <p>21 A. No, I don't.</p> <p>22 Q. Or how Interview Magazine got them?</p> <p>23 A. No, I don't.</p> <p>24 Q. Can you tell me by looking at those,</p> <p>25 at the first page of Exhibit 28, the name of the</p>

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<p style="text-align: center;">245</p> <p>1 Prince</p> <p>2 first painting, the one beneath your image to</p> <p>3 the left?</p> <p>4 A. That's a detail of the painting. Is</p> <p>5 that -- it could be James Brown's Disco Ball</p> <p>6 maybe.</p> <p>7 Q. Did you -- who came up with the</p> <p>8 titles for these paintings?</p> <p>9 A. I did.</p> <p>10 Q. All by yourself?</p> <p>11 A. Yes.</p> <p>12 Q. The one to the right is a detail</p> <p>13 from what painting, can you tell us?</p> <p>14 A. I can't recall that title.</p> <p>15 Q. And then the one -- I'm going</p> <p>16 counter-clockwise. The one beneath that;</p> <p>17 there's a woman, I don't know, it looks like</p> <p>18 she's bending over, maybe in water. The one on</p> <p>19 the lower right, that's a detail from which</p> <p>20 painting?</p> <p>21 A. I think that's called On the Beach,</p> <p>22 or On the Beach On the Beach, I'm not quite --</p> <p>23 but it's something about on the beach.</p> <p>24 Q. Or it could be The Ocean Club,</p> <p>25 right?</p>	<p style="text-align: center;">247</p> <p>1 Prince</p> <p>2 paintings were sold?</p> <p>3 A. I believe -- I believe one of these</p> <p>4 five paintings were sold. In fact, I'm pretty</p> <p>5 sure.</p> <p>6 Q. Which one?</p> <p>7 A. If it's James Brown -- the one in</p> <p>8 the upper left-hand corner.</p> <p>9 Q. And was that sold for 2.7-million</p> <p>10 dollars?</p> <p>11 A. No. No. Actually, it wasn't sold,</p> <p>12 it was traded -- I traded that for another</p> <p>13 painting.</p> <p>14 Q. And who did you trade it to?</p> <p>15 A. Larry Gagosian.</p> <p>16 Q. For a Larry Rivers painting?</p> <p>17 A. Yes. Part -- I mean it was part of</p> <p>18 a Larry Rivers trade, this painting.</p> <p>19 Q. The Larry Rivers painting is Dying</p> <p>20 and Dead Veteran?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know the value of it?</p> <p>23 A. I think -- I think he was talking</p> <p>24 about around 2-million dollars at the time.</p> <p>25 Q. But Larry Rivers was dead then,</p>
<p style="text-align: center;">246</p> <p>1 Prince</p> <p>2 MS. BART: Objection, form.</p> <p>3 MR. HAYES: Objection to form.</p> <p>4 A. Oh, The Ocean Club, yes, that's</p> <p>5 true.</p> <p>6 Q. It is The Ocean Club, right.</p> <p>7 And The Ocean Club is a hotel in</p> <p>8 Paradise Island?</p> <p>9 A. Ocean Club was a club on Chambers</p> <p>10 Street that was in operation approximately 1979,</p> <p>11 1980.</p> <p>12 Q. Chambers Street in Manhattan?</p> <p>13 A. Yes.</p> <p>14 Q. And is that what you named it after?</p> <p>15 A. Yes.</p> <p>16 Q. The one to the left of that in the</p> <p>17 middle lower -- the middle, the lower row, what</p> <p>18 is that an image from?</p> <p>19 A. That's a detail of a painting I</p> <p>20 believe is called Cheese and Crackers.</p> <p>21 Q. And finally the one to the left of</p> <p>22 it?</p> <p>23 A. Detail of an image called Ding Dong</p> <p>24 the Witch is Dead.</p> <p>25 Q. Do you know if any of those</p>	<p style="text-align: center;">248</p> <p>1 Prince</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. So who was talking, Mr. Gagosian?</p> <p>5 A. I'm sorry?</p> <p>6 Q. Who was talking about 2-million</p> <p>7 dollars? You said he.</p> <p>8 A. Oh, Larry. Larry Gagosian was</p> <p>9 talking about it.</p> <p>10 Q. Are these titles that you came up</p> <p>11 with an important component of these paintings?</p> <p>12 MS. BART: Objection, form.</p> <p>13 MR. HAYES: Objection as to form</p> <p>14 too.</p> <p>15 A. I would like to think so, yes.</p> <p>16 Again, it's speculative.</p> <p>17 Q. But you have trouble remembering the</p> <p>18 names of the paintings?</p> <p>19 A. I think I just named them pretty</p> <p>20 close. The Ocean Club I was off a little bit.</p> <p>21 It did have something to do with a beach.</p> <p>22 As I said, I would like to think</p> <p>23 that they -- they're important. But they're</p> <p>24 not -- I think they help in the transformation</p> <p>25 of and they're part of the process in</p>

<p style="text-align: center;">249</p> <p>1 Prince</p> <p>2 recontextualizing the image.</p> <p>3 Yeah, I would have to say giving</p> <p>4 them -- I think titles for me are very</p> <p>5 important. I guess I'm answering your question</p> <p>6 because I don't know if they're important to</p> <p>7 other people. But to me they are.</p> <p>8 Q. And how do the titles inform us</p> <p>9 about the subject and meaning of the paintings</p> <p>10 in the Canal Zone exhibition?</p> <p>11 A. I think they create a certain kind</p> <p>12 of isolation and removal and set up a kind of</p> <p>13 another type of story. It's -- it creates</p> <p>14 another type of subtext that you can read into</p> <p>15 the painting.</p> <p>16 Like James Brown's Disco Ball, I</p> <p>17 think it's poetry. It's a great way to describe</p> <p>18 the painting. It removes the image from its</p> <p>19 original intent totally.</p> <p>20 I don't believe any of the images in</p> <p>21 this particular book Yes Rasta had anything to</p> <p>22 do with James Brown. However, my painting now</p> <p>23 does. I think that's one way in which a title</p> <p>24 helps makes my work different and it makes it</p> <p>25 into another -- gives it another reading.</p>	<p style="text-align: center;">251</p> <p>1 Prince</p> <p>2 A. In the painting. I believe -- I</p> <p>3 believe those images, the bodies are kind of</p> <p>4 moving to the type of music that maybe James</p> <p>5 Brown created.</p> <p>6 Q. Okay. And what about Cheese and</p> <p>7 Crackers, what does that have to do with that</p> <p>8 painting?</p> <p>9 A. Cheese and Crackers is probably --</p> <p>10 has to do with the middle image, which has</p> <p>11 remnants of a De Kooning head. That's a --</p> <p>12 that's what I would call a painting that's a</p> <p>13 bridge painting between De Kooning paintings and</p> <p>14 the Canal Zone paintings.</p> <p>15 Q. Are you talking about the woman with</p> <p>16 her legs spread?</p> <p>17 A. Yes, the woman with her legs open</p> <p>18 and she's waving. And I just felt like Cheese</p> <p>19 and Crackers was a way to describe her</p> <p>20 expression.</p> <p>21 Q. How so?</p> <p>22 A. As I said, it's a very light kind of</p> <p>23 fun, hi-how-are-you type of expression. You</p> <p>24 know, they're the sort of -- they represent a</p> <p>25 kind of a band. Every painting basically</p>
<p style="text-align: center;">250</p> <p>1 Prince</p> <p>2 Q. Okay. So what does this painting in</p> <p>3 the left-hand corner of Exhibit 28 of the first</p> <p>4 page, what does it have to do with James Brown?</p> <p>5 A. I believe at the time I had just had</p> <p>6 bought James Brown's disco ball at auction that</p> <p>7 day that I named the painting.</p> <p>8 Q. Okay.</p> <p>9 A. And I believe I had just finished</p> <p>10 the painting. And I think sometimes titles --</p> <p>11 it's kind of like when worlds collide, you get</p> <p>12 very lucky sometimes in terms of the</p> <p>13 spontaneity, the happening. It's like a</p> <p>14 performance.</p> <p>15 Q. Well, is James Brown's disco ball</p> <p>16 the subject of that particular painting?</p> <p>17 A. I think so.</p> <p>18 Q. Is there a disco ball in that</p> <p>19 painting?</p> <p>20 A. I think there are probably -- it's</p> <p>21 only a detail, but I think there's probably --</p> <p>22 to my way I would interpret it, there's probably</p> <p>23 five disco balls in that painting.</p> <p>24 Q. In this segment or in the other part</p> <p>25 of this --</p>	<p style="text-align: center;">252</p> <p>1 Prince</p> <p>2 represents a kind of a band. And --</p> <p>3 Q. Do you mean a musical band?</p> <p>4 A. Yeah, a musical band. I mean that's</p> <p>5 one of the things that I was thinking of when I</p> <p>6 was making these paintings.</p> <p>7 Q. So are we still with the</p> <p>8 post-apocalyptic theme but with bands?</p> <p>9 A. We're with all those kinds of</p> <p>10 things. And I think that my naming them Cheese</p> <p>11 and Crackers, maybe that was the name of the</p> <p>12 band rather than the name of the painting. And</p> <p>13 I think that a lot of bands come up with crazy</p> <p>14 names.</p> <p>15 Q. Right.</p> <p>16 A. I mean these are some of the things</p> <p>17 that I'm thinking about.</p> <p>18 Q. What about The Ocean Club, what's</p> <p>19 the significance of that name, that title?</p> <p>20 A. I think The Ocean Club was --</p> <p>21 primarily had to do with the female figure, the</p> <p>22 way that female figure got repeated in the</p> <p>23 image. She was at the beach.</p> <p>24 Q. Was that one of the lesbians?</p> <p>25 A. No, that's not the lesbian painting.</p>

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<p style="text-align: center;">253</p> <p>1 Prince</p> <p>2 Q. So the only lesbians are in that one</p> <p>3 painting?</p> <p>4 A. No. One shows up in another</p> <p>5 painting. But primarily the -- the four -- the</p> <p>6 lesbian painting -- that was in the show.</p> <p>7 Q. Yes.</p> <p>8 A. But I don't know if it's in the</p> <p>9 catalog. I would have to check. I know that</p> <p>10 another lesbian showed up in another painting.</p> <p>11 I know that's not in the catalog.</p> <p>12 Q. How about -- I notice there's one</p> <p>13 that was part of the show, even though I don't</p> <p>14 think it's in the book, called Pumpsie Green?</p> <p>15 A. Pumpsie Green.</p> <p>16 Q. So he was the first African-American</p> <p>17 player on the Boston Red Sox?</p> <p>18 A. My hero.</p> <p>19 Q. Which was the last team to</p> <p>20 integrate?</p> <p>21 A. My hero.</p> <p>22 Q. Correct?</p> <p>23 A. Yes. Second baseman I believe.</p> <p>24 Q. And what does that have to do with</p> <p>25 this?</p>	<p style="text-align: center;">255</p> <p>1 Prince</p> <p>2 date.)</p> <p>3 Q. This is now 26.</p> <p>4 Do you have an assistant named Eric</p> <p>5 Brown?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Do you see he was asked about two of</p> <p>8 these paintings, numbers 510 and 511, and he's</p> <p>9 asking -- somebody was asking at Gagosian for a</p> <p>10 list so he could match the numbers with the</p> <p>11 titles. And he wrote at the bottom of the first</p> <p>12 page Anita attaches a list of the works she</p> <p>13 received from the Long Island studio, can you</p> <p>14 please double check that RPS510 and 511 match</p> <p>15 what you have received. Please check the title</p> <p>16 on back painting. Richard couldn't remember</p> <p>17 which was which.</p> <p>18 Do you recall that?</p> <p>19 This relates to the painting called</p> <p>20 Île-de-France?</p> <p>21 MR. HAYES: Objection as to form.</p> <p>22 A. No, I don't remember this.</p> <p>23 I don't -- is Île-de-France on here?</p> <p>24 Q. That's 511.</p> <p>25 No, it's not on --</p>
<p style="text-align: center;">254</p> <p>1 Prince</p> <p>2 A. I just love the name.</p> <p>3 Q. So it has nothing to do with it?</p> <p>4 A. I think it was just a way of giving</p> <p>5 a nod to my boyhood hero.</p> <p>6 Q. Not to the fact that the Red Sox</p> <p>7 were the last team to integrate?</p> <p>8 A. I didn't know that.</p> <p>9 Q. Then it wasn't.</p> <p>10 MR. BROOKS: You know what, I'm</p> <p>11 going to go back, and let's as mark as</p> <p>12 Exhibit 27, that was -- there was no</p> <p>13 Exhibit 27 --</p> <p>14 MS. BART: Yeah, we have one.</p> <p>15 (Clarification by reporter.)</p> <p>16 MR. BROOKS: Okay. Let's go back</p> <p>17 and mark as 26 -- it's a two-page document</p> <p>18 Bates stamped GG --</p> <p>19 THE WITNESS: Do we have this</p> <p>20 document?</p> <p>21 MR. HAYES: No, he's got to give it</p> <p>22 to us.</p> <p>23 (Discussion off the record.)</p> <p>24 (Plaintiff's Exhibit 26, e-mail, was</p> <p>25 marked for identification, as of this</p>	<p style="text-align: center;">256</p> <p>1 Prince</p> <p>2 A. I know the painting Île-de-France,</p> <p>3 I think.</p> <p>4 (Discussion off the record.)</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. Getting back to this interview with</p> <p>7 Glenn O'Brien. So I'm showing you part of</p> <p>8 Exhibit 42. And it's page, Bates stamped at the</p> <p>9 bottom, C00140. Is that Île-de-France?</p> <p>10 A. Yes, it is.</p> <p>11 Q. And it was originally untitled?</p> <p>12 A. I don't know what originally it was.</p> <p>13 Q. And they asked you for the name and</p> <p>14 you couldn't remember and told them to look on</p> <p>15 the back of the painting, is that right?</p> <p>16 A. I don't remember that. I do know</p> <p>17 that if there was any -- if there was a question</p> <p>18 about -- if there was a question about it, I</p> <p>19 probably wasn't present and I probably said to</p> <p>20 whoever was doing the shipping, look on the</p> <p>21 back.</p> <p>22 Q. And you didn't say you couldn't</p> <p>23 remember the title?</p> <p>24 A. I don't remember the exchange at</p> <p>25 all.</p>

<p style="text-align: center;">257</p> <p>1 Prince</p> <p>2 Q. Could you look back at -- back on</p> <p>3 Exhibit 28, look on page, the page Bates</p> <p>4 stamped --</p> <p>5 MR. HAYES: 28 or 26?</p> <p>6 MR. BROOKS: 28. The interview.</p> <p>7 MR. HAYES: Okay.</p> <p>8 MR. BROOKS: Interview Magazine.</p> <p>9 BY MR. BROOKS:</p> <p>10 Q. On page C0073 apparently Leonardo</p> <p>11 DiCaprio walked in?</p> <p>12 A. I'm sorry, where are we?</p> <p>13 MR. HAYES: 73, right here.</p> <p>14 Q. C73.</p> <p>15 A. Okay.</p> <p>16 Q. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall him walking in during</p> <p>19 this interview?</p> <p>20 A. Yes.</p> <p>21 Q. And he said Tobey Maguire can't make</p> <p>22 it until later?</p> <p>23 A. Yes.</p> <p>24 Q. Were they considering, to your</p> <p>25 knowledge, buying one or more of your paintings</p>	<p style="text-align: center;">259</p> <p>1 Prince</p> <p>2 Q. All right. Now, we're on page 75,</p> <p>3 and Mr. O'Brien is asking you, So how did you</p> <p>4 get into these Rasta pieces that are you doing</p> <p>5 now? I know a little bit about it.</p> <p>6 Do you see where I'm reading from?</p> <p>7 MR. HAYES: Right here.</p> <p>8 A. Yes, I see.</p> <p>9 Q. And then your answer was, That was</p> <p>10 just from hanging out in St. Barth's for the</p> <p>11 last 12 years?</p> <p>12 A. I see that -- I see that that was my</p> <p>13 response, yes.</p> <p>14 Q. And had you been going to</p> <p>15 St. Barth's for vacations for about 12 years</p> <p>16 prior to 2008?</p> <p>17 A. Seems like -- that seems the right</p> <p>18 amount of years, yes.</p> <p>19 Q. And then he said, And we all know</p> <p>20 how many Rastas there are in St. Barth's. He</p> <p>21 was being facetious you thought?</p> <p>22 MS. BART: Objection to form.</p> <p>23 MR. HAYES: Objection, form.</p> <p>24 A. I don't know -- I would imagine he</p> <p>25 was -- he's a bit of a jokester.</p>
<p style="text-align: center;">258</p> <p>1 Prince</p> <p>2 from the Canal Zone show?</p> <p>3 A. Yes.</p> <p>4 Q. Jointly?</p> <p>5 A. Yes.</p> <p>6 Q. And did you hold some of the</p> <p>7 paintings for them?</p> <p>8 A. I didn't hold them, no.</p> <p>9 Q. Did Gagosian?</p> <p>10 A. I don't know if he held them.</p> <p>11 Q. Did you ask them to?</p> <p>12 A. No, I don't believe I did.</p> <p>13 Q. Do you know if either of them bought</p> <p>14 any of the paintings?</p> <p>15 A. They did not buy any of the Canal</p> <p>16 Zone paintings.</p> <p>17 Q. Now turn to page C75, please, on</p> <p>18 Exhibit 28.</p> <p>19 A. 75?</p> <p>20 Q. Yes. Just before we leave this</p> <p>21 issue with Leonardo DiCaprio and Tobey Maguire,</p> <p>22 do you recall that they wanted you to hold Color</p> <p>23 Me Mine and Mr. Jones?</p> <p>24 A. I believe they were interested in</p> <p>25 those two paintings, yes.</p>	<p style="text-align: center;">260</p> <p>1 Prince</p> <p>2 Q. Right.</p> <p>3 A. But I really can't speak to what he</p> <p>4 was implying.</p> <p>5 Q. Right. But you said there aren't</p> <p>6 that many Rastas in St. Barth's, right?</p> <p>7 A. There aren't that many.</p> <p>8 Q. In fact, there aren't any, right?</p> <p>9 MS. BART: Objection to form.</p> <p>10 MR. HAYES: Objection.</p> <p>11 A. I would disagree with that.</p> <p>12 Q. Oh, I thought you said that before.</p> <p>13 A. I've --</p> <p>14 Q. There are some?</p> <p>15 A. There are people -- let me put it</p> <p>16 this way then. I don't know that much about</p> <p>17 Rastafarians. However, I do believe I have seen</p> <p>18 people who look like Rastafarians in St. Barth.</p> <p>19 That's the best I can answer that question.</p> <p>20 Q. Do you think Manny Ramirez looks</p> <p>21 like a Rastafarian?</p> <p>22 A. I don't know who Manny Ramirez is.</p> <p>23 MS. BART: Objection to form.</p> <p>24 I don't think -- that's just really not</p> <p>25 relevant.</p>

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<p style="text-align: center;">261</p> <p>1 Prince</p> <p>2 Q. I thought you were a Red Sox fan?</p> <p>3 A. I never said I was a Red Sox fan.</p> <p>4 Q. You don't know who Manny Ramirez is?</p> <p>5 A. No, I don't.</p> <p>6 MS. BART: What does this have to do</p> <p>7 with this case?</p> <p>8 Q. All right. Now, you say you picked</p> <p>9 up a book on them?</p> <p>10 A. In -- literally, yes, I picked up a</p> <p>11 book.</p> <p>12 Q. Okay. And that's the Yes Rasta</p> <p>13 book --</p> <p>14 A. Yes.</p> <p>15 Q. -- that we've been talking about,</p> <p>16 that's in front of you? Okay.</p> <p>17 Now, down a few lines you said, But</p> <p>18 I love the look, comma, and I love the dreads.</p> <p>19 What did you mean by that?</p> <p>20 A. What do you mean what do I mean by</p> <p>21 that? I just said it. I love the look and I</p> <p>22 love the dreads.</p> <p>23 Q. What did you love about the look?</p> <p>24 A. I love the way they looked.</p> <p>25 Q. How so?</p>	<p style="text-align: center;">262</p> <p>1 Prince</p> <p>2 A. I don't know how to answer that</p> <p>3 question, how so. I love the way they looked.</p> <p>4 I mean that's usually I get -- that's how I</p> <p>5 respond to images.</p> <p>6 I think maybe I liked the way that</p> <p>7 they were so different.</p> <p>8 Q. Than what?</p> <p>9 A. Than myself. I don't have dreads.</p> <p>10 I wish I could. I mean I think that was some of</p> <p>11 the thinking or some of the -- perhaps it goes</p> <p>12 back to the girlfriends. The reason why I took</p> <p>13 the girlfriends is I wanted to be a girlfriend.</p> <p>14 I think some of the attraction that</p> <p>15 I had to some of these people who looked like</p> <p>16 Rastas in St. Barth, hanging out at the bars, I</p> <p>17 said to myself, gee, I wish I could look like</p> <p>18 that some day.</p> <p>19 So if I can't look like that maybe</p> <p>20 I should paint them. Maybe that's a way to</p> <p>21 substitute that desire. I mean that's the only</p> <p>22 way I can answer that love question.</p> <p>23 Q. All right. But had you ever seen --</p> <p>24 I think you testified about this before lunch,</p> <p>25 had you ever seen pictures of Rastas before?</p>
<p style="text-align: center;">263</p> <p>1 Prince</p> <p>2 A. Had I ever seen pictures?</p> <p>3 Q. Yes.</p> <p>4 MR. HAYES: Objection to the form.</p> <p>5 A. When?</p> <p>6 Q. Ever?</p> <p>7 A. I'm sure I had.</p> <p>8 Q. And didn't you say had you a book</p> <p>9 about Bob Marley with Rastas in it?</p> <p>10 A. I think I went out and tried to buy</p> <p>11 a book at the same time.</p> <p>12 Q. Right. So what was it about these</p> <p>13 pictures that made you want to copy them?</p> <p>14 MS. BART: Objection to form.</p> <p>15 MR. HAYES: Objection, form.</p> <p>16 A. I think, again, it's that notion</p> <p>17 about when worlds collide. I happened to be</p> <p>18 listening to Radiodread. Do you know who</p> <p>19 Radiodread is? It's a band that sampled and</p> <p>20 replicated Radiohead's album, and did it in a</p> <p>21 reggae manner. And my son, my stepson was</p> <p>22 playing it on vacation in St. Barth.</p> <p>23 Q. When you found this book?</p> <p>24 A. And I was very much into that album.</p> <p>25 I played it over and over. And then the next</p>	<p style="text-align: center;">264</p> <p>1 Prince</p> <p>2 day I walk into a bookstore and what do I pick</p> <p>3 up, a book that had pictures of Rastas in them.</p> <p>4 I said to myself, hrm, something is in the air.</p> <p>5 And that's my -- that's how I</p> <p>6 react -- that's how things happen. It was pure</p> <p>7 chance.</p> <p>8 Q. Okay.</p> <p>9 A. And it's a great -- I thought that</p> <p>10 was a great marriage, the fact that I was</p> <p>11 listening to Radiodread, which I loved, and I</p> <p>12 saw what I considered these really kind of</p> <p>13 interesting documents.</p> <p>14 Q. When you say interesting documents,</p> <p>15 are you talking about the photos in Yes Rasta?</p> <p>16 A. Yes.</p> <p>17 Q. What was interesting about them?</p> <p>18 A. I think I've already said that.</p> <p>19 I'll say it again. I liked -- I was looking for</p> <p>20 black-and-white images of figures.</p> <p>21 Q. Why?</p> <p>22 A. I wanted to put them next to my</p> <p>23 De Kooning women.</p> <p>24 Q. Are there any De Kooning women in</p> <p>25 the Canal Zone book?</p>

<p style="text-align: center;">265</p> <p>1 Prince</p> <p>2 A. Yes, there's one right on the cover.</p> <p>3 I think she's off to the right. And I think we</p> <p>4 just talked about the one in Interview Magazine.</p> <p>5 I think you were talking about Cheese and</p> <p>6 Crackers.</p> <p>7 Q. Right. Right.</p> <p>8 A. That's a De Kooning woman right</p> <p>9 here.</p> <p>10 Q. Okay.</p> <p>11 A. She has a face that was painted by</p> <p>12 De Kooning. And that was one of the very --</p> <p>13 that was painted in June of '08. As I said, it</p> <p>14 was a bridge painting. I was trying to channel</p> <p>15 my inner De Kooning in that painting.</p> <p>16 Q. In Cheese and Crackers?</p> <p>17 A. In Cheese and Crackers.</p> <p>18 Q. Now, getting back to the interview,</p> <p>19 you said that you liked -- we just looked at</p> <p>20 this. When you said I love the book, I love the</p> <p>21 dreads, so I just started fooling around with</p> <p>22 this book, drawing it like I did with the</p> <p>23 De Kooning paintings.</p> <p>24 You've already explained that, you</p> <p>25 wrote right in the first book, right?</p>	<p style="text-align: center;">267</p> <p>1 Prince</p> <p>2 There's no -- there's no plan.</p> <p>3 Q. Right. Is there a message?</p> <p>4 A. There certainly is a message.</p> <p>5 Q. What is the message?</p> <p>6 A. The message is to make great art</p> <p>7 that makes people feel good. That's my message.</p> <p>8 Now, I know it might not be someone else's, but</p> <p>9 I believe that's also the way I've always</p> <p>10 defined art.</p> <p>11 Q. Now, you're talking again about the</p> <p>12 guy who lands in St. Barth's. This is on the</p> <p>13 next page. And it says so he and his relatives</p> <p>14 take over a hotel, they take over Eden Rock. Do</p> <p>15 you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Now, there actually are no pictures</p> <p>18 in the Canal Zone paintings of the guy who got</p> <p>19 off the plane and his relatives, is that right</p> <p>20 or not right?</p> <p>21 MR. HAYES: Objection to the form.</p> <p>22 A. There are no pictures of Charlie</p> <p>23 Company and --</p> <p>24 Q. Right.</p> <p>25 A. There might be, there might not be.</p>
<p style="text-align: center;">266</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. And then it says, Then I wrote the</p> <p>4 proposal, which I pitched to Hollywood, it was</p> <p>5 called Eden Rock. And then it goes through the</p> <p>6 story about the guy who gets off the plane.</p> <p>7 A. Yes.</p> <p>8 Q. And look at the next page.</p> <p>9 So were you saying that the</p> <p>10 Yes Rasta book inspired your idea for the pitch?</p> <p>11 A. No.</p> <p>12 Q. No? Okay.</p> <p>13 A. What was inspiring was, again,</p> <p>14 another element in this kind of crazy marriage.</p> <p>15 The day before I went in and found this book I</p> <p>16 noticed these cruise -- these monumental cruise</p> <p>17 ships.</p> <p>18 Q. In St. Barth's?</p> <p>19 A. In St. Barth. And I started looking</p> <p>20 at them and saying there's another thing that</p> <p>21 should be in my screenplay. And yes, who should</p> <p>22 be on that boat is a reggae band. So I had that</p> <p>23 in my head.</p> <p>24 So I think what inspires what, it's</p> <p>25 all very organic here. It's all very fluid.</p>	<p style="text-align: center;">268</p> <p>1 Prince</p> <p>2 I believe there aren't of Mr. Company.</p> <p>3 Q. He's supposed to be a white guy,</p> <p>4 right?</p> <p>5 A. He's a white guy.</p> <p>6 No, I believe his daughter -- I</p> <p>7 think only his daughter shows up in one of the</p> <p>8 paintings later.</p> <p>9 Q. Then you say the Rastas escaped from</p> <p>10 their cruise ship and they take over their own</p> <p>11 hotel, the Manapany, right?</p> <p>12 A. Yes.</p> <p>13 Q. And are there any pictures of them</p> <p>14 taking over the Manapany in the Canal Zone book?</p> <p>15 A. No.</p> <p>16 Q. And then you said and then there's a</p> <p>17 lesbian group of girls who escape and take over</p> <p>18 their own hotel, the Guanahani?</p> <p>19 A. Yes.</p> <p>20 Q. And those are those four literary</p> <p>21 artistic women from the early 20th Century?</p> <p>22 A. Yes.</p> <p>23 Q. And there's a painting of them?</p> <p>24 A. Yes.</p> <p>25 Q. And then you said -- this is to</p>

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<p style="text-align: center;">269</p> <p>1 Prince</p> <p>2 Gerald O'Brien in the interview -- so everybody</p> <p>3 has their own hotel, and that's where the video</p> <p>4 game rights come into this pitch.</p> <p>5 Where do the video game rights come</p> <p>6 into this pitch?</p> <p>7 A. Is that -- are you asking me --</p> <p>8 you're asking me?</p> <p>9 Q. These are your words in the</p> <p>10 interview?</p> <p>11 A. Right.</p> <p>12 Q. What did you mean?</p> <p>13 A. I think I was thinking about the</p> <p>14 fact that I know nothing about video games</p> <p>15 and -- but my -- all my stepson's friends play</p> <p>16 them. And I felt that there might be a</p> <p>17 possibility to -- I had seen some of the</p> <p>18 graphics involved in some of these games when</p> <p>19 they play, and I felt that the different tribes</p> <p>20 that take over the different hotels and they</p> <p>21 kind of, you know -- it was just a thought. And</p> <p>22 I think I ran this by Michael Ovitz and he loved</p> <p>23 the idea.</p> <p>24 Q. So you viewed this whole thing as an</p> <p>25 extremely commercially successful potential</p>	<p style="text-align: center;">271</p> <p>1 Prince</p> <p>2 sold before the Lehman Brothers meltdown, yes,</p> <p>3 there were two paintings that were sold for</p> <p>4 approximately 2-million dollars.</p> <p>5 Q. Then you say that we got a</p> <p>6 ghostwriter to do the story. Is that James</p> <p>7 Frey?</p> <p>8 A. No.</p> <p>9 Q. Oh, that's the ghostwriter Ovitz got</p> <p>10 for you?</p> <p>11 A. That was -- I was referring to the</p> <p>12 ghostwriter for Eden Rock.</p> <p>13 Q. Not James Frey?</p> <p>14 A. No. James Frey is not the</p> <p>15 ghostwriter.</p> <p>16 Q. And it's being published, you say,</p> <p>17 and eventually hopefully it will be totally</p> <p>18 fucked by Hollywood, but I don't care because</p> <p>19 it's all under a pseudonym, my name is not</p> <p>20 attached to it.</p> <p>21 What did you mean by that? Why</p> <p>22 didn't you want your name attached to the</p> <p>23 screenplay or the movie?</p> <p>24 A. They were never going to write what</p> <p>25 I initially saw as something I would want to</p>
<p style="text-align: center;">270</p> <p>1 Prince</p> <p>2 venture, paintings --</p> <p>3 A. The pitch?</p> <p>4 MR. HAYES: Objection.</p> <p>5 Q. Paintings, movies, and video game</p> <p>6 rights, right?</p> <p>7 MR. HAYES: Objection as to form.</p> <p>8 A. No, I've never thought that what I</p> <p>9 do or what I produce or what I put out will</p> <p>10 ever, one, sell.</p> <p>11 I've made art for 34, 35 years and</p> <p>12 nothing sold. What I -- my experience in terms</p> <p>13 of what I make, it seems that a lot of people</p> <p>14 just couldn't dig it. And to tell you the</p> <p>15 truth, it was not one -- when I put up the Canal</p> <p>16 Zone show at Larry Gagosian's there was not one</p> <p>17 review in any newspaper, in any magazine. And I</p> <p>18 find that incredibly unsuccessful.</p> <p>19 Q. But weren't some of the paintings</p> <p>20 sold before the show even opened?</p> <p>21 A. They were sold, yes.</p> <p>22 Q. For millions of dollars?</p> <p>23 A. I wouldn't characterize it for</p> <p>24 millions. For a couple of million dollars,</p> <p>25 there were two paintings I believe that were</p>	<p style="text-align: center;">272</p> <p>1 Prince</p> <p>2 have my name attached to.</p> <p>3 I knew that -- I know or I am</p> <p>4 imagining the mechanisms of Hollywood I know</p> <p>5 enough to not get involved.</p> <p>6 Q. So why did you want to do the</p> <p>7 screenplay and the video rights?</p> <p>8 A. I was very interested in the movie</p> <p>9 The Player, which is all about a pitch, and I</p> <p>10 was very interested in the fact that I could</p> <p>11 maybe write a one-and-a-half-page outline and</p> <p>12 see if it could turn into something.</p> <p>13 Q. Okay. Back to page C76 of this</p> <p>14 interview. Are you there?</p> <p>15 A. Yes.</p> <p>16 Q. You say, So anyway, the Rastas and</p> <p>17 the lesbians started starring in these pictures</p> <p>18 and were kind of like bands, there are like five</p> <p>19 people to a picture, and every picture has a</p> <p>20 title to it.</p> <p>21 A. Okay.</p> <p>22 MR. HAYES: Just wait one second</p> <p>23 while he catches up to you.</p> <p>24 A. Where are we?</p> <p>25 Q. It's C76.</p>

<p style="text-align: center;">273</p> <p>1 Prince</p> <p>2 A. So anyway – oh, okay, Fulton Ryder</p> <p>3 is the pseudonym. So anyway? Yes.</p> <p>4 Q. So anyway, the Rastas and the</p> <p>5 lesbians started starring in these pictures and</p> <p>6 were kind of like bands, there were like five</p> <p>7 people to a picture and every picture has a</p> <p>8 title to it. It sort of becomes an allegory.</p> <p>9 It's just something I needed to get out of my</p> <p>10 system. The pictures are very quickly done,</p> <p>11 they're not really thought about, and there's a</p> <p>12 collage element to them that's very primitive.</p> <p>13 Paste up, cutting with scissors, and squeegeed</p> <p>14 on with paint. It's something that I can do by</p> <p>15 myself and I like that aspect of it. I don't</p> <p>16 need assistants. I don't need anybody.</p> <p>17 What did you mean by the pictures</p> <p>18 are not really thought about? Did you mean by</p> <p>19 you?</p> <p>20 A. I like to paint a painting and</p> <p>21 finish it within a day, day and a half tops. I</p> <p>22 like instant paintings.</p> <p>23 Q. In the case of these paintings what</p> <p>24 did you mean that they're not really thought</p> <p>25 about?</p>	<p style="text-align: center;">275</p> <p>1 Prince</p> <p>2 A. Well, it wasn't Île-de-France.</p> <p>3 That's not the way I remember the question. It</p> <p>4 was Round About Midnight.</p> <p>5 Q. When you read the transcript you'll</p> <p>6 see.</p> <p>7 A. Fine. Okay.</p> <p>8 Q. But let's get back to what you were</p> <p>9 saying about doing them quickly. What is it</p> <p>10 that you were saying, that you like to do them</p> <p>11 quickly because?</p> <p>12 MS. BART: Objection --</p> <p>13 A. I don't like to --</p> <p>14 (Multiple speakers talking at once.)</p> <p>15 (Interruption by reporter.)</p> <p>16 MS. BART: Objection to form and</p> <p>17 asked and answered.</p> <p>18 MR. HAYES: And I joined in it.</p> <p>19 MS. BART: He just doesn't like the</p> <p>20 answer.</p> <p>21 A. It has to do with technique. I come</p> <p>22 up with various techniques that are very new, no</p> <p>23 one's ever done them before. Like the squeegee.</p> <p>24 No one had ever painted a painting</p> <p>25 by squeegeeing on a collage onto a piece of</p>
<p style="text-align: center;">274</p> <p>1 Prince</p> <p>2 A. That's --</p> <p>3 MS. BART: Objection, form, and</p> <p>4 asked and answered.</p> <p>5 A. I'm trying to answer your question.</p> <p>6 That's what I mean. I like -- I like when I do</p> <p>7 things fast. I think they should be done very</p> <p>8 quickly. I think when they drag on, you know,</p> <p>9 you can overthink it. I don't like a painting</p> <p>10 that's overcooked.</p> <p>11 Q. Okay. I understand your answer, but</p> <p>12 I was asking about these paintings, not what you</p> <p>13 generally like.</p> <p>14 A. No, I'm talking about these specific</p> <p>15 paintings. They were done day, half a day, some</p> <p>16 of them took two hours. That's what was so</p> <p>17 satisfying about the process. You know,</p> <p>18 Especially Around Midnight, a painting that you</p> <p>19 had previously said that I didn't remember the</p> <p>20 title to --</p> <p>21 Q. No, that was Île-de-France.</p> <p>22 A. You didn't say that. You pointed to</p> <p>23 an e-mail from Eric Brown suggesting that Eric</p> <p>24 thought that I didn't remember the title.</p> <p>25 Q. Île-de-France.</p>	<p style="text-align: center;">276</p> <p>1 Prince</p> <p>2 canvas. No one had ever done that before. That</p> <p>3 was totally new and it was a very quick way to</p> <p>4 add on an ingredient and make it into an entire</p> <p>5 recipe.</p> <p>6 Q. Okay. So let's talk about the</p> <p>7 ingredients. These guitars that you say -- your</p> <p>8 contribution to the Rastas was this introduction</p> <p>9 of the guitar. Do you see where you said that?</p> <p>10 MS. BART: Objection, form. I mean.</p> <p>11 there are --</p> <p>12 MR. BROOKS: That's fine.</p> <p>13 MS. BART: No, I just wanted --</p> <p>14 MR. BROOKS: There are no speaking</p> <p>15 objections.</p> <p>16 MS. BART: I'm going to make my</p> <p>17 comment for you --</p> <p>18 MR. BROOKS: Don't make it for him.</p> <p>19 MS. BART: He's not my client.</p> <p>20 MR. BROOKS: I know that.</p> <p>21 MS. BART: I'm making it for you.</p> <p>22 There are a myriad of pictures in</p> <p>23 this book, and to ask a blanket question</p> <p>24 like that --</p> <p>25 MR. BROOKS: No, I'm asking him</p>

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<p>277</p> <p>1 Prince</p> <p>2 about something he said in an interview.</p> <p>3 He said and then my contribution to the</p> <p>4 Rastas was this introduction of the</p> <p>5 guitar.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Do you see that?</p> <p>8 A. Yes.</p> <p>9 MS. BART: Still objection.</p> <p>10 Q. Was the guitar one of the</p> <p>11 ingredients in these paintings?</p> <p>12 A. Yes.</p> <p>13 MS. BART: I'm still objecting.</p> <p>14 MR. BROOKS: Fine.</p> <p>15 BY MR. BROOKS:</p> <p>16 Q. Were the naked women an ingredient</p> <p>17 in the paintings?</p> <p>18 A. Yes.</p> <p>19 Q. Were the Rastas --</p> <p>20 MS. BART: Objection.</p> <p>21 (Interruption by reporter.)</p> <p>22 BY MR. BROOKS:</p> <p>23 Q. Were the guitars that you introduced</p> <p>24 an ingredient in these paintings?</p> <p>25 MS. BART: Objection, form.</p>	<p>279</p> <p>1 Prince</p> <p>2 Rastas, or the tropical foliage, the subject</p> <p>3 matter of the paintings?</p> <p>4 MS. BART: Objection, form, compound</p> <p>5 question.</p> <p>6 MR. HAYES: Objection, form.</p> <p>7 Q. You can answer.</p> <p>8 A. Were any of those -- any of those</p> <p>9 one -- I believe the primary subject, the</p> <p>10 primary ingredient is probably the guitar.</p> <p>11 Q. Okay. And what's the primary</p> <p>12 subject of the paintings?</p> <p>13 MR. HAYES: Objection to form.</p> <p>14 MS. BART: Same.</p> <p>15 A. I think the guitar. The guitar is a</p> <p>16 brilliant, brilliant contribution.</p> <p>17 Q. And, again, I know you testified to</p> <p>18 this before, where did you find the guitars</p> <p>19 again? I'm not trying to trip you up. Was it</p> <p>20 one book or several books? I don't remember.</p> <p>21 A. One source was Guitar Magazine.</p> <p>22 Q. Okay. So there's kind of a</p> <p>23 rock-and-roll theme to these paintings?</p> <p>24 MR. HAYES: Objection to form.</p> <p>25 MS. BART: Same.</p>
<p>278</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 Q. You can answer.</p> <p>4 A. Yes.</p> <p>5 Q. Were the naked women that you found</p> <p>6 in various places an ingredient in the</p> <p>7 paintings?</p> <p>8 MS. BART: Objection, form.</p> <p>9 MR. HAYES: Objection, form.</p> <p>10 A. Yes.</p> <p>11 Q. Were the Rastas an ingredient in the</p> <p>12 paintings?</p> <p>13 MS. BART: Objection, form.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 A. Yes.</p> <p>16 Q. Was the tropical foliage in the</p> <p>17 background behind the Rastas in the Yes Rasta</p> <p>18 photos, was that an ingredient in the paintings?</p> <p>19 A. Yes.</p> <p>20 MS. BART: Objection, form.</p> <p>21 A. Sorry.</p> <p>22 Q. What's the answer?</p> <p>23 A. Yes.</p> <p>24 Q. Were the paintings -- were any of</p> <p>25 those things, the guitars, the naked women, the</p>	<p>280</p> <p>1 Prince</p> <p>2 Q. You can answer.</p> <p>3 A. I would say heavy metal, but, yes,</p> <p>4 rock and roll.</p> <p>5 Q. Sorry. Okay.</p> <p>6 Can you look at page 77, which is</p> <p>7 I think the last page of this interview.</p> <p>8 I'm going to read this answer at the</p> <p>9 top. Well, I should read the question on the</p> <p>10 previous page. Why did you get sick of doing</p> <p>11 the De Kooning paintings? It seemed like you</p> <p>12 did more nurse paintings than De Koonings.</p> <p>13 And then you answered, Yeah, I did</p> <p>14 more nurses, but with De Koonings, I'd just done</p> <p>15 it. I didn't like the idea that in the end I</p> <p>16 had to pay attention to someone else's work.</p> <p>17 And I wanted to get rid of the color. So the</p> <p>18 thing is that, you know, two years of doing the</p> <p>19 De Koonings was enough. It was enough of my</p> <p>20 attention. The Rastas came really fast. And</p> <p>21 they're going to be over really fast too.</p> <p>22 Can you explain what you meant when</p> <p>23 you said the Rastas came really fast and they're</p> <p>24 going to be over really fast too?</p> <p>25 A. The Rasta -- the Canal Zone</p>

<p style="text-align: center;">281</p> <p>1 Prince</p> <p>2 paintings, which part of those paintings, an</p> <p>3 element of those paintings are the Rastas.</p> <p>4 The reason I believe they were</p> <p>5 going -- they came really fast and they were</p> <p>6 going to be over fast is I was in the middle of</p> <p>7 other bodies of work that I needed to pay</p> <p>8 attention to.</p> <p>9 Q. You needed to pay attention to the</p> <p>10 other bodies of work?</p> <p>11 A. Yes.</p> <p>12 (Discussion off the record.)</p> <p>13 THE VIDEOGRAPHER: 4:25. Off the</p> <p>14 record. End of tape 4.</p> <p>15 (Recess taken: 4:25 p.m.)</p> <p>16 (Proceedings resumed: 4:29 p.m.)</p> <p>17 THE VIDEOGRAPHER: 4:29. On the</p> <p>18 record. Beginning of tape 5.</p> <p>19 BY MR. BROOKS:</p> <p>20 Q. In these paintings that you made for</p> <p>21 the Canal Zone show were you commenting on the</p> <p>22 Rasta photos in the Yes Rasta book?</p> <p>23 A. No.</p> <p>24 Q. Were you commenting on Mr. Cariou's</p> <p>25 technique or methodology in taking those photos?</p>	<p style="text-align: center;">283</p> <p>1 Prince</p> <p>2 me pictures of, quote, I guess they were</p> <p>3 Rastafarians, and said can you use these.</p> <p>4 I said, you know, unfortunately, you</p> <p>5 know, these types of situations inhibit me. And</p> <p>6 I think it's an unfortunate circumstance that I</p> <p>7 have to be -- think about these things.</p> <p>8 But to answer your question, yes, I</p> <p>9 suppose I could have gone. But it would never</p> <p>10 occur to me to get on a plane and go to Jamaica</p> <p>11 for the express purposes of taking photographs</p> <p>12 of people who are alive.</p> <p>13 I -- my way of taking a portrait is</p> <p>14 to take something that's already been taken.</p> <p>15 Q. Right. And you still believe that</p> <p>16 that makes it more believable if you've</p> <p>17 appropriated it from someone else?</p> <p>18 MR. HAYES: Objection as to form.</p> <p>19 MS. BART: Objection to form, and</p> <p>20 asked and answered.</p> <p>21 A. Well, everybody creates their own</p> <p>22 artificial reality when they're making art. And</p> <p>23 mine gets made in a studio. I'm the king of my</p> <p>24 castle in my studio. I don't operate very well</p> <p>25 out in the real world. I like a much more</p>
<p style="text-align: center;">282</p> <p>1 Prince</p> <p>2 A. No.</p> <p>3 Q. I know you don't have your own</p> <p>4 plane, but you could fly commercial to Jamaica,</p> <p>5 correct, if you wanted to?</p> <p>6 MR. HAYES: Objection to form,</p> <p>7 speculation.</p> <p>8 A. I suppose so.</p> <p>9 Q. So if you wanted pictures of Rastas</p> <p>10 you could have flown to Jamaica and taken your</p> <p>11 own pictures, correct?</p> <p>12 MS. BART: Objection to form.</p> <p>13 MR. HAYES: Objection.</p> <p>14 Q. You can answer.</p> <p>15 A. It's not how I make pictures though.</p> <p>16 Q. Right. Okay. You'd rather</p> <p>17 appropriate than take your own pictures?</p> <p>18 MR. HAYES: Objection --</p> <p>19 MS. BART: Objection, form,</p> <p>20 argumentative.</p> <p>21 MR. HAYES: -- form and</p> <p>22 argumentative.</p> <p>23 Q. You can answer.</p> <p>24 A. It's funny, a friend of mine who</p> <p>25 is a photographer just went to Jamaica and sent</p>	<p style="text-align: center;">284</p> <p>1 Prince</p> <p>2 private world.</p> <p>3 And I'm a bibliophile. I collect</p> <p>4 books. At any one time I have 20, 25 different</p> <p>5 types of books laying about the studio.</p> <p>6 Sometimes I pay attention to them, sometimes I</p> <p>7 don't. I'm always ripping them up.</p> <p>8 And, as I said, I sort of would</p> <p>9 describe that practice as sort of deejaying</p> <p>10 photographs --</p> <p>11 Q. You're not saying you have</p> <p>12 agoraphobia --</p> <p>13 A. -- or pictures.</p> <p>14 MR. HAYES: Let him finish the</p> <p>15 question, if you don't mind. He's in the</p> <p>16 middle of a question -- answer.</p> <p>17 Let him finish.</p> <p>18 Go ahead.</p> <p>19 A. I'm not sure what agoraphobia is,</p> <p>20 but that idea of -- is it that thing where you</p> <p>21 can't travel? My sister has that.</p> <p>22 Q. But you don't?</p> <p>23 A. I don't believe I have it.</p> <p>24 MR. HAYES: Let the record reflect</p> <p>25 the questioner interrupted the witness in</p>

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<p style="text-align: center;">285</p> <p>1 Prince</p> <p>2 the middle of answer.</p> <p>3 So do you want to go back?</p> <p>4 THE WITNESS: No, it's not</p> <p>5 important.</p> <p>6 Q. You said you were deejaying or</p> <p>7 something? Do you have anything to add to that?</p> <p>8 A. It's a figurative way --</p> <p>9 MR. HAYES: Object to form.</p> <p>10 A. -- to describe what I do.</p> <p>11 Q. Have you ever heard of I guess it's</p> <p>12 a website called iStockphoto.com?</p> <p>13 A. No.</p> <p>14 Q. Would it surprise you to know that</p> <p>15 they have more than five-million royalty-free</p> <p>16 non-copyrighted photos on their website?</p> <p>17 MR. HAYES: Objection as to form.</p> <p>18 A. I didn't know that.</p> <p>19 Q. Would it surprise you to know that</p> <p>20 the price of those photos is very, very modest?</p> <p>21 MR. HAYES: Objection as to form.</p> <p>22 A. I didn't know that.</p> <p>23 Q. Would you -- and I invite you to do</p> <p>24 this after the deposition, go to their website</p> <p>25 iStockphoto.com, and you will see if you put in</p>	<p style="text-align: center;">287</p> <p>1 Prince</p> <p>2 this 30 years ago, I think it's here to stay.</p> <p>3 And I am not surprised that there are -- there's</p> <p>4 a website like this.</p> <p>5 Q. Okay.</p> <p>6 A. I don't believe there would have</p> <p>7 been a website like this ten years ago. But I'm</p> <p>8 happy to know this information.</p> <p>9 Q. Well, I invite you to go to</p> <p>10 iStockphoto.com.</p> <p>11 A. Thanks.</p> <p>12 MR. HAYES: Objection to the form,</p> <p>13 if that was a question.</p> <p>14 MR. BROOKS: Can we mark as</p> <p>15 Exhibit Plaintiff's 29 a three-page</p> <p>16 document GGP001421 and GGP00424 and 425.</p> <p>17 (Plaintiff's Exhibit 29, three-page</p> <p>18 document, was marked for identification,</p> <p>19 as of this date.)</p> <p>20 Q. Mr. Prince?</p> <p>21 A. Yes.</p> <p>22 Q. If you look at what's been marked as</p> <p>23 Exhibit 29?</p> <p>24 A. Mm-hmm, yes.</p> <p>25 Q. We had talked about this before, at</p>
<p style="text-align: center;">286</p> <p>1 Prince</p> <p>2 the search term Rastas you will find over 3,000</p> <p>3 non-copyright pictures of Rastas, some black and</p> <p>4 white, some color.</p> <p>5 MR. HAYES: Is there a question</p> <p>6 there?</p> <p>7 Q. Would that surprise you to know</p> <p>8 that?</p> <p>9 MR. HAYES: Objection as to form.</p> <p>10 A. It doesn't anymore.</p> <p>11 Q. Because?</p> <p>12 A. Because I believe the -- I think</p> <p>13 things have changed since 1977. I've been slow</p> <p>14 to change with them in terms of how I make my</p> <p>15 images. I'm catching up. I believe that I'm</p> <p>16 not very fluent with the computer.</p> <p>17 But, as I said before, I think</p> <p>18 rephotography could be called -- is a primitive</p> <p>19 way of downloading an image. And there was a --</p> <p>20 anyway, I believe in surrogate substitution,</p> <p>21 simulants, robots, I believe in science fiction,</p> <p>22 I believe in J.G. Ballard, the Concrete Jungle,</p> <p>23 I believe that virtual reality is on our</p> <p>24 doorstep. Cloning is right around the corner.</p> <p>25 And I believe, even though I did</p>	<p style="text-align: center;">288</p> <p>1 Prince</p> <p>2 the bottom it says, Hi, Betsy, Richard said you</p> <p>3 could hook us up with images for his interview.</p> <p>4 I love the Rasta work and would like to run</p> <p>5 several big pages. We are on a tight schedule.</p> <p>6 What's the next step?</p> <p>7 And it's signed Glenn. That's from</p> <p>8 Glenn O'Brien, correct?</p> <p>9 A. Yes.</p> <p>10 Q. I think I had asked you about that</p> <p>11 before. And then there's an e-mail from Betsy</p> <p>12 your assistant or your studio manager to Melissa</p> <p>13 and Gagosian saying per Glenn O'Brien's request</p> <p>14 that they should send some high-resolution Rasta</p> <p>15 works to Glenn O'Brien. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And then at the top I wanted to ask</p> <p>18 you if you know what this is. It's from Melissa</p> <p>19 Lazarov. It says see below, and it says I need</p> <p>20 to send some JPEGs, J-P-E-G-S, to Glenn. Please</p> <p>21 attach for me, from Melissa. Do you know what a</p> <p>22 JPEG is?</p> <p>23 A. Yes, I do.</p> <p>24 Q. Can you tell me, please?</p> <p>25 A. It's an image that you send through</p>

<p style="text-align: center;">289</p> <p>1 Prince</p> <p>2 the computer.</p> <p>3 Q. Is it different than a PDF?</p> <p>4 A. I don't know what a PDF is.</p> <p>5 Q. Is it high resolution and pretty</p> <p>6 accurate depiction, a JPEG?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection, form.</p> <p>9 A. Again, I'm not that fluent in</p> <p>10 computer. I do e-mail and that's about it.</p> <p>11 Q. Okay.</p> <p>12 A. I've never sent a JPEG myself to</p> <p>13 anybody. And I've never sent, what is it</p> <p>14 called, a PDF. So I'm not in a position to</p> <p>15 answer that question.</p> <p>16 Q. Fair enough.</p> <p>17 If you look at the first page of</p> <p>18 Exhibit 28, which is the interview that Glenn</p> <p>19 O'Brien did with you. Do you remember we looked</p> <p>20 at these already, these five images?</p> <p>21 Simple question. Do you know</p> <p>22 whether those are JPEGs?</p> <p>23 A. What I'm looking at here?</p> <p>24 Q. Those five images, correct, on the</p> <p>25 first page of Exhibit 28.</p>	<p style="text-align: center;">291</p> <p>1 Prince</p> <p>2 iStockphoto, but now that you see these photos</p> <p>3 would these have been appropriate ingredients</p> <p>4 for your Canal Zone paintings?</p> <p>5 MR. HAYES: Objection as to form.</p> <p>6 MS. BART: Objection, form.</p> <p>7 Q. You can answer.</p> <p>8 A. Not really because they're in color.</p> <p>9 I guess I could have transformed</p> <p>10 them to black and white. But, again, I wasn't</p> <p>11 aware of this particular company.</p> <p>12 Q. Well, I hear what you're saying.</p> <p>13 One of them is black and white.</p> <p>14 A. Oh, it is?</p> <p>15 Q. I think the fourth one is black and</p> <p>16 white.</p> <p>17 A. A little lavender in it.</p> <p>18 Q. Okay. So that one is not suitable</p> <p>19 either?</p> <p>20 MS. BART: Objection, form.</p> <p>21 MR. HAYES: Same objection.</p> <p>22 Q. Is that what you're saying?</p> <p>23 A. I mean are you asking me if I had</p> <p>24 seen this --</p> <p>25 Q. Would you have used it?</p>
<p style="text-align: center;">290</p> <p>1 Prince</p> <p>2 A. No.</p> <p>3 Q. You don't know?</p> <p>4 A. I don't know.</p> <p>5 Q. Okay, fine.</p> <p>6 MR. BROOKS: Let's mark as</p> <p>7 Plaintiff's Exhibit 30 a number of photos</p> <p>8 printed out from iStockphoto.com.</p> <p>9 (Plaintiff's Exhibit 30, photos from</p> <p>10 iStockphoto.com, was marked for</p> <p>11 identification, as of this date.)</p> <p>12 Q. Have you seen Exhibit 30?</p> <p>13 A. Have I seen this exhibit before?</p> <p>14 Q. Well, look at it now. Have you had</p> <p>15 an opportunity to look at it now?</p> <p>16 A. No --</p> <p>17 MR. HAYES: He wants you to take an</p> <p>18 opportunity to look at it.</p> <p>19 Q. Yes, please do.</p> <p>20 MR. HAYES: Please take a look at</p> <p>21 it.</p> <p>22 A. Yes, I've looked at it now.</p> <p>23 Q. So it's six photos?</p> <p>24 A. Yes.</p> <p>25 Q. I'm aware you weren't aware of</p>	<p style="text-align: center;">292</p> <p>1 Prince</p> <p>2 A. -- like four years ago, three years,</p> <p>3 two years ago, a year ago?</p> <p>4 Q. Yeah.</p> <p>5 MR. HAYES: Objection to the form of</p> <p>6 the question. Calls for speculation.</p> <p>7 A. I don't know.</p> <p>8 Q. You might have used them?</p> <p>9 A. It's possible.</p> <p>10 MO MS. BART: Objection. Move to</p> <p>11 strike as speculative.</p> <p>12 MR. BROOKS: Let's mark as</p> <p>13 Plaintiff's Exhibit 31 three pages from --</p> <p>14 I believe from the Gagosian Gallery</p> <p>15 website Bates stamped C8 through 10.</p> <p>16 (Plaintiff's Exhibit 31, three pages</p> <p>17 from Gagosian Gallery website, was marked</p> <p>18 for identification, as of this date.)</p> <p>19 Q. Mr. Prince, I've placed in front of</p> <p>20 you Plaintiff's Exhibit 31. It says that the</p> <p>21 Canal Zone show was going to be November 8th to</p> <p>22 December 20th, 2008, is that your recollection?</p> <p>23 A. Yes.</p> <p>24 Q. And then under this picture, do you</p> <p>25 know which painting that is, the one at the top?</p>

<p style="text-align: center;">293</p> <p>1 Prince</p> <p>2 A. Is that the Garden of Eden? It's a</p> <p>3 little fuzzy, so. I do know that it has --</p> <p>4 anyway, is it --</p> <p>5 Q. I'm not sure. It's either the</p> <p>6 Garden of Eden or Charlie Company.</p> <p>7 A. It's either one of those two. It's</p> <p>8 a little -- my reproduction here is difficult to</p> <p>9 see.</p> <p>10 Q. And then it says underneath that it</p> <p>11 quotes you, the story was basically about a guy</p> <p>12 that lands in St. Barth's, gets off the plane,</p> <p>13 is immediately told that there's been a nuclear</p> <p>14 holocaust in the rest of the world and he looks</p> <p>15 at his family and says we can't go back.</p> <p>16 So that's taken from your pitch I</p> <p>17 assume?</p> <p>18 MS. BART: Objection, form.</p> <p>19 Q. Is that taken from your pitch?</p> <p>20 A. It sounds like it's been taken from</p> <p>21 my pitch, yes.</p> <p>22 Q. And then beneath that it says, two</p> <p>23 paragraphs down, it says the Panama Canal Zone,</p> <p>24 where he was born -- do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">295</p> <p>1 Prince</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. Was the Panama Canal Zone a place</p> <p>4 that was, to your knowledge, dominated by</p> <p>5 virulent, separatist racism?</p> <p>6 MS. BART: Objection to form.</p> <p>7 MR. HAYES: Objection to form.</p> <p>8 A. I thought it was -- I always</p> <p>9 associated it as a very cool place to live</p> <p>10 except for that Noriega guy, but -- and a lot of</p> <p>11 spooks.</p> <p>12 Q. Spooks meaning spies?</p> <p>13 A. KGB, CIA, yeah, I mean --</p> <p>14 Q. Those kind of spooks?</p> <p>15 A. Yeah. Spies.</p> <p>16 Q. But a convivial, pleasant place to</p> <p>17 live?</p> <p>18 A. I mean my couple of days there was</p> <p>19 very nice.</p> <p>20 Q. How about your six years?</p> <p>21 A. I only remember houses on stilts,</p> <p>22 large insects, and palm trees.</p> <p>23 Q. Okay. On the next page of</p> <p>24 Exhibit 31 it says -- in the middle paragraph it</p> <p>25 says, towards the bottom of it, Canal Zone, this</p>
<p style="text-align: center;">294</p> <p>1 Prince</p> <p>2 Q. -- was until 1979 a political</p> <p>3 exclave of the U.S., part colonial company</p> <p>4 enclave and part socialist government</p> <p>5 purportedly dominated by virulent separatist</p> <p>6 racism.</p> <p>7 Other than the fact that you were</p> <p>8 born there and that it was not part of Panama</p> <p>9 until 1979, do you agree with any of the balance</p> <p>10 of this statement?</p> <p>11 MS. BART: Objection, form.</p> <p>12 A. I've never --</p> <p>13 Q. You can answer.</p> <p>14 A. I've never seen this before. I</p> <p>15 believe this is a press release.</p> <p>16 Q. This is taken from the Gagosian</p> <p>17 Gallery website.</p> <p>18 A. Okay.</p> <p>19 Q. In connection with the opening of</p> <p>20 your show.</p> <p>21 A. I've never seen this text.</p> <p>22 MS. BART: In light of the witness's</p> <p>23 answer I lodge an objection.</p> <p>24 MR. BROOKS: Great.</p> <p>25 MS. BART: Foundation.</p>	<p style="text-align: center;">296</p> <p>1 Prince</p> <p>2 orgiastic post-nuclear new order of civilization</p> <p>3 as we once knew it takes its place among other</p> <p>4 great modern visions of the apocalypse from</p> <p>5 Joseph Conrad's Heart of Darkness and Pablo</p> <p>6 Picasso's Guernica to the Beatles' Helter</p> <p>7 Skelter and Michel Houellebecq's prophetic</p> <p>8 Platform. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you agree with any of that?</p> <p>11 MR. HAYES: Object to form.</p> <p>12 MS. BART: Same.</p> <p>13 A. It's pretty good. I think Louise</p> <p>14 Neri probably wrote this. I would say that</p> <p>15 that's kind of an interesting take on what I</p> <p>16 was -- let me just --</p> <p>17 Q. Go ahead.</p> <p>18 A. Canal Zone, this orgiastic</p> <p>19 post-nuclear -- I like the Heart of Darkness.</p> <p>20 Q. Joseph Conrad?</p> <p>21 A. And I like the Guernica.</p> <p>22 I've read Platform, but I'm much</p> <p>23 more of a fan of Houellebecq's Atomised. He's a</p> <p>24 French author. Terrific writer.</p> <p>25 And Helter Skelter I would have</p>

<p style="text-align: center;">297</p> <p>1 Prince</p> <p>2 substituted a Ramones song.</p> <p>3 Q. But you find this to be an apt</p> <p>4 description of your paintings in the Canal Zone</p> <p>5 exhibition?</p> <p>6 MS. BART: Objection to form.</p> <p>7 A. It's not necessarily the way I would</p> <p>8 have described it had they asked me to write the</p> <p>9 press release. But I don't write press releases</p> <p>10 and I don't read them.</p> <p>11 Q. And is this the first time --</p> <p>12 A. I find them -- sorry.</p> <p>13 MS. BART: No, you were talking. He</p> <p>14 interrupted you.</p> <p>15 Q. Go ahead.</p> <p>16 A. I find press releases incredibly</p> <p>17 silly and boring, and I just don't -- I've never</p> <p>18 wanted anything -- because they're really just</p> <p>19 trying to hype the work. And I don't</p> <p>20 particularly like to get involved in that.</p> <p>21 Q. And, again, is this the first time</p> <p>22 you're seeing this press release?</p> <p>23 A. This is the first time I'm seeing</p> <p>24 this.</p> <p>25 Q. On the last page it says that mining</p>	<p style="text-align: center;">299</p> <p>1 Prince</p> <p>2 the ego, but I guess authorship is a fairly</p> <p>3 accurate and it's an okay word.</p> <p>4 I mean it's very -- all it is is</p> <p>5 philosophical. And, you know, it's sort of like</p> <p>6 someone writing a term paper, you know, it's</p> <p>7 academic. You know, it's something that takes</p> <p>8 place in October Magazine, which I don't</p> <p>9 particularly like and Columbia University and,</p> <p>10 you know, it's -- I'm much more of a -- well,</p> <p>11 I'm much more interested in trying to make art</p> <p>12 that stands up next to Picasso, De Kooning, and</p> <p>13 Warhol. That's what I'm interested in.</p> <p>14 MR. BROOKS: Let's mark as exhibit,</p> <p>15 Plaintiff's Exhibit 32, a two-page</p> <p>16 document GGP004298 and 99.</p> <p>17 (Plaintiff's Exhibit 32, two-page</p> <p>18 document, was marked for identification,</p> <p>19 as of this date.)</p> <p>20 Q. Before we get to this, I just -- I</p> <p>21 forgot to ask you a follow-up question before.</p> <p>22 Do you remember you were looking at</p> <p>23 that press release that mentioned Helter Skelter</p> <p>24 and Guernica and Heart of Darkness?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">298</p> <p>1 Prince</p> <p>2 images from mass media, advertising, and</p> <p>3 entertainment since the late '70s, Prince has</p> <p>4 redefined the concepts of authorship, ownership,</p> <p>5 and aura. Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you agree that you've redefined</p> <p>8 the concept of authorship?</p> <p>9 A. I would hope that I've had some hand</p> <p>10 in redefining the issues that have to do with</p> <p>11 authorship.</p> <p>12 Q. How so?</p> <p>13 A. It has to do with that concept that</p> <p>14 people really believe artists are special and</p> <p>15 they have something special to say. There was a</p> <p>16 time in the late '70s when I didn't go along</p> <p>17 with that concept. And there was that essay by</p> <p>18 Roland Barthes called Death of an Author, and it</p> <p>19 was just an issue that was going around town.</p> <p>20 And I think that I got caught up in</p> <p>21 it and I got involved in it and I sort of</p> <p>22 decided to do something about it in my own</p> <p>23 particular little way.</p> <p>24 And hopefully, yes, I hope that --</p> <p>25 you know, I would have called it the death of</p>	<p style="text-align: center;">300</p> <p>1 Prince</p> <p>2 Q. Do you think that's a more apt</p> <p>3 description of these paintings in the Canal Zone</p> <p>4 exhibit than Manet's Luncheon On the Grass?</p> <p>5 MS. BART: Objection to form.</p> <p>6 MR. HAYES: Objection to form.</p> <p>7 Q. You can answer.</p> <p>8 A. Manet on the Grass isn't a bad</p> <p>9 stretch.</p> <p>10 Q. Is or isn't? I didn't hear.</p> <p>11 A. I think it's a fairly good stretch</p> <p>12 as a description. In comparison to Heart of</p> <p>13 Darkness, Colonel Kurtz, Apocalypse Now.</p> <p>14 Q. The movie?</p> <p>15 A. Yeah, I mean it's -- they're all --</p> <p>16 that's the great thing about making this kind of</p> <p>17 art is that it has all these -- it can provide</p> <p>18 different interpretations.</p> <p>19 Q. So it can be like Manet's Déjeuner</p> <p>20 sur l'herbe, Lunch on the Grass, it can be like</p> <p>21 Guernica?</p> <p>22 MR. HAYES: Objection to form.</p> <p>23 MS. BART: Join.</p> <p>24 Q. Sticking to paintings?</p> <p>25 A. I wouldn't -- I would rather have</p>

<p style="text-align: center;">301</p> <p>1 Prince</p> <p>2 had Picasso's Mademoiselle d'Avignon. I think</p> <p>3 it's a much more accurate painting because of</p> <p>4 the masks and the revolutionary techniques and</p> <p>5 the way he appropriated African imagery in that</p> <p>6 painting than the Manet.</p> <p>7 Also, it reminds me of the bands,</p> <p>8 that Mademoiselle d'Avignon.</p> <p>9 Q. Okay. I'm going to ask you to look</p> <p>10 at the back of what's been marked as Exhibit 42,</p> <p>11 which is the Canal Zone book, and tell me how</p> <p>12 many --</p> <p>13 MR. HAYES: I'm just taking off my</p> <p>14 microphone so I can get it for you.</p> <p>15 Q. Tell me how many paintings are</p> <p>16 listed in the book. And we're starting with</p> <p>17 page C210. You don't have to name them, I just</p> <p>18 want you to tell me how many.</p> <p>19 MS. BART: All of them or --</p> <p>20 MR. BROOKS: All together.</p> <p>21 MR. HAYES: You want him to count</p> <p>22 them?</p> <p>23 MR. BROOKS: No, they're numbered.</p> <p>24 You don't have to count them.</p> <p>25 MS. BART: Right. But not all of</p>	<p style="text-align: center;">303</p> <p>1 Prince</p> <p>2 itself, could you take a look at Exhibit 32</p> <p>3 which has just been handed to you?</p> <p>4 A. Yes.</p> <p>5 Q. Some kind of schematic of your show?</p> <p>6 A. It looks like it's some kind of the</p> <p>7 way we positioned --</p> <p>8 Q. Exactly.</p> <p>9 A. -- the paintings.</p> <p>10 Q. Yes. And so if you add these up,</p> <p>11 again, not counting the Dear Mary, the car, it's</p> <p>12 part of a sculpture, part of a car. It looks</p> <p>13 like there were only 15 paintings actually</p> <p>14 exhibited during your show, is that correct?</p> <p>15 A. I believe I -- yes, I count 15</p> <p>16 paintings on this chart.</p> <p>17 Q. And now I'm asking you a slightly</p> <p>18 different question. Is that your recollection</p> <p>19 of how many paintings were actually exhibited at</p> <p>20 the show?</p> <p>21 MR. HAYES: Objection as to form.</p> <p>22 A. Is that my recollection? I never</p> <p>23 really thought about it until you asked me the</p> <p>24 question. I'm assuming, now that I look at this</p> <p>25 chart, I can definitely say -- I believe I can</p>
<p style="text-align: center;">302</p> <p>1 Prince</p> <p>2 them are at issue in this lawsuit.</p> <p>3 MR. BROOKS: I didn't ask him --</p> <p>4 well, that's -- I'm not going to argue</p> <p>5 with you about what's at issue in this</p> <p>6 lawsuit. I'm asking him how many</p> <p>7 paintings are in the book. That's all.</p> <p>8 A. Well, it says here -- how many</p> <p>9 paintings are in the Canal Zone exhibition?</p> <p>10 Q. In that book.</p> <p>11 A. It's funny, they didn't list -- I</p> <p>12 just realized they didn't list a work.</p> <p>13 Q. Yeah, they didn't list a few. But</p> <p>14 I'm just asking you how many are listed in the</p> <p>15 book?</p> <p>16 A. 22.</p> <p>17 Q. Now, there's a 23rd thing, but</p> <p>18 that's not a painting at all, right, that's like</p> <p>19 a car hood or something?</p> <p>20 A. Yes.</p> <p>21 Q. So if we're talking about paintings</p> <p>22 it lists 22 paintings, correct?</p> <p>23 A. I believe so, yes. I count 22. I</p> <p>24 see 22.</p> <p>25 Q. Right. Now, the actual exhibition</p>	<p style="text-align: center;">304</p> <p>1 Prince</p> <p>2 kind of remember where every painting was hung.</p> <p>3 And I believe, yes, it was 15 paintings.</p> <p>4 Q. If you look on the second page at</p> <p>5 the top, this is that painting we've been</p> <p>6 talking about about the four lesbians who took</p> <p>7 over the Guanahani?</p> <p>8 A. Yes.</p> <p>9 Q. And the first one is Djuna,</p> <p>10 D-J-U-N-A, Barnes.</p> <p>11 A. Djuna Barnes.</p> <p>12 Q. And then Natalie Barney?</p> <p>13 A. Natalie Barney.</p> <p>14 Q. Renée Vivien?</p> <p>15 A. And Romaine Brooks.</p> <p>16 (Clarification by reporter.)</p> <p>17 Q. Romaine Brooks?</p> <p>18 A. They have it spelled wrong here.</p> <p>19 Q. I know.</p> <p>20 Now, a number of these paintings</p> <p>21 that are in Exhibit 32 are not listed in the</p> <p>22 book that you were just looking at where it</p> <p>23 lists 22 paintings, correct?</p> <p>24 For instance, the very first one</p> <p>25 Pumpsie Green is not listed, right?</p>

<p style="text-align: center;">305</p> <p>1 Prince</p> <p>2 MR. HAYES: He's asking you whether</p> <p>3 they're listed at the back of the book, if</p> <p>4 you want to compare them.</p> <p>5 A. Oh, so Pumpsie Green is not in the</p> <p>6 catalog?</p> <p>7 Q. That's right.</p> <p>8 A. I didn't really notice that, but if</p> <p>9 you say -- yeah, I mean I can go back and check.</p> <p>10 Q. Just check that one. The others,</p> <p>11 the record will speak for itself.</p> <p>12 A. I don't -- I've never really looked</p> <p>13 at the back of this catalog.</p> <p>14 Q. Right.</p> <p>15 A. Pumpsie Green was in the show and</p> <p>16 it's not listed in the catalog.</p> <p>17 What page are we looking for?</p> <p>18 MR. HAYES: 210 through 213.</p> <p>19 210 through 212, I'm sorry.</p> <p>20 A. I think what's listed here has to do</p> <p>21 with the Canal Zone catalog.</p> <p>22 Q. Right.</p> <p>23 A. And what's listed here has to do</p> <p>24 with the show.</p> <p>25 Q. Right. So they're not -- there's</p>	<p style="text-align: center;">307</p> <p>1 Prince</p> <p>2 in gallery 3, number 5, but it's not in the book</p> <p>3 either, is it?</p> <p>4 A. There is a -- it's interesting,</p> <p>5 there's a variation in the book.</p> <p>6 Q. Ah.</p> <p>7 A. And you would never know.</p> <p>8 Q. I see. So it's a different painting</p> <p>9 or is it --</p> <p>10 A. It's the same painting.</p> <p>11 Q. A different --</p> <p>12 A. Do you want me to show you?</p> <p>13 Q. We'll get to it.</p> <p>14 And now, a Scapegoat is listed here</p> <p>15 in gallery 3 as having been exhibited, but it's</p> <p>16 not in the book either, is it?</p> <p>17 A. Scapegoat -- no.</p> <p>18 MR. BROOKS: In fact, let's mark</p> <p>19 as Plaintiff's Exhibit 33 a number of</p> <p>20 paintings that are not listed in the book?</p> <p>21 MS. BART: This is 34?</p> <p>22 MR. BROOKS: This is 33.</p> <p>23 (Plaintiff's Exhibit 33, listing of</p> <p>24 paintings, was marked for identification,</p> <p>25 as of this date.)</p>
<p style="text-align: center;">306</p> <p>1 Prince</p> <p>2 some overlap --</p> <p>3 A. I mean it's two separate --</p> <p>4 Q. -- but there's also some paintings</p> <p>5 that were exhibited that are not in the catalog,</p> <p>6 right?</p> <p>7 A. My feeling is there's -- yeah,</p> <p>8 there's two -- yeah, two separate ways of</p> <p>9 identifying really what's two separate ways of</p> <p>10 contemplating the Canal Zone idea.</p> <p>11 Q. So besides Pumpsie Green is it</p> <p>12 correct that MC9 White Panthers is listed as</p> <p>13 being in the show but -- in gallery three -- but</p> <p>14 is not listed in the book?</p> <p>15 A. Yes, MC9 was one of the last</p> <p>16 paintings.</p> <p>17 Q. Right.</p> <p>18 A. It didn't make --</p> <p>19 Q. Didn't make the cut?</p> <p>20 A. Didn't make the cut for the catalog.</p> <p>21 And I believe that's the painting</p> <p>22 where Charles Company's daughter appears.</p> <p>23 Q. MC9?</p> <p>24 A. I believe so.</p> <p>25 Q. How about Inquisition, that's listed</p>	<p style="text-align: center;">308</p> <p>1 Prince</p> <p>2 Q. All right. So Exhibit 33 contains</p> <p>3 it looks like seven paintings that are not</p> <p>4 listed in the Canal Zone book, correct?</p> <p>5 I'll read them into the record.</p> <p>6 MC9, paren, White Panthers.</p> <p>7 Myrna Loy, Janet Flanner, et cetera,</p> <p>8 et cetera, and Oscar Wilde's niece Dolly Wilde.</p> <p>9 Pumpsie Green.</p> <p>10 Uncle Tom, Dick, and Harry.</p> <p>11 On the Beach, On the Beach.</p> <p>12 Inquisition --</p> <p>13 MR. HAYES: Tom, Dick, and Harry is</p> <p>14 2008, right?</p> <p>15 MR. BROOKS: They all are 2008.</p> <p>16 BY MR. BROOKS:</p> <p>17 Q. On the Beach, On the Beach.</p> <p>18 Inquisition.</p> <p>19 And Scapegoat.</p> <p>20 These are in Exhibit 33, Mr. Prince,</p> <p>21 and they're all not listed at the end of the</p> <p>22 book, correct?</p> <p>23 A. No, they're not.</p> <p>24 Q. So then if my math is correct, if</p> <p>25 you add 22 and 7 that means there were 29</p>

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<p style="text-align: center;">309</p> <p>1 Prince</p> <p>2 paintings in all, right?</p> <p>3 MS. BART: Objection to form.</p> <p>4 A. In the Canal Zone series?</p> <p>5 Q. Yes.</p> <p>6 A. I don't really know how many are in</p> <p>7 the Canal Zone.</p> <p>8 Q. At least 29?</p> <p>9 A. But if we've counted 29 there's at</p> <p>10 least 29, yeah.</p> <p>11 Q. 22 plus the 7 that are in</p> <p>12 Exhibit 33, right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Do you know of those 29 how</p> <p>15 many were sold, do you know?</p> <p>16 A. No, I don't.</p> <p>17 Q. Let me ask you about the ones that</p> <p>18 haven't been sold. Are they on public display</p> <p>19 now or are they somewhere safe? Where are they?</p> <p>20 A. In my racks in my studio.</p> <p>21 Q. So they're not --</p> <p>22 A. And I believe some are being</p> <p>23 prepared to be -- I think some are in storage,</p> <p>24 at the moment, I'm not positive about this,</p> <p>25 either at Larry's storage or my storage in</p>	<p style="text-align: center;">311</p> <p>1 Prince</p> <p>2 THE WITNESS: So about an hour more</p> <p>3 until six?</p> <p>4 MR. BROOKS: Well, you know, running</p> <p>5 time -- how much running time do we have</p> <p>6 left?</p> <p>7 THE WITNESS: I can't go past -- I</p> <p>8 don't know if I can go past six.</p> <p>9 MR. BROOKS: Okay. How much running</p> <p>10 time --</p> <p>11 THE VIDEOGRAPHER: About five hours</p> <p>12 and -- 5:45 exactly.</p> <p>13 MS. BART: 5:45, right?</p> <p>14 MR. BROOKS: So we have another hour</p> <p>15 and fifteen minutes that we're entitled to</p> <p>16 under the rules.</p> <p>17 So I'm willing to accommodate you.</p> <p>18 If you feel you want to stop now, with the</p> <p>19 understanding that I've got another hour</p> <p>20 and fifteen minutes to ask you questions?</p> <p>21 MR. HAYES: And this gentleman</p> <p>22 may --</p> <p>23 THE WITNESS: I'll take your advice,</p> <p>24 so.</p> <p>25 MR. BROOKS: It's completely up to</p>
<p style="text-align: center;">310</p> <p>1 Prince</p> <p>2 Brooklyn.</p> <p>3 Q. All right. But they're not</p> <p>4 somewhere where members of the public can view</p> <p>5 them, is that right?</p> <p>6 A. No, I haven't allowed anybody to</p> <p>7 look at them in quite some time.</p> <p>8 MR. BROOKS: Let's mark as</p> <p>9 Plaintiff's 34 a letter dated</p> <p>10 December 11th, 2008, Bates stamped C13</p> <p>11 and 14.</p> <p>12 (Plaintiff's Exhibit 34, letter</p> <p>13 dated December 11, 2008, was marked for</p> <p>14 identification, as of this date.)</p> <p>15 (Discussion off the record.)</p> <p>16 THE WITNESS: How long do we have?</p> <p>17 MR. HAYES: He's guessing about an</p> <p>18 hour. You may have to be somewhere --</p> <p>19 THE WITNESS: I'm fried. I mean</p> <p>20 this has been a long day. Is there any</p> <p>21 way we can come back?</p> <p>22 Or can you give me an idea of how</p> <p>23 much more time and I can tell you?</p> <p>24 MR. BROOKS: I said I think about an</p> <p>25 hour.</p>	<p style="text-align: center;">312</p> <p>1 Prince</p> <p>2 you.</p> <p>3 THE WITNESS: Yeah, I mean I'm</p> <p>4 comfortable. It's just that I have to be</p> <p>5 at an opening tonight, and I promised my</p> <p>6 daughter that I would be home.</p> <p>7 MR. BROOKS: What time do you have</p> <p>8 to leave here?</p> <p>9 MR. HAYES: Now.</p> <p>10 THE WITNESS: As I said, I have to</p> <p>11 get home at six.</p> <p>12 MR. BROOKS: All right. So let me</p> <p>13 try --</p> <p>14 MR. HAYES: But, you know, you call</p> <p>15 it. I mean do you want to just get it</p> <p>16 over with?</p> <p>17 (Clarification by reporter.)</p> <p>18 MR. BROOKS: So what did we say,</p> <p>19 another hour and fifteen minutes?</p> <p>20 I'm willing to do it tomorrow</p> <p>21 morning and break right now --</p> <p>22 MS. BART: I'm not available</p> <p>23 tomorrow.</p> <p>24 MR. BROOKS: Thursday morning we're</p> <p>25 all scheduled to be here. Finish him and</p>

<p style="text-align: center;">313</p> <p>1 Prince</p> <p>2 then start.</p> <p>3 MS. BART: I'm not able to be here</p> <p>4 because I'm going to be with Mr. Gagosian,</p> <p>5 so.</p> <p>6 MR. BROOKS: Well, he's going to be</p> <p>7 here having his deposition.</p> <p>8 MS. BART: At 10. Yeah, I can't get</p> <p>9 down here earlier than that.</p> <p>10 MR. BROOKS: Well, I mean whatever,</p> <p>11 it's really --</p> <p>12 MR. HAYES: He can stay until six.</p> <p>13 THE WITNESS: I can stay until six.</p> <p>14 MR. BROOKS: Okay. Well, let's see</p> <p>15 if we -- is that okay with you?</p> <p>16 THE COURT REPORTER: That's fine</p> <p>17 with me.</p> <p>18 THE WITNESS: I only can stay until</p> <p>19 six if that's it. I don't want to come</p> <p>20 back for fifteen minutes --</p> <p>21 MR. BROOKS: I can't promise -- I</p> <p>22 can't control the objections --</p> <p>23 THE WITNESS: Then I can't promise</p> <p>24 that I can stay until six. If you can't</p> <p>25 promise me, I can't promise you.</p>	<p style="text-align: center;">314</p> <p>1 Prince</p> <p>2 MR. BROOKS: Well, it's not entirely</p> <p>3 in my control how long this takes. There</p> <p>4 are objections --</p> <p>5 THE WITNESS: I thought that we --</p> <p>6 MR. HAYES: He's up to -- he has an</p> <p>7 hour and 15 minutes left. He can do that</p> <p>8 if he wants.</p> <p>9 MR. BROOKS: The rule is seven hours</p> <p>10 of actual testimony.</p> <p>11 THE WITNESS: Okay. Then let's do</p> <p>12 it --</p> <p>13 MR. BROOKS: I'll accommodate you.</p> <p>14 THE WITNESS: I'm in the city, I can</p> <p>15 come back --</p> <p>16 MR. HAYES: How is Thursday morning?</p> <p>17 THE WITNESS: Friday morning I</p> <p>18 could, but I have to -- I can only do it</p> <p>19 in the morning.</p> <p>20 MR. BROOKS: It's an hour and</p> <p>21 fifteen minutes.</p> <p>22 THE WITNESS: That doesn't concern</p> <p>23 me. It's tonight.</p> <p>24 MS. BART: Friday morning I've got</p> <p>25 client meetings that are already set up,</p>
<p style="text-align: center;">315</p> <p>1 Prince</p> <p>2 you know, for these days, so I can't do</p> <p>3 Friday morning unfortunately.</p> <p>4 MR. HAYES: Monday morning?</p> <p>5 THE WITNESS: Monday is a holiday.</p> <p>6 MS. BART: It is?</p> <p>7 THE WITNESS: Yeah, it's Columbus</p> <p>8 Day.</p> <p>9 MR. HAYES: What kind of good</p> <p>10 Italian are you?</p> <p>11 THE WITNESS: I can do it -- well, I</p> <p>12 can do it almost any day except Thursday</p> <p>13 morning.</p> <p>14 MR. BROOKS: Why don't we do this.</p> <p>15 Why don't we start with him at 10 on</p> <p>16 Thursday, we'll finish him --</p> <p>17 THE WITNESS: I can't --</p> <p>18 MR. HAYES: That's the one day he</p> <p>19 can't do.</p> <p>20 THE WITNESS: I can do it in the</p> <p>21 afternoon on Thursday.</p> <p>22 MR. BROOKS: No, we're having</p> <p>23 Mr. Gagosian's deposition on Thursday.</p> <p>24 MS. BART: And Mr. Gagosian flew</p> <p>25 back from Europe specifically for this.</p>	<p style="text-align: center;">316</p> <p>1 Prince</p> <p>2 So I don't want to start him late.</p> <p>3 THE WITNESS: What's tomorrow?</p> <p>4 MR. HAYES: Tomorrow is Wednesday.</p> <p>5 MS. BART: I'm not available</p> <p>6 tomorrow.</p> <p>7 THE WITNESS: I can do it tomorrow.</p> <p>8 MR. HAYES: Can you do it tomorrow</p> <p>9 afternoon?</p> <p>10 MS. BART: No.</p> <p>11 MR. HAYES: That took care of that.</p> <p>12 Tuesday?</p> <p>13 THE WITNESS: Can you guarantee me</p> <p>14 6:15 and that's it?</p> <p>15 MR. BROOKS: Yes.</p> <p>16 THE WITNESS: Promise?</p> <p>17 MR. BROOKS: Yes.</p> <p>18 THE WITNESS: Okay, I can --</p> <p>19 MR. BROOKS: Let's go then.</p> <p>20 THE WITNESS: -- because I got the</p> <p>21 car service outside.</p> <p>22 MR. BROOKS: All right.</p> <p>23 Let's mark as Plaintiff's 35 a</p> <p>24 document Bates stamped PR45 through 50.</p> <p>25 (Plaintiff's Exhibit 35, PR45</p>

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<p style="text-align: center;">317</p> <p>1 Prince</p> <p>2 through 50, was marked for identification,</p> <p>3 as of this date.)</p> <p>4 (Discussion off the record.)</p> <p>5 Q. Let's go back to 34. It's a letter</p> <p>6 dated December 11th.</p> <p>7 A. December 11th?</p> <p>8 Q. 2008. From me. Do you see it?</p> <p>9 A. Yes, I do.</p> <p>10 Q. I only have one question.</p> <p>11 Did you receive it?</p> <p>12 A. I'm not in a position to know if I</p> <p>13 received it. I don't know.</p> <p>14 Q. Well, let me ask you this. Is that</p> <p>15 your correct address on the letter?</p> <p>16 A. Yes, it is.</p> <p>17 Q. You just don't know if you received</p> <p>18 it?</p> <p>19 A. I've never seen it before.</p> <p>20 Q. Okay. That's fine.</p> <p>21 Take a look at 35. This is a</p> <p>22 document that was produced by your counsel. Do</p> <p>23 you know what it is?</p> <p>24 A. Yes.</p> <p>25 Q. What is it?</p>	<p style="text-align: center;">319</p> <p>1 Prince</p> <p>2 Q. And was there ever -- were you ever</p> <p>3 approached about hanging your artwork in that</p> <p>4 restaurant?</p> <p>5 A. Yes.</p> <p>6 Q. The Blue Parrot restaurant?</p> <p>7 A. Yes.</p> <p>8 Q. And is any of your artwork --</p> <p>9 withdrawn.</p> <p>10 Has any of your artwork been</p> <p>11 displayed there since the restaurant reopened</p> <p>12 last summer?</p> <p>13 A. Yes.</p> <p>14 Q. It wasn't any of the Canal Zone</p> <p>15 paintings, was it?</p> <p>16 A. No.</p> <p>17 Q. Did the Bush daughters come to the</p> <p>18 dinner, Barbara and Lauren Bush?</p> <p>19 A. Are they on the list?</p> <p>20 Q. Yes.</p> <p>21 A. I don't think so. I don't know</p> <p>22 them. So, no. That's a lot of people there.</p> <p>23 No.</p> <p>24 Q. Did Paul McCartney or Mick Jagger</p> <p>25 come to the dinner?</p>
<p style="text-align: center;">318</p> <p>1 Prince</p> <p>2 A. It looks as if it's a guest list for</p> <p>3 a party.</p> <p>4 Q. On November 8th, 2008?</p> <p>5 A. Yes, the party that was after the</p> <p>6 show.</p> <p>7 Q. But it was in honor of the opening</p> <p>8 of the show?</p> <p>9 A. Yes.</p> <p>10 Q. If you look at the very end, the</p> <p>11 last page, do you see that Renée Zellweger was</p> <p>12 one of the people invited?</p> <p>13 A. I see that her name is on the list,</p> <p>14 yes.</p> <p>15 Q. Do you know her?</p> <p>16 A. No. I've met her.</p> <p>17 Q. Does she co-own a restaurant in</p> <p>18 East Hampton called the Blue Parrot?</p> <p>19 MR. HAYES: If you know.</p> <p>20 Q. If you know.</p> <p>21 A. I believe she's a co-owner in the</p> <p>22 restaurant.</p> <p>23 Q. With Ronald Perelman and Larry</p> <p>24 Gagosian and Bon Jovi?</p> <p>25 A. Yes, that's what I've heard.</p>	<p style="text-align: center;">320</p> <p>1 Prince</p> <p>2 A. No.</p> <p>3 Q. Who is John Kern, is he an artist</p> <p>4 who was represented by Gagosian, do you know?</p> <p>5 A. He's an artist. I don't know if</p> <p>6 he's represented by Gagosian.</p> <p>7 Q. Steven Cohen, did he buy one of your</p> <p>8 paintings?</p> <p>9 A. Yes.</p> <p>10 Q. Does he have a hedge fund called</p> <p>11 SAC, Steven A. Cohen?</p> <p>12 A. I don't know what it's called. I</p> <p>13 know he has a hedge fund.</p> <p>14 Q. Do you know who Leon Black is?</p> <p>15 A. Leon Black, no, I don't know who</p> <p>16 that is.</p> <p>17 Q. How about Henry Kravis?</p> <p>18 A. I know Henry Kravis. I played golf</p> <p>19 with him this summer.</p> <p>20 Q. He's a private equity person?</p> <p>21 A. I don't know what he does.</p> <p>22 Q. How about Jeanne Greenberg Rohatyn,</p> <p>23 did she buy a painting from you?</p> <p>24 A. Yes.</p> <p>25 Q. Who is she?</p>

<p style="text-align: center;">321</p> <p>1 Prince</p> <p>2 A. She's an art dealer.</p> <p>3 Q. And I think we already talked about</p> <p>4 Mr. Evans, he bought one of your paintings,</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. His first name is Michael?</p> <p>8 A. Michael.</p> <p>9 Q. There are two people listed there</p> <p>10 named Niarchos, N-I-A-R-C-H-O-S. Did either of</p> <p>11 them buy one of your paintings from the Canal</p> <p>12 Zone show?</p> <p>13 A. Philip Niarchos bought -- yes, I</p> <p>14 believe he did.</p> <p>15 Q. You don't remember which painting?</p> <p>16 A. Yes, I do.</p> <p>17 I think he bought the Eden, the</p> <p>18 Garden of Eden.</p> <p>19 Q. The one from the 2007 show --</p> <p>20 withdrawn. Withdrawn.</p> <p>21 From the 2008 show?</p> <p>22 A. No, I think it was the one from --</p> <p>23 the one that was hanging -- I think it was -- I</p> <p>24 don't pay much attention to who buys what, but I</p> <p>25 believe he bought number six -- Back to the</p>	<p style="text-align: center;">323</p> <p>1 Prince</p> <p>2 I don't know if they say redacted on</p> <p>3 them though. I don't know what that means.</p> <p>4 Q. I don't either.</p> <p>5 MR. HAYES: Redacted by my office</p> <p>6 because they redacted out the paintings</p> <p>7 that were not related to Canal Zone.</p> <p>8 Q. So the first one is Canal Zone?</p> <p>9 A. Yes.</p> <p>10 Q. So that was sold for \$1.2 million</p> <p>11 dollars and you received \$720,000, is that</p> <p>12 right?</p> <p>13 A. If that's what it says, yes.</p> <p>14 Q. RP share, that would be your share,</p> <p>15 right?</p> <p>16 A. That would have been -- if it sold</p> <p>17 for 1.2 I would have received -- I don't know if</p> <p>18 there was a discount. I very rarely pay</p> <p>19 attention to what -- I don't pay any attention</p> <p>20 to these kind of things, but if this is what</p> <p>21 they sent me, this is what happened.</p> <p>22 Q. Well, this came from your production</p> <p>23 so somebody must have sent it to you.</p> <p>24 A. If Betsy sent it and if she says,</p> <p>25 then I believe it.</p>
<p style="text-align: center;">322</p> <p>1 Prince</p> <p>2 Garden, I'm sorry, Back to the Garden.</p> <p>3 Q. Back to the Garden.</p> <p>4 Do you know how much he paid for it?</p> <p>5 A. No, I don't.</p> <p>6 MR. BROOKS: Let's mark as</p> <p>7 Plaintiff's Exhibit 36 a multipage</p> <p>8 document with some different accountings</p> <p>9 that were sent to Mr. Prince by Gagosian</p> <p>10 Gallery.</p> <p>11 (Plaintiff's Exhibit 36, multipage</p> <p>12 accounting document, was marked for</p> <p>13 identification, as of this date.)</p> <p>14 Q. Mr. Prince, before I get to that, I</p> <p>15 neglected to ask you, you know that painting on</p> <p>16 wood -- not a painting, a collage on wood from</p> <p>17 the 2007 show that was called Canal Zone 2007?</p> <p>18 A. Yes.</p> <p>19 Q. Did you sell that?</p> <p>20 A. No, that wasn't for sale.</p> <p>21 Q. You still have it?</p> <p>22 A. I have that.</p> <p>23 Q. So now let's look at Exhibit 36.</p> <p>24 Do you receive accountings like this?</p> <p>25 A. Yes, I believe -- yes, I do.</p>	<p style="text-align: center;">324</p> <p>1 Prince</p> <p>2 Q. The next one is Other Side of the</p> <p>3 Island, it indicates that that too was sold for</p> <p>4 \$1,200,000 and that your share was \$720,000,</p> <p>5 correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And then this untitled Rasta was</p> <p>8 sold for \$400,000 and your share was \$240,000?</p> <p>9 A. I'm not -- I don't -- I didn't</p> <p>10 realize that painting had sold. But if that's</p> <p>11 what it says, then it did.</p> <p>12 Q. And then Naked Confessions?</p> <p>13 A. Yes, I remember that painting.</p> <p>14 Q. You received 270,000 out of 450,000?</p> <p>15 A. Yes.</p> <p>16 Q. And the next one is Mr. Jones, that</p> <p>17 one?</p> <p>18 A. Mr. Jones, yes.</p> <p>19 Q. That was sold for 2 million and you</p> <p>20 received 1.2 million?</p> <p>21 A. Yes.</p> <p>22 Q. And the Scapegoat was sold for</p> <p>23 2 million and you received 1.2 million, is that</p> <p>24 right?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">325</p> <p>1 Prince</p> <p>2 Q. I didn't hear your answer.</p> <p>3 A. Yes.</p> <p>4 Q. And if you turn a few more pages to</p> <p>5 page PR124 at the bottom?</p> <p>6 A. Yes.</p> <p>7 Q. You'll see Specially Round Midnight,</p> <p>8 which was sold for it appears 2,430,000 and your</p> <p>9 share was 1,458,000 dollars, is that correct?</p> <p>10 A. Wow -- yeah. Yes.</p> <p>11 MR. BROOKS: Okay. This is</p> <p>12 Exhibit 40, we're skipping --</p> <p>13 MR. HAYES: A bunch.</p> <p>14 MR. BROOKS: We're skipping 37 and</p> <p>15 38.</p> <p>16 MS. BART: And 39.</p> <p>17 MR. BROOKS: And 39.</p> <p>18 In the hopes of expediting this --</p> <p>19 MS. BART: Thank you.</p> <p>20 MR. BROOKS: -- we're going to move</p> <p>21 right to 40.</p> <p>22 (Plaintiff's Exhibit 40, paintings</p> <p>23 and photos juxtaposed, was marked for</p> <p>24 identification, as of this date.)</p> <p>25 MS. BART: Mr. Brooks, can you just</p>	<p style="text-align: center;">326</p> <p>1 Prince</p> <p>2 tell me if this is something your office</p> <p>3 prepared?</p> <p>4 MR. BROOKS: No, Mr. Cariou prepared</p> <p>5 it with somebody else's help. And it was</p> <p>6 produced in our initial disclosure.</p> <p>7 MS. BART: No, I mean that I just</p> <p>8 wanted to know the source of it.</p> <p>9 MR. BROOKS: We did not produce it.</p> <p>10 MR. HAYES: This is 40?</p> <p>11 MR. BROOKS: Yes.</p> <p>12 BY MR. BROOKS:</p> <p>13 Q. Before we get to Exhibit 40, I'll</p> <p>14 tell you what it is. It's a juxtaposition I</p> <p>15 guess of various of your paintings and various</p> <p>16 of the photographs in Yes Rasta from which</p> <p>17 images were taken in your paintings. That's</p> <p>18 what this is entitled -- that's what this is</p> <p>19 intended to be.</p> <p>20 At the end there are some other</p> <p>21 images that maybe are not in the Canal Zone</p> <p>22 book, but I'll get to those later, and they were</p> <p>23 taken from the Yes Rasta book.</p> <p>24 MS. BART: And for the record, this</p> <p>25 was done by Mr. Cariou and someone helping</p>
<p style="text-align: center;">327</p> <p>1 Prince</p> <p>2 him?</p> <p>3 MR. BROOKS: Yes, that's correct.</p> <p>4 But as backup we have the Canal Zone</p> <p>5 book and we have the Yes Rasta book. So</p> <p>6 if anything is incorrect then so be it.</p> <p>7 THE WITNESS: This could be a cool</p> <p>8 book.</p> <p>9 MS. BART: Okay, stop.</p> <p>10 BY MR. BROOKS:</p> <p>11 Q. Well, I'm not showing it to you in</p> <p>12 your capacity as an artist. You have to have</p> <p>13 your witness hat on.</p> <p>14 I'm going to ask you -- before we go</p> <p>15 to this comparison, can you take the Canal Zone</p> <p>16 book, which probably has been dismembered now.</p> <p>17 A. Oh, the Canal Zone book. I don't</p> <p>18 have a copy of that.</p> <p>19 MS. BART: Here.</p> <p>20 THE WITNESS: No, I need the book,</p> <p>21 the actual book.</p> <p>22 MR. HAYES: They've told us this is</p> <p>23 supposed to be a copy.</p> <p>24 THE WITNESS: You want the book</p> <p>25 or -- oh, this?</p>	<p style="text-align: center;">328</p> <p>1 Prince</p> <p>2 MR. BROOKS: Yes. Go to page -- can</p> <p>3 you help him, Mr. Hayes?</p> <p>4 THE WITNESS: Yeah, I got it.</p> <p>5 MR. BROOKS: Bates stamp page</p> <p>6 C00118.</p> <p>7 THE WITNESS: 118.</p> <p>8 MR. BROOKS: All right. Now, just</p> <p>9 keep your -- keep that place -- keep your</p> <p>10 hand on there. And, again, I'm going to</p> <p>11 ask you to go back to the end of the book,</p> <p>12 but don't lose that page.</p> <p>13 MR. HAYES: We got it.</p> <p>14 MR. BROOKS: Where -- the very last</p> <p>15 page where there's a copyright notice.</p> <p>16 Can you help him find that? It's</p> <p>17 C213.</p> <p>18 MR. HAYES: Sure.</p> <p>19 THE WITNESS: Got it.</p> <p>20 BY MR. BROOKS:</p> <p>21 Q. Okay. Now, it says that you -- all</p> <p>22 artworks -- you're the copyright owner of all</p> <p>23 artworks and of all insert images. Do you see</p> <p>24 that?</p> <p>25 A. Yes.</p>

<p>329</p> <p>1 Prince</p> <p>2 Q. And, again, the inserts are those</p> <p>3 smaller pages that are in this book?</p> <p>4 A. Yes.</p> <p>5 Q. So if you go now to page C118?</p> <p>6 A. Yes.</p> <p>7 Q. This guy on the donkey, do you</p> <p>8 consider that to be an artwork that's in this</p> <p>9 book?</p> <p>10 MR. HAYES: Objection to the form of</p> <p>11 the question, among other things, it's not</p> <p>12 one of the smaller inserts that's referred</p> <p>13 to, I don't think.</p> <p>14 MR. BROOKS: I'm sorry?</p> <p>15 MR. HAYES: You have the book in</p> <p>16 front of you. You asked the witness about</p> <p>17 smaller inserts?</p> <p>18 MR. BROOKS: No, no, no. This is</p> <p>19 page C118. It's not an insert.</p> <p>20 MR. HAYES: Oh.</p> <p>21 A. And the question?</p> <p>22 Q. Is this one of the artworks in this</p> <p>23 book, this image on C118?</p> <p>24 MR. HAYES: Object to the form.</p> <p>25 A. No.</p>	<p>331</p> <p>1 Prince</p> <p>2 You'll have to turn to the previous</p> <p>3 page I guess C116.</p> <p>4 MR. HAYES: Yep.</p> <p>5 A. Got it.</p> <p>6 Q. So C118 is taken from C116, right?</p> <p>7 A. Yes.</p> <p>8 Q. And are you sure that that's a</p> <p>9 painting and not a reproduction of this</p> <p>10 photograph from the Yes Rasta book?</p> <p>11 A. It's a painting.</p> <p>12 Q. In what sense?</p> <p>13 A. Based on a reproduction that I found</p> <p>14 in this Yes Rasta book.</p> <p>15 Q. Which you're looking at now, right?</p> <p>16 A. It's a lot of -- this is what I was</p> <p>17 talking about earlier with this new technique,</p> <p>18 this new medium that transferred his work, which</p> <p>19 I don't think lost any of its original intent,</p> <p>20 because my work here is completely a different</p> <p>21 message and medium, it's a completely different</p> <p>22 look, and it's a completely different</p> <p>23 application, and it's a new way of collaging.</p> <p>24 There are several elements.</p> <p>25 There's also an image from Eric</p>
<p>330</p> <p>1 Prince</p> <p>2 Q. What is it?</p> <p>3 A. It's part of an artwork that's in</p> <p>4 the book. It's a detail.</p> <p>5 Q. Are you the copyright owner, as you</p> <p>6 understand it, of this image on C118?</p> <p>7 MR. HAYES: Objection as to form.</p> <p>8 MS. BART: Join.</p> <p>9 A. My answer to that is I guess so.</p> <p>10 Q. Now, was this photo taken from the</p> <p>11 Yes Rasta book?</p> <p>12 MR. HAYES: Object to the form.</p> <p>13 A. No, it's a painting. I mean I made</p> <p>14 a painting. Anyway, no.</p> <p>15 Q. This is a painting?</p> <p>16 A. Yes.</p> <p>17 Q. How did you make the painting, with</p> <p>18 a paint brush?</p> <p>19 A. Yes.</p> <p>20 MS. BART: Objection, form, and</p> <p>21 argumentative.</p> <p>22 Q. I'm going to show you the photo of</p> <p>23 this man on the donkey from the Yes Rasta book.</p> <p>24 A. Can we see the whole painting?</p> <p>25 Q. Of course.</p>	<p>332</p> <p>1 Prince</p> <p>2 Kroll. There's an image of a guitar from</p> <p>3 George -- that's George Harrison's guitar with</p> <p>4 his hands. And there are -- this painting on</p> <p>5 top, it's not a photograph, it's an inkjet image</p> <p>6 on canvas, which is a fairly new technique.</p> <p>7 And then these lozenges are painted</p> <p>8 directly on the canvas.</p> <p>9 Q. Okay. You're talking about C116,</p> <p>10 right?</p> <p>11 A. Yes, I am.</p> <p>12 Q. Now, can you turn to C118, which is</p> <p>13 in your book?</p> <p>14 A. Yes.</p> <p>15 MR. HAYES: That's the detail.</p> <p>16 A. The detail.</p> <p>17 Q. C118.</p> <p>18 A. Yes. You can see it's ripped out of</p> <p>19 the book.</p> <p>20 Q. But is it a painting or is it taken</p> <p>21 from the book?</p> <p>22 A. This is a painting. The transfer,</p> <p>23 as you can see, it was -- the reproduction was</p> <p>24 taken from the book and then collaged next to an</p> <p>25 additional image taken from the book, and it was</p>

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<p style="text-align: center;">333</p> <p>1 Prince</p> <p>2 a different tonality --</p> <p>3 Q. Okay --</p> <p>4 MS. BART: Let him finish.</p> <p>5 A. Which I think is really important,</p> <p>6 because this is a bit darker, this is lighter.</p> <p>7 MR. HAYES: Let the record reflect,</p> <p>8 referring to the man on the donkey and the</p> <p>9 woman to the right.</p> <p>10 A. You know, the tonality here is quite</p> <p>11 different. And this was a -- I mean this</p> <p>12 collage was sent out to NancyScans.</p> <p>13 Q. Right.</p> <p>14 A. And then came back, as I believe, on</p> <p>15 a fairly large canvas, which I then cut up the</p> <p>16 canvas. These strips, as you see them here --</p> <p>17 MR. HAYES: Referring to 118.</p> <p>18 A. This image then was transferred to</p> <p>19 canvas and then I cut the canvas again in strips</p> <p>20 and I squeegeed it. That was the new technique.</p> <p>21 That's what made this painting very exciting for</p> <p>22 me to paint because I couldn't control the</p> <p>23 amount of paint that would come out from behind</p> <p>24 the collage.</p> <p>25 Q. Right.</p>	<p style="text-align: center;">335</p> <p>1 Prince</p> <p>2 because I'm very confused now.</p> <p>3 Now, let's talk about C118. Are you</p> <p>4 saying you painted this?</p> <p>5 MS. BART: Objection, form.</p> <p>6 A. No, I just explained what I did.</p> <p>7 MR. HAYES: He just told at some</p> <p>8 length.</p> <p>9 Q. You cut it out of the book and then</p> <p>10 squeegeed it on?</p> <p>11 MR. HAYES: No, you want him to</p> <p>12 explain it all again?</p> <p>13 A. You want me to --</p> <p>14 Q. I don't understand.</p> <p>15 How is this a painting, that's what</p> <p>16 I want to know, C118, in what way is it a</p> <p>17 panting as opposed to a scanned photograph?</p> <p>18 MR. HAYES: This is part of 116, you</p> <p>19 got that, right?</p> <p>20 Q. I want to hear about 118.</p> <p>21 A. Again?</p> <p>22 MS. BART: But it's a detail.</p> <p>23 Q. I'm aware of that, but I'm limiting</p> <p>24 it to this page in your book.</p> <p>25 MS. BART: Then I object to the</p>
<p style="text-align: center;">334</p> <p>1 Prince</p> <p>2 A. This kind of -- no one -- I had</p> <p>3 never seen that in a painting before. It was</p> <p>4 almost a new way of silk screening.</p> <p>5 Q. Okay. Now, can I ask you to go back</p> <p>6 to C118?</p> <p>7 A. Sure.</p> <p>8 Q. Which is what I was asking you</p> <p>9 about. And I want you to look at that and then</p> <p>10 compare it to the image in the Yes Rasta book.</p> <p>11 And I'm just talking about those two.</p> <p>12 A. Yes.</p> <p>13 Q. I'm talking about a page in your</p> <p>14 book.</p> <p>15 A. A page in my book.</p> <p>16 MR. HAYES: Detail of the painting,</p> <p>17 right?</p> <p>18 Q. Which you say you're the copyright</p> <p>19 owner of?</p> <p>20 A. I don't say that I'm the copyright</p> <p>21 owner.</p> <p>22 Q. No? Okay.</p> <p>23 A. In fact --</p> <p>24 Q. Let's just compare this image on</p> <p>25 C118 with the photograph in the Yes Rasta book</p>	<p style="text-align: center;">336</p> <p>1 Prince</p> <p>2 question.</p> <p>3 A. I understand, but I just explained</p> <p>4 it. You want me to explain it again?</p> <p>5 Q. Did you paint the nose and the eyes</p> <p>6 and the ears and the beard?</p> <p>7 MR. HAYES: Explain it again.</p> <p>8 A. I painted on the nose and the eyes</p> <p>9 and the ears.</p> <p>10 Q. Okay. So you took the photograph --</p> <p>11 A. And I also painted on the eyes and</p> <p>12 the ears and the mouth of the image that was</p> <p>13 next to him.</p> <p>14 Q. In 116?</p> <p>15 A. And I also painted the eyes and the</p> <p>16 nose and the mouth on the women.</p> <p>17 But to answer your question, yes,</p> <p>18 it's -- on 118 this is a painting.</p> <p>19 The process, you have to understand,</p> <p>20 inkjet is four colors. Paint is mixed and it's</p> <p>21 blown out on canvas. It's a completely</p> <p>22 different type of texture when I receive it.</p> <p>23 And then what I do is I start to</p> <p>24 paint again. That's why you see all this paint</p> <p>25 underneath the image and on the image. I don't</p>

<p style="text-align: center;">337</p> <p>1 Prince</p> <p>2 know how else to explain it.</p> <p>3 Q. You said this has a different</p> <p>4 meaning than his photograph?</p> <p>5 A. I believe so, yeah. It has a --</p> <p>6 Q. What's the meaning that's different?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection to form.</p> <p>9 A. I think my first reaction was a</p> <p>10 figure riding along the Nile in religious times,</p> <p>11 something that I saw and that I took a picture</p> <p>12 of years ago when I was traveling down the Nile.</p> <p>13 I was very surprised that -- it was</p> <p>14 the idea of transportation, that it's a type of</p> <p>15 transportation that I'm not familiar with.</p> <p>16 I mean that was my -- I suppose my</p> <p>17 initial -- you know, and it gets back to this</p> <p>18 idea of Back to the Garden, this kind of Adam</p> <p>19 and Eve kind of thing I was thinking about.</p> <p>20 I mean that was my -- those are my</p> <p>21 kind of -- the way I riff on an image when I</p> <p>22 first come upon it.</p> <p>23 At least this is what -- again,</p> <p>24 there's many interpretations about any</p> <p>25 particular image. But this just happens to be</p>	<p style="text-align: center;">339</p> <p>1 Prince</p> <p>2 kind of fantastic, absolutely hip, up to date,</p> <p>3 contemporary take on the music scene. And it's</p> <p>4 my way of dealing with this idea that I've</p> <p>5 always had, which are the three relationships</p> <p>6 that exist in the world, which are men and</p> <p>7 women, men and men, and women and women. It</p> <p>8 exists, therefore I try to reflect what I</p> <p>9 think what interests me.</p> <p>10 I mean I don't necessarily think</p> <p>11 there's -- I'm not trying to -- in any artwork I</p> <p>12 don't think there's any one message. I'm not a</p> <p>13 political artist. If you can tell me who the</p> <p>14 president of France was when Gauguin was in</p> <p>15 Tahiti I'll give you a thousand dollars.</p> <p>16 Politicians come and go, art comes and comes.</p> <p>17 Q. You mentioned the music scene.</p> <p>18 You'll notice in C116, the image of the</p> <p>19 Rastafarian on the donkey to the right, the one</p> <p>20 with the paint --</p> <p>21 A. The bleached out --</p> <p>22 Q. That one --</p> <p>23 A. -- which is extremely, you know, I</p> <p>24 thought about bleaching him out, getting him a</p> <p>25 little lighter.</p>
<p style="text-align: center;">338</p> <p>1 Prince</p> <p>2 mine.</p> <p>3 I know that that's not the original</p> <p>4 intent of the image, but I don't have any -- I</p> <p>5 don't have any really interest in what the</p> <p>6 original intent is because my -- because what I</p> <p>7 do is I completely try to change it into</p> <p>8 something that's completely different.</p> <p>9 Q. And just again, what is your intent,</p> <p>10 what are you changing it into?</p> <p>11 A. To make great artworks that make</p> <p>12 people feel good.</p> <p>13 Q. But is this -- let's take 116 since</p> <p>14 you seem to prefer to talk about 116.</p> <p>15 MR. HAYES: Object to the form, if</p> <p>16 there's a question.</p> <p>17 Q. Which is this painting Back to the</p> <p>18 Garden, right? Okay?</p> <p>19 A. Mm-hmm. Yes, I'm sorry.</p> <p>20 Q. What is your message or what is the</p> <p>21 meaning of this painting, what is it that you're</p> <p>22 trying to get across?</p> <p>23 A. I'm trying --</p> <p>24 MR. HAYES: Object to the form.</p> <p>25 A. As I said, I'm trying to make a</p>	<p style="text-align: center;">340</p> <p>1 Prince</p> <p>2 Q. But that's not my question.</p> <p>3 A. Oh.</p> <p>4 Q. This has a guitar, right?</p> <p>5 A. Yes.</p> <p>6 Q. So is that what you were talking</p> <p>7 about, commenting on the music scene?</p> <p>8 A. The guitar, again, is what I think</p> <p>9 my contribution is to the image, one of the</p> <p>10 contributions to this particular image, just</p> <p>11 like the mask was my contribution to the nurse</p> <p>12 paintings. Once I make some sort of connection.</p> <p>13 Now, if that hadn't been made, this</p> <p>14 guitar, this collage, which turns this -- the</p> <p>15 original intentions of this image into something</p> <p>16 completely different, obviously, he's playing</p> <p>17 the guitar now, it looks like he's playing the</p> <p>18 guitar, it looks as if he's always played the</p> <p>19 guitar, that's what my message was.</p> <p>20 Q. Okay.</p> <p>21 A. Is to sort of tell people, hey, this</p> <p>22 guy is playing the guitar.</p> <p>23 Q. Understood.</p> <p>24 A. And --</p> <p>25 Q. I'm kind of -- I don't mean to cut</p>

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<p style="text-align: center;">341</p> <p>1 Prince</p> <p>2 you off, but I'm trying to finish by 6:15.</p> <p>3 A. Okay. I'm sorry.</p> <p>4 Q. I think you're answering the</p> <p>5 questions but then you seem to feel you need to</p> <p>6 give me more information.</p> <p>7 A. I'm sorry.</p> <p>8 Q. And if you have to, you have to, but</p> <p>9 I'd like to get out of here at 6:15.</p> <p>10 A. Okay.</p> <p>11 Q. So on this painting C116, we talked</p> <p>12 before about this post-apocalyptic vision?</p> <p>13 A. Yes.</p> <p>14 Q. Does this painting Back to the</p> <p>15 Garden on C116 fit into that vision?</p> <p>16 A. I think so.</p> <p>17 Q. In what way?</p> <p>18 A. They don't have much clothes on.</p> <p>19 Q. Right. Well, the women don't have</p> <p>20 any clothes on?</p> <p>21 A. He doesn't have much clothes on</p> <p>22 either. And he's riding a donkey.</p> <p>23 Q. Right, so that's post-apocalyptic --</p> <p>24 A. So you can't fill up a donkey at the</p> <p>25 gas tank.</p>	<p style="text-align: center;">343</p> <p>1 Prince</p> <p>2 point.</p> <p>3 Q. It is. No, never mind.</p> <p>4 Does it relate to this painting?</p> <p>5 A. Again, it's a reading. This could</p> <p>6 be about --</p> <p>7 Q. Taking acid at Woodstock?</p> <p>8 A. No, I didn't take acid at Woodstock.</p> <p>9 I do think it could be a reading because of the</p> <p>10 title and because Joni Mitchell wrote it.</p> <p>11 I just -- actually, it didn't occur</p> <p>12 to me until this moment that she wrote that.</p> <p>13 Q. Right. Okay. So this is supposed</p> <p>14 to be a rock-and-roll band, these four people?</p> <p>15 A. Yes. Actually --</p> <p>16 Q. And the donkey, what instrument does</p> <p>17 he play?</p> <p>18 MR. HAYES: Objection.</p> <p>19 A. He's the roadie.</p> <p>20 Q. He's the roadie? Okay.</p> <p>21 Now, take a look at this comparison</p> <p>22 that we marked as Exhibit 40 before.</p> <p>23 Now, these pages are Bates stamped</p> <p>24 at the bottom. So could you turn to 39, C00039?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">342</p> <p>1 Prince</p> <p>2 Q. Right.</p> <p>3 A. Maybe that has something to do with</p> <p>4 it. I mean I don't think the original intent of</p> <p>5 that image on a donkey ever thought about</p> <p>6 filling up the donkey with a gas tank at the gas</p> <p>7 station. I don't even know if there's gas</p> <p>8 stations in Jamaica. You know, that's not my --</p> <p>9 Q. There are.</p> <p>10 A. That's not what I think about.</p> <p>11 Q. Okay.</p> <p>12 A. What I think about is how can this</p> <p>13 collage form a new kind of band, and the band is</p> <p>14 called Back to the Garden. I mean I think</p> <p>15 there's even a song by Joni Mitchell called Back</p> <p>16 to the Garden.</p> <p>17 Q. Right.</p> <p>18 A. It was at Woodstock. I see this as</p> <p>19 a kind of a Woodstock picture. I went to</p> <p>20 Woodstock --</p> <p>21 Q. And you took acid, so did Glenn</p> <p>22 O'Brien, I read that.</p> <p>23 A. -- and I took one photograph.</p> <p>24 Q. With your last remaining --</p> <p>25 A. With my -- which is an important</p>	<p style="text-align: center;">344</p> <p>1 Prince</p> <p>2 Q. And this is taken from the insert in</p> <p>3 your book?</p> <p>4 A. Yes. No, I had it right here.</p> <p>5 There's another insert also.</p> <p>6 Q. There are three inserts?</p> <p>7 A. Yes.</p> <p>8 Q. But let's stick with this picture</p> <p>9 here.</p> <p>10 A. Okay.</p> <p>11 Q. So the one on the bottom is a photo</p> <p>12 in the Yes Rasta book?</p> <p>13 A. Yes, it is. It's a reproduction in</p> <p>14 the book, yes.</p> <p>15 Q. Right. Of a photo.</p> <p>16 And above looks like you've taken</p> <p>17 that entire photo and put it in your studio?</p> <p>18 A. I've taken the entire photo and had</p> <p>19 it, the inkjet process, blown up to a very large</p> <p>20 scale on canvas and stretched it on stretcher</p> <p>21 bars. That's what we're looking at on the top</p> <p>22 of that photo.</p> <p>23 Q. Let me just find -- okay. Here is</p> <p>24 the photo in the book. Here it is, okay?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">345</p> <p>1 Prince</p> <p>2 Q. Do you agree that's the photo?</p> <p>3 A. That's the photograph. That's the</p> <p>4 reproduction.</p> <p>5 Q. Are you saying that the thing in</p> <p>6 your -- is this in your studio?</p> <p>7 A. Not any longer.</p> <p>8 Q. Well, where was this?</p> <p>9 A. Where was it?</p> <p>10 Q. Yes.</p> <p>11 A. I'll show you.</p> <p>12 This is --</p> <p>13 Q. No, no, no, no, no.</p> <p>14 You misunderstand --</p> <p>15 A. You asked me where the photograph</p> <p>16 is.</p> <p>17 Q. No.</p> <p>18 A. And I'm answering you.</p> <p>19 Q. No, no, no, no.</p> <p>20 MR. HAYES: He's asking you whether</p> <p>21 or not --</p> <p>22 Q. When this was taken -- I'm just</p> <p>23 trying to explain what this is showing. That's</p> <p>24 all.</p> <p>25 A. Okay.</p>	<p style="text-align: center;">347</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. It's your studio. Okay.</p> <p>4 Now, this page from the insert in</p> <p>5 your Yes Rasta book, the top part --</p> <p>6 A. Yes.</p> <p>7 Q. -- of C39, how is it changing the</p> <p>8 meaning of the photo on the bottom, if it is,</p> <p>9 can you explain that?</p> <p>10 A. I can. It will change.</p> <p>11 Q. Right.</p> <p>12 A. Because this was a way of</p> <p>13 documenting how I transferred the original</p> <p>14 image. So on the next insert it's the same</p> <p>15 photo turned upside down, these lozenges were</p> <p>16 then painted. Now, this is --</p> <p>17 Q. Just tell us the number of that</p> <p>18 because no one will know what you're talking</p> <p>19 about.</p> <p>20 A. C00185.</p> <p>21 Q. Okay.</p> <p>22 A. Now, this painting -- then I kept</p> <p>23 looking at it. And I wasn't satisfied with how</p> <p>24 it looked.</p> <p>25 Q. Right.</p>
<p style="text-align: center;">346</p> <p>1 Prince</p> <p>2 Q. I'm not asking you where it is.</p> <p>3 A. Okay. I thought you were asking me</p> <p>4 where it was.</p> <p>5 Q. There is this picture in the</p> <p>6 Yes Rasta book, right?</p> <p>7 A. Yes.</p> <p>8 Q. And now you, in the insert in your</p> <p>9 Canal Zone book, you are showing this entire</p> <p>10 photo with some other things around it?</p> <p>11 A. Yes.</p> <p>12 Q. Can you explain to me -- maybe you</p> <p>13 already did -- where this -- first, where was</p> <p>14 this taken, the photo in the top part of this?</p> <p>15 MS. BART: Objection, form.</p> <p>16 A. Where was it taken?</p> <p>17 Q. Okay. Let me show you --</p> <p>18 A. It was taken from the -- the image</p> <p>19 was taken from the Yes Rasta book.</p> <p>20 Q. I understand. And then enlarged?</p> <p>21 A. Enlarged.</p> <p>22 Q. And then placed in a room, I see</p> <p>23 behind there some bookshelf --</p> <p>24 A. Yes, that's my studio.</p> <p>25 Q. That's what I'm asking you.</p>	<p style="text-align: center;">348</p> <p>1 Prince</p> <p>2 A. This painting turned into this</p> <p>3 painting which is called Inquisition.</p> <p>4 This, it started out -- this is how</p> <p>5 things start out. This is how -- these are the</p> <p>6 possibilities of appropriation. And this is --</p> <p>7 it just happened that I documented -- I very</p> <p>8 rarely document the process.</p> <p>9 Q. Right.</p> <p>10 A. But this was what I got back from</p> <p>11 the photo lab, then I painted -- I turned it</p> <p>12 upside down thinking about George Baselitz the</p> <p>13 painter, how he turns his images upside down.</p> <p>14 I was sort of riffing on George Baselitz.</p> <p>15 I painted my lozenger head to kind</p> <p>16 of obscure his face. I didn't particularly like</p> <p>17 it. And then I decided to -- there's only a</p> <p>18 small remnant. I mean this is a bad</p> <p>19 reproduction, but there's a small remnant of the</p> <p>20 lozenger about here.</p> <p>21 I then had -- I cut up -- this is a</p> <p>22 woman with a dog and a guitar, and these are</p> <p>23 more -- these are more Rasta heads with crazy</p> <p>24 De Kooning type of faces.</p> <p>25 Q. Okay. This image --</p>

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<p style="text-align: center;">349</p> <p>1 Prince</p> <p>2 A. So this painting is what was -- this</p> <p>3 was shown. This was shown at Gagosian.</p> <p>4 Q. This, referring to C39?</p> <p>5 A. Yes. But it was shown -- this is</p> <p>6 the painting.</p> <p>7 Q. And what are you referring to there?</p> <p>8 A. I'm referring to Inquisition.</p> <p>9 Q. Now, this gentleman here, getting</p> <p>10 back to the Yes Rasta book, did you also use him</p> <p>11 in the Canal Zone 2007 collage, the same guy?</p> <p>12 A. 2007, I think I did.</p> <p>13 Q. Take a look at Exhibit 14.</p> <p>14 A. What was it, 2007 collage? Yeah.</p> <p>15 Q. Take a look at Exhibit 14.</p> <p>16 A. I did. I remember the hat.</p> <p>17 Q. He's the same guy, right?</p> <p>18 A. Well, it's the hat.</p> <p>19 Q. Well, just take a look at it. I</p> <p>20 don't want you to guess.</p> <p>21 MR. HAYES: That's 15 but it's the</p> <p>22 same painting.</p> <p>23 MR. BROOKS: It's the same painting.</p> <p>24 A. Yeah, I drew a face on him.</p> <p>25 Q. Same guy though?</p>	<p style="text-align: center;">351</p> <p>1 Prince</p> <p>2 it's been inkjetted.</p> <p>3 Q. By who?</p> <p>4 A. Inkjetted by NancyScans.</p> <p>5 And then it's been stretched.</p> <p>6 Q. Okay. Let's look -- now, I'm still</p> <p>7 with Exhibit 40 here.</p> <p>8 A. Oh, here we go.</p> <p>9 There's the painting right here.</p> <p>10 MR. HAYES: Get the number.</p> <p>11 Q. Inquisition?</p> <p>12 A. C40.</p> <p>13 Q. That's Inquisition?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Now, let me ask you to look</p> <p>16 at C24, Mr. Prince.</p> <p>17 MS. BART: You said 24?</p> <p>18 MR. BROOKS: 24, yes, in Exhibit --</p> <p>19 MR. HAYES: 40.</p> <p>20 MR. BROOKS: -- 40.</p> <p>21 A. Yes.</p> <p>22 Q. Now, this one has one of the Rastas</p> <p>23 in the middle there, correct, your painting?</p> <p>24 A. Yes.</p> <p>25 Q. And this one is called Canal Zone,</p>
<p style="text-align: center;">350</p> <p>1 Prince</p> <p>2 A. I drew a very Picasso-like face.</p> <p>3 Q. So you had actually changed him in</p> <p>4 2007 before Canal Zone?</p> <p>5 A. Well, I think it was the fact that</p> <p>6 I found -- I sort of made a more -- a bigger</p> <p>7 commitment because of the guitar.</p> <p>8 Q. Okay.</p> <p>9 A. That's when I started to make the</p> <p>10 paintings.</p> <p>11 Q. Do you agree with me that in C39 --</p> <p>12 if you go back to C39?</p> <p>13 A. Yes.</p> <p>14 Q. This is in Exhibit 40.</p> <p>15 A. Right.</p> <p>16 Q. That this entire portrait of the</p> <p>17 Rasta from Yes Rasta is depicted in its entirety</p> <p>18 without having been changed?</p> <p>19 And I know you did something later,</p> <p>20 but in this picture.</p> <p>21 MS. BART: Objection, form.</p> <p>22 Q. You can answer.</p> <p>23 A. It's different.</p> <p>24 Q. How is it different?</p> <p>25 A. It's bigger, it's on canvas, and</p>	<p style="text-align: center;">352</p> <p>1 Prince</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. And do you see that everything else,</p> <p>5 all the squares of tropical landscaping around</p> <p>6 it were all taken from Yes Rasta?</p> <p>7 A. I can see that it's implied here,</p> <p>8 yes.</p> <p>9 Q. Well, isn't it -- in fact, that's</p> <p>10 how you made this particular painting, right?</p> <p>11 A. No.</p> <p>12 Q. Are you saying there's landscaping</p> <p>13 there that wasn't taken from Yes Rasta?</p> <p>14 A. To my best recollection, there might</p> <p>15 have been some Tahiti. I'm not saying this, but</p> <p>16 there was a Tahiti book that I was also cutting</p> <p>17 up at the same time, and some of the Tahiti</p> <p>18 landscapes were getting into the paintings.</p> <p>19 It's hard to see -- it's hard to</p> <p>20 tell because of the reproduction is so small,</p> <p>21 but it doesn't make any difference to me whether</p> <p>22 it's the Tahiti landscape or the Yes Rasta</p> <p>23 landscape. I mean to me the landscape was</p> <p>24 Panamanian.</p> <p>25 MR. BROOKS: Let's take a break.</p>

<p style="text-align: center;">353</p> <p>1 Prince</p> <p>2 THE VIDEOGRAPHER: 5:51. Off the</p> <p>3 record. End of tape 5.</p> <p>4 (Recess taken: 5:51 p.m.)</p> <p>5 (Proceedings resumed: 5:55 p.m.)</p> <p>6 THE VIDEOGRAPHER: 5:55. On the</p> <p>7 record. Beginning of tape 6.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. Now, this painting on C24 where you</p> <p>10 took landscapes from Yes Rasta and inserted one</p> <p>11 of the Rastas in the middle, what is the new</p> <p>12 meaning or message or artistic expression in</p> <p>13 that painting?</p> <p>14 A. I was thinking about camouflage,</p> <p>15 hiding in plain sight, thinking about Warhol's</p> <p>16 camouflage paintings.</p> <p>17 Q. Are you -- in this painting on C24</p> <p>18 are you commenting on any aspects of culture?</p> <p>19 MS. BART: Object to form.</p> <p>20 A. I'm sorry, we're on the same</p> <p>21 painting?</p> <p>22 Q. 24, C24.</p> <p>23 MR. HAYES: Object to form.</p> <p>24 A. I would say a musician is a solo</p> <p>25 artist, maybe, if that's -- is that culture?</p>	<p style="text-align: center;">355</p> <p>1 Prince</p> <p>2 Q. Right. But any landscaping could do</p> <p>3 that, right?</p> <p>4 MS. BART: Object to form.</p> <p>5 MR. HAYES: Object to form.</p> <p>6 A. Not really. I don't think my front</p> <p>7 lawn in Wainscott would do that trick.</p> <p>8 Q. But any tropical landscape would be</p> <p>9 able to do the same?</p> <p>10 MS. BART: Objection, form,</p> <p>11 speculative.</p> <p>12 Q. You can answer.</p> <p>13 A. I don't know.</p> <p>14 Q. Turn to C30 in the Exhibit 40. This</p> <p>15 is Djuna Barnes, Natalie Barney, et cetera.</p> <p>16 A. I've got the wrong one.</p> <p>17 Which one?</p> <p>18 MR. HAYES: C30.</p> <p>19 Q. C30.</p> <p>20 A. C30, yes.</p> <p>21 Q. You have that?</p> <p>22 A. Yes.</p> <p>23 Q. The top part is your painting Djuna</p> <p>24 Barnes, Natalie Barney, et cetera, Take Over the</p> <p>25 Guanahani, correct?</p>
<p style="text-align: center;">354</p> <p>1 Prince</p> <p>2 Yeah.</p> <p>3 Q. So the musician is this Rasta with a</p> <p>4 guitar?</p> <p>5 A. The musician is actually Neil Young.</p> <p>6 Q. It's supposed to be Neil Young?</p> <p>7 A. Yes.</p> <p>8 Q. Because it's called Canal Zone or</p> <p>9 because of some other reason?</p> <p>10 A. It's Neil Young's guitar.</p> <p>11 Q. So you're not commenting on the</p> <p>12 landscape in this painting, right?</p> <p>13 MR. HAYES: Objection to the form,</p> <p>14 asked and answered.</p> <p>15 Q. You can answer.</p> <p>16 MS. BART: Same.</p> <p>17 A. I don't really make comments with</p> <p>18 any of my work.</p> <p>19 Q. But the landscaping is not the</p> <p>20 subject of this painting Canal Zone's page C24?</p> <p>21 MR. HAYES: Object to form.</p> <p>22 MS. BART: Same.</p> <p>23 Q. You can answer.</p> <p>24 A. Well, it helps to make it appear</p> <p>25 like camouflage, the shapes.</p>	<p style="text-align: center;">356</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. And now beneath that do you see that</p> <p>4 the entire backdrop to those four women is taken</p> <p>5 from the Yes Rasta book?</p> <p>6 And here I've turned in the</p> <p>7 Yes Rasta book to that photo which takes up two</p> <p>8 pages. Do you see that?</p> <p>9 A. Yes --</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 Q. What's the answer?</p> <p>12 A. Yes, I believe I used that</p> <p>13 reproduction as a background material for this</p> <p>14 new painting.</p> <p>15 Q. For instance -- I'm sorry.</p> <p>16 In the upper right there's a palm</p> <p>17 frond or something. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. It's very distinctive, right?</p> <p>20 MR. HAYES: Objection to form.</p> <p>21 MS. BART: Objection, form.</p> <p>22 Q. You can answer.</p> <p>23 A. I don't --</p> <p>24 Q. It's very noticeable, right?</p> <p>25 MS. BART: Objection, form.</p>



<p style="text-align: center;">357</p> <p>1 Prince</p> <p>2 MR. HAYES: Same.</p> <p>3 A. In the book?</p> <p>4 Q. Yes.</p> <p>5 A. Or in the painting?</p> <p>6 Q. Let's start with the book.</p> <p>7 A. Not really.</p> <p>8 Q. How about in your painting?</p> <p>9 A. Not really. No.</p> <p>10 Q. You notice it there, right?</p> <p>11 A. You're pointing it out to me, yes.</p> <p>12 Q. Well, you -- sir, you're the person</p> <p>13 who took these pages from Yes Rasta and used it</p> <p>14 as the backdrop for this painting called</p> <p>15 Djuna Barnes, et cetera, Take Over the</p> <p>16 Guanahani, right?</p> <p>17 A. Yes, I did.</p> <p>18 Q. Okay. Why?</p> <p>19 A. I wanted these women to take over</p> <p>20 the Guanahani.</p> <p>21 Q. And where is the Guanahani?</p> <p>22 A. It's in St. Barth.</p> <p>23 Q. No, no, no. In this painting?</p> <p>24 A. It's behind the woman on the right.</p> <p>25 She's covering it up.</p>	<p style="text-align: center;">359</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 A. I've used this particular image as</p> <p>4 part of a collage in creating the painting Djuna</p> <p>5 Barnes, Natalie Barney, Renée Vivien, Romaine</p> <p>6 Brooks Take Over the Guanahani.</p> <p>7 Q. When you say you've taken this image</p> <p>8 or this the photograph, you're pointing to the</p> <p>9 Yes Rasta book, correct?</p> <p>10 MS. BART: Objection, form.</p> <p>11 A. I said I used --</p> <p>12 Q. You said this --</p> <p>13 A. This image.</p> <p>14 Q. And that means this image in the</p> <p>15 Yes Rasta book that you're pointing to?</p> <p>16 A. Yes.</p> <p>17 Q. And tell us why you did that.</p> <p>18 MR. HAYES: Objection to form, asked</p> <p>19 and answered.</p> <p>20 A. To make the painting called Djuna</p> <p>21 Barnes, Natalie Barney, Renée Vivien, Romaine</p> <p>22 Brooks Take over the Guanahani. I don't know</p> <p>23 how else to explain it.</p> <p>24 Q. Isn't that kind of reductive?</p> <p>25 MS. BART: Objection, form, and</p>
<p style="text-align: center;">358</p> <p>1 Prince</p> <p>2 Q. So you can't see it?</p> <p>3 A. I was speaking figuratively. It's a</p> <p>4 poetic title that refers to my impressions of</p> <p>5 what I wanted to try to say in the painting.</p> <p>6 Q. Let's stick with what's actually</p> <p>7 there.</p> <p>8 MS. BART: Objection.</p> <p>9 MR. HAYES: Objection to form.</p> <p>10 A. I'm not interested -- I've never</p> <p>11 been interested in what's actually there.</p> <p>12 Q. Sir --</p> <p>13 A. I think these photographs are</p> <p>14 interested in what's actually there. I've never</p> <p>15 been interested in what's actually there. I</p> <p>16 would like to make that point.</p> <p>17 (Time noted: 6:00 p.m.)</p> <p>18 Q. I understand.</p> <p>19 Just explain to me why you took</p> <p>20 these four images -- these are supposed to be</p> <p>21 the four lesbians, correct?</p> <p>22 A. They're supposed to be, yes.</p> <p>23 Q. And behind them you have taken a</p> <p>24 tropical landscape from Yes Rasta, correct?</p> <p>25 MS. BART: Objection, form.</p>	<p style="text-align: center;">360</p> <p>1 Prince</p> <p>2 argumentative.</p> <p>3 A. You're right. This is a very</p> <p>4 reductive painting. This is very minimal --</p> <p>5 Q. I meant your answer. Never mind.</p> <p>6 You said you did it because you did</p> <p>7 it and I'm trying to understand why you did it.</p> <p>8 MR. HAYES: Objection to form.</p> <p>9 MS. BART: And asked and answered.</p> <p>10 Q. Let me withdraw that.</p> <p>11 A. Okay. I can answer it.</p> <p>12 Q. No, let me withdraw it. I'm going</p> <p>13 to ask you more specific questions.</p> <p>14 In superimposing these four images</p> <p>15 over the landscape from Yes Rasta, right, were</p> <p>16 you commenting on any aspects of culture?</p> <p>17 A. No.</p> <p>18 Q. Were you trying to create anything</p> <p>19 with a new meaning or a new message?</p> <p>20 A. No.</p> <p>21 MS. BART: Objection, form.</p> <p>22 Q. Were you trying to create something</p> <p>23 new and unique?</p> <p>24 MS. BART: Objection, form.</p> <p>25 MR. HAYES: Objection, form.</p>

<p style="text-align: center;">361</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. What?</p> <p>4 A. A balls-out, great, unbelievably</p> <p>5 looking great painting that had to do with a</p> <p>6 kind of a rock-and-roll painting on the radical</p> <p>7 side, and on a conservative side something to do</p> <p>8 with Cézanne's bathers.</p> <p>9 Q. Okay.</p> <p>10 A. So the melding of the two left wing,</p> <p>11 right wing, would maybe make a middle wing. I</p> <p>12 guess that's the way I could explain it.</p> <p>13 Q. All right.</p> <p>14 Can you take a look at C18?</p> <p>15 MR. HAYES: C what?</p> <p>16 Q. C0018.</p> <p>17 Do you see that, C18?</p> <p>18 A. Yes.</p> <p>19 Q. This particular Rasta, would you</p> <p>20 agree you used him a number of times in the</p> <p>21 Canal Zone paintings?</p> <p>22 A. Yes.</p> <p>23 Q. In fact, you also used him, among</p> <p>24 other places, in C23?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">363</p> <p>1 Prince</p> <p>2 Q. You put a guitar on and some paint</p> <p>3 on the face, right?</p> <p>4 A. I collaged the guitar and I painted</p> <p>5 the face, yes.</p> <p>6 Q. And what new meaning or artistic</p> <p>7 expression have you added to the Yes Rasta</p> <p>8 photo?</p> <p>9 MS. BART: Objection, form.</p> <p>10 MR. HAYES: Object to form.</p> <p>11 A. That's pretty simple. I was</p> <p>12 thinking about the guitar as the new fig leaf,</p> <p>13 which I think is an interesting idea.</p> <p>14 I don't see a fig leaf on this</p> <p>15 particular image. I'm referring to the image</p> <p>16 that's a reproduction in Yes Rasta.</p> <p>17 Q. Could you look at C32?</p> <p>18 Is that Tales of Brave Ulysses?</p> <p>19 A. Yes.</p> <p>20 Q. Now, there you've used that same</p> <p>21 Rasta four times but haven't painted on his face</p> <p>22 or put on a guitar, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. So how have you added a new meaning</p> <p>25 or message or commented on aspects of culture in</p>
<p style="text-align: center;">362</p> <p>1 Prince</p> <p>2 Q. Now, which of these, C18 or C23, was</p> <p>3 the basis for the invitation to the Canal Zone</p> <p>4 show, if you know?</p> <p>5 A. C18.</p> <p>6 Q. The first one?</p> <p>7 A. Oh, no.</p> <p>8 Q. One is called Graduation and the</p> <p>9 other is called Meditation.</p> <p>10 A. I believe it was C18, but I could be</p> <p>11 mistaken. But my feeling is it's C18.</p> <p>12 Q. It's one of those two?</p> <p>13 A. I believe so, yes.</p> <p>14 Q. So let's take C18. What is the</p> <p>15 different message or meaning of your painting as</p> <p>16 opposed to this photograph?</p> <p>17 MS. BART: Objection, form.</p> <p>18 A. I don't see any photograph.</p> <p>19 Q. The image on the bottom is taken</p> <p>20 from Yes Rasta, correct?</p> <p>21 A. Yes, it is.</p> <p>22 Q. And the image at the top is your --</p> <p>23 is a reproduction of your painting, right?</p> <p>24 A. Yes.</p> <p>25 MS. BART: Objection, form.</p>	<p style="text-align: center;">364</p> <p>1 Prince</p> <p>2 your painting as compared to the photo from</p> <p>3 Yes Rasta?</p> <p>4 MS. BART: Objection to form.</p> <p>5 MR. HAYES: Objection, form.</p> <p>6 A. I'm not sure if I have to comment on</p> <p>7 culture with every single painting.</p> <p>8 Q. Well, I'm just asking you about this</p> <p>9 painting?</p> <p>10 A. I think the -- Tales of Brave</p> <p>11 Ulysses was written by the Cream, the group.</p> <p>12 Q. The Cream?</p> <p>13 A. The Cream.</p> <p>14 Q. So this is another music --</p> <p>15 A. It was a musical band that I really</p> <p>16 like and I really like that song. And the</p> <p>17 rhythm, the repetition of the images, the</p> <p>18 different scales, I wanted to kind of get this</p> <p>19 idea of the rhythm of how that song -- what</p> <p>20 impression that song makes to me when I was</p> <p>21 listening to it I believe.</p> <p>22 Q. Which song?</p> <p>23 A. Tales of Brave Ulysses.</p> <p>24 Q. So this -- your painting, what is</p> <p>25 the Rasta and these women, is supposed to</p>

<p style="text-align: center;">365</p> <p>1 Prince                  2 conjure up that song?                  3 MR. HAYES: Object to the form.                  4 MS. BART: Join.                  5 A. I tried, yes, to conjure up the                  6 feeling I had for that song.                  7 Q. Now, does this painting Tales of                  8 Brave Ulysses fit into the post-apocalyptic                  9 theme that we discussed before?                  10 A. Yes.                  11 Q. Are you implying in this painting                  12 that these black Rastafarians are potentially                  13 dangerous to these naked white women, that they                  14 might rape them?                  15 MR. HAYES: Objection, form.                  16 MS. BART: Objection, form.                  17 Q. You can answer.                  18 A. No.                  19 Q. Not at all?                  20 MR. HAYES: Objection, form.                  21 A. No.                  22 Q. What, if anything, are you -- what                  23 is your message, if any, with respect to the                  24 juxtaposition of this Rasta and these naked                  25 women? Without any guitars, right?</p>	<p style="text-align: center;">367</p> <p>1 Prince                  2 identification, as of this date.)                  3 Q. Mr. Prince, these let me explain                  4 what these are, although you may know.                  5 But these were made available to us                  6 by your attorney. And Mr. Boden here went over                  7 there and looked at what you had written in the                  8 Rasta book, Yes Rasta book.                  9 Remember you said you had it and                  10 were writing in it and cutting things out?                  11 And so this is what was made                  12 available to us.                  13 MR. BROOKS: And we asked for these                  14 to be copied, am I right, Mr. Hayes?                  15 MR. HAYES: You're right that he                  16 took photographs of them. I don't think                  17 we copied them. You took photos?                  18 MR. BODEN: Yes.                  19 MR. BROOKS: But these were made                  20 available by you, right?                  21 MR. HAYES: I assume so, yes. I                  22 have no reason to doubt it --                  23 THE WITNESS: Why are they all                  24 upside down?                  25 MR. HAYES: I don't think they were</p>
<p style="text-align: center;">366</p> <p>1 Prince                  2 A. My daughter would say I was slapping                  3 the bass.                  4 Q. What does that mean?                  5 A. I don't believe I have to interpret                  6 or explain slapping the bass. It's a reggae                  7 term.                  8 Q. Well, just enlighten us --                  9 A. As far as I know --                  10 Q. Enlighten us since we're not --                  11 A. It's about jamming. I'm jamming.                  12 Q. Okay.                  13 A. I believe that this is a kind of                  14 painting that suggests, or I would hope that it                  15 would suggest that type of activity.                  16 Q. All right.                  17 A. I mean you've --                  18 Q. Seeing these people as a band, a                  19 rock-and-roll band?                  20 A. Yes.                  21 MR. BROOKS: Last exhibit, 41?                  22 (Clarification by reporter.)                  23 MR. BROOKS: This will be 43.                  24 (Plaintiff's Exhibit 43, pictures                  25 from Yes Rasta, was marked for</p>	<p style="text-align: center;">368</p> <p>1 Prince                  2 made available in this form or this                  3 order --                  4 (Clarification by reporter.)                  5 MR. HAYES: I can't say that they                  6 were made available in this form or this                  7 order, but I certainly accept the                  8 representation by Eric that he made                  9 photocopies of them -- he made photos of                  10 them at my office.                  11 BY MR. BROOKS:                  12 Q. Anyway, we'll let you decide,                  13 Mr. Prince, what this is. Maybe you'll say I                  14 never saw this before.                  15 So I'm led to believe this was a                  16 production made from your documents from your --                  17 what you wrote in the book. But --                  18 A. These things? They're all                  19 different. I mean --                  20 MR. HAYES: That's not true.                  21 A. -- there are a whole bunch of                  22 different --                  23 MR. HAYES: Ask Eric if he copied                  24 them.                  25 MR. BROOKS: Well, let's look at the</p>

<p style="text-align: center;">369</p> <p>1 Prince</p> <p>2 first one since time is passing.</p> <p>3 (Clarification by reporter.)</p> <p>4 THE WITNESS: They were not handed</p> <p>5 to me --</p> <p>6 MR. BROOKS: Can I just see that to</p> <p>7 make sure we're talking about -- okay.</p> <p>8 MS. BART: Oh, so there's no</p> <p>9 Bates Numbers on them?</p> <p>10 MR. BROOKS: No, because they</p> <p>11 weren't produced. They were just --</p> <p>12 You copied them with a digital</p> <p>13 camera from Mr. Hayes's files?</p> <p>14 MS. BART: Are there any others</p> <p>15 besides these that have not been produced?</p> <p>16 MR. BODEN: We didn't produce them.</p> <p>17 MR. HAYES: I think she's asking the</p> <p>18 question just to clarify. Are there other</p> <p>19 photos, Eric, that were taken that are not</p> <p>20 part of this package?</p> <p>21 MR. BODEN: Yes.</p> <p>22 RQ MS. BART: I'm going to call for</p> <p>23 their production so everybody has the same</p> <p>24 thing.</p> <p>25 MR. BROOKS: You can go over there</p>	<p style="text-align: center;">371</p> <p>1 Prince</p> <p>2 Q. Yes.</p> <p>3 A. I changed it with oil crayon.</p> <p>4 Q. I don't mean the materials. What</p> <p>5 are you -- what is the meaning of these two</p> <p>6 drawings?</p> <p>7 A. There is no meaning.</p> <p>8 MS. BART: Objection, form.</p> <p>9 Q. Are you showing a monkey-like look?</p> <p>10 A. No.</p> <p>11 Q. Is there a picture in here of</p> <p>12 Bob Marley or one of his children?</p> <p>13 A. Right here. Bob Marley.</p> <p>14 Q. That is Bob Marley?</p> <p>15 A. Yes.</p> <p>16 Q. And I think there's another one too.</p> <p>17 So did you use that Bob Marley image</p> <p>18 in the Canal Zone book?</p> <p>19 A. In the Canal Zone book, the catalog,</p> <p>20 no.</p> <p>21 Q. Or in the show?</p> <p>22 A. No.</p> <p>23 Q. Let me ask you to look at this one.</p> <p>24 Is that somebody from the Yes Rasta book?</p> <p>25 MS. BART: How are we going to</p>
<p style="text-align: center;">370</p> <p>1 Prince</p> <p>2 like we did and inspect and copy. That's</p> <p>3 all we did.</p> <p>4 MR. HAYES: She's asking for</p> <p>5 production of whatever Eric --</p> <p>6 MS. BART: I want the copies --</p> <p>7 MR. BROOKS: Let's not waste time.</p> <p>8 MR. HAYES: Go ahead. Ask your</p> <p>9 question.</p> <p>10 BY MR. BROOKS:</p> <p>11 Q. So the first page, what is that?</p> <p>12 A. The first page?</p> <p>13 Q. Yeah.</p> <p>14 A. It looks to me like drawing --</p> <p>15 drawings on images that appeared in the</p> <p>16 Yes Rasta book.</p> <p>17 Q. Drawings by whom?</p> <p>18 A. Myself.</p> <p>19 Q. Okay. So what are you showing on</p> <p>20 this first page, how have you changed this Rasta</p> <p>21 with your drawing?</p> <p>22 MS. BART: Objection, form.</p> <p>23 MR. HAYES: Objection, form too.</p> <p>24 Q. You can answer.</p> <p>25 A. How have I changed it?</p>	<p style="text-align: center;">372</p> <p>1 Prince</p> <p>2 create a record as to what this one is?</p> <p>3 I can't even find the one about</p> <p>4 Mr. Marley, I can't find that one because</p> <p>5 they're not numbered.</p> <p>6 MR. BROOKS: Right.</p> <p>7 MR. HAYES: That's a problem.</p> <p>8 MS. BART: I'm not sure I have a</p> <p>9 complete exhibit.</p> <p>10 MR. BROOKS: Mark this as 43A.</p> <p>11 (Discussion off the record.)</p> <p>12 MR. HAYES: It's 6:15.</p> <p>13 MR. BROOKS: I'm just going to ask</p> <p>14 him about these four paintings and then</p> <p>15 we'll leave.</p> <p>16 MR. HAYES: You've got to ask them</p> <p>17 quickly because we had a deal. It's</p> <p>18 6:15 --</p> <p>19 MR. BROOKS: But there was a break</p> <p>20 and there were a lot of objections.</p> <p>21 THE WITNESS: No, we had a deal --</p> <p>22 MR. HAYES: There was no objections.</p> <p>23 We took a break because the videotape guy</p> <p>24 had to change it.</p> <p>25 MR. BROOKS: I'm just going to ask</p>



<p style="text-align: center;">373</p> <p>1 Prince</p> <p>2 him to identify these documents and</p> <p>3 then --</p> <p>4 THE WITNESS: I'm sorry, you</p> <p>5 promised 6:15. I'm sorry.</p> <p>6 MR. BROOKS: So you're leaving?</p> <p>7 (Interruption by court reporter.)</p> <p>8 MR. HAYES: Stop marking the</p> <p>9 documents for a moment.</p> <p>10 Give him the documents, ask him if</p> <p>11 he can identify them, we'll mark them</p> <p>12 after he leaves.</p> <p>13 MS. BART: Fine with me.</p> <p>14 MR. BROOKS: Well, I didn't think</p> <p>15 that was fine with you.</p> <p>16 MS. BART: Well --</p> <p>17 MR. BROOKS: You seemed extremely</p> <p>18 upset about it --</p> <p>19 (Multiple speakers talking at once.)</p> <p>20 MS. BART: It's highly improper to</p> <p>21 put this out here without giving it to</p> <p>22 everyone in advance.</p> <p>23 BY MR. BROOKS:</p> <p>24 Q. Let me see one at a time, and I'm</p> <p>25 just going to ask you a simple question about</p>	<p style="text-align: center;">375</p> <p>1 Prince</p> <p>2 Here's 43C. Is that the picture of</p> <p>3 Bob Marley?</p> <p>4 A. Yes.</p> <p>5 Q. And where -- that wasn't in the</p> <p>6 Yes Rasta book, was it?</p> <p>7 A. No.</p> <p>8 Q. That came from your files?</p> <p>9 A. Yes.</p> <p>10 Q. And you were thinking of using this</p> <p>11 in the Canal Zone show?</p> <p>12 A. I don't know.</p> <p>13 Q. Here's 43A. What is this?</p> <p>14 A. It's a collage. It's hard to say.</p> <p>15 It's a collage of female genitalia, four</p> <p>16 collages of female genitalia, on what, I don't</p> <p>17 know. I believe it's on a landscape image that</p> <p>18 came from the Yes Rasta book.</p> <p>19 Q. And this is the last thing. So we</p> <p>20 have 43A, B, and C. The first page that you</p> <p>21 looked at that was part of 43, I want to make</p> <p>22 that 43D, just that one page, because the whole</p> <p>23 thing is dismembered.</p> <p>24 MR. HAYES: That one?</p> <p>25 MS. BART: This one?</p>
<p style="text-align: center;">374</p> <p>1 Prince</p> <p>2 each.</p> <p>3 All right. Let's take this one,</p> <p>4 which is going to be 43B, a picture of a</p> <p>5 Rastafarian holding something.</p> <p>6 43B, write that down.</p> <p>7 Is that something you did in the</p> <p>8 Yes Rasta book?</p> <p>9 A. No.</p> <p>10 Q. Do you know what that is?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. It's a collage.</p> <p>14 Q. That you did?</p> <p>15 A. Yes.</p> <p>16 Q. And the image of the Rastafarian,</p> <p>17 did that come from the Yes Rasta book?</p> <p>18 A. Yes.</p> <p>19 Q. And you added in a cartoon or --</p> <p>20 A. It's called a hippie drawing.</p> <p>21 Q. A hippie drawing.</p> <p>22 That you did or --</p> <p>23 A. Yes.</p> <p>24 Q. -- that you found?</p> <p>25 Okay. So that's 43B.</p>	<p style="text-align: center;">376</p> <p>1 Prince</p> <p>2 MR. BROOKS: Correct. Yes, we'll</p> <p>3 make this one --</p> <p>4 (Multiple speakers talking at once.)</p> <p>5 MR. BROOKS: We'll make that one</p> <p>6 43D. And you already testified about</p> <p>7 that.</p> <p>8 MR. HAYES: You're done.</p> <p>9 MR. BROOKS: The two faces.</p> <p>10 (Multiple speakers talking at once.)</p> <p>11 THE VIDEOGRAPHER: This concludes</p> <p>12 the deposition of Richard Prince. The</p> <p>13 time is 6:20 p.m. End of tape number 6.</p> <p>14 Off the record.</p> <p>15 (Discussion off the record.)</p> <p>16 (Plaintiff's Exhibit 43A, landscape</p> <p>17 from Yes Rasta with female genitalia, was</p> <p>18 marked for identification, as of this</p> <p>19 date.)</p> <p>20 (Plaintiff's Exhibit 43B, picture of</p> <p>21 Rasta holding hippie drawing, was marked</p> <p>22 for identification, as of this date.)</p> <p>23 (Plaintiff's Exhibit 43C, picture of</p> <p>24 Bob Marley, was marked for identification,</p> <p>25 as of this date.)</p>

<p style="text-align: center;">377</p> <p>1 Prince 2 (Plaintiff's Exhibit 43D, two 3 pictures drawn on from Yes Rasta, was 4 marked for identification, as of this 5 date.) 6 MR. BROOKS: This is not part of the 7 video record. 8 We've agreed that I'm withdrawing 9 what had been marked as Exhibit 43, which 10 was a multipage document, and instead 11 we've marked four documents, which the 12 witness looked at and identified. 13 43D is what was originally the first 14 page of 43. It's two pictures drawn on 15 from Yes Rasta. 16 We're going backwards in order. 17 43C is a picture of Bob Marley that 18 he identified. 19 43B is a picture of a Rasta holding 20 a hippie drawing. 21 MS. BART: That's what he described 22 it as. 23 MR. BROOKS: And 43A is a landscape 24 from Yes Rasta and superimposed on it are 25 female genitalia, four of them.</p>	<p style="text-align: center;">379</p> <p>1 Prince 2 CERTIFICATE 3 4 STATE OF NEW YORK ) 5 )ss: 6 COUNTY OF NEW YORK) 7 8 I, BRYAN NILSEN, a Notary Public 9 within and for the State of New York, do 10 hereby certify: 11 That RICHARD PRINCE, the witness 12 whose deposition is hereinbefore set 13 forth, was duly sworn by me and that such 14 deposition is a true record of the 15 testimony given by such witness. 16 I further certify that I am not 17 related to any of the parties to this 18 action by blood or marriage and that I am 19 in no way interested in the outcome of 20 this matter. 21 IN WITNESS WHEREOF, I have hereunto 22 set my hand this ___ day of _____, 2009. 23 24 _____ 25 BRYAN NILSEN, RPR</p>
<p style="text-align: center;">378</p> <p>1 Prince 2 That's it. 3 (Time noted 6:27 p.m.) 4 5 _____ 6 RICHARD PRINCE 7 8 Subscribed and sworn to 9 before me this ___ day 10 of _____, 2009. 11 12 _____ 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">380</p> <p>1 Prince 2 _____ I N D E X _____ 3 WITNESS EXAMINATION BY PAGE 4 RICHARD PRINCE MR. BROOKS.....7 5 6 7 8 9 _____ INFORMATION REQUESTS _____ 10 REQUESTS: PAGE 11 Photos taken but not produced.....369 12 13 MOTIONS: 14 Motion to strike.....241 15 Motion to strike.....292 16 17 18 19 20 21 22 23 24 25</p>

381	383
Prince EXHIBITS	Prince EXHIBITS (Cont'd.)
PLAINTIFF'S FOR ID.	PLAINTIFF'S FOR ID.
1 Amended complaint.....21	43 WITHDRAWN - pictures from Yes Rasta.....366
2 Answer to amended complaint.....22	43A Landscape from Yes Rasta with female genitalia.....376
3 Two-page printout from website.....32	43B Picture of Rasta holding hippie drawing.....376
4 Interview.....47	43C Picture of Bob Marley.....376
5 Interview in French.....53	43D Two pictures drawn on from Yes Rasta.....377
6 English translation of portion of French interview.....56	
7 Two-page article.....68	** EXHIBITS RETAINED BY COUNSEL **
8 Interview.....88	
9 Article.....108	
10 Copyright Litigation Blog.....123	
11 Article.....135	
12 Le Figaro interview in French.....146	
13 English translation of portion of Le Figaro interview .....147	
14 GGP003781.....179	
15 GGP004296.....183	
16 Series of e-mails.....184	
17 E-mail.....188	
18 E-mail dated July 26, 2007.....191	
19 GGP004330 and 4332.....196	
20 Article from Art Newspaper.....198	
382	384
Prince EXHIBITS (Cont'd.)	DEPOSITION ERRATA SHEET
PLAINTIFF'S FOR ID.	RE: Esquire Deposition Solutions
21 NOT MARKED	File No. 13829
22 Pitch.....207	Case Caption: PATRICK CARIOU vs. RICHARD PRINCE, et al.
23 E-mails.....213	Deponent: RICHARD PRINCE
24 PR88 through 91.....219	Deposition Date: October 6, 2009
25 PR92 through 95.....223	To the Reporter:
26 E-mail.....254	I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me.
27 PR38.....237	I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the Errata Sheet and the appropriate Certificate and authorize you to attach both to the original transcript.
28 Interview in Interview Magazine.....242	
29 Three-page document.....287	Page No. _____ Line No. _____ Change to: _____
30 Photos from iStockphoto.com.....290	Reason for change: _____
31 Gagosian Gallery website pages.....292	Page No. _____ Line No. _____ Change to: _____
32 Two-page document.....299	Reason for change: _____
33 Listing of paintings.....307	Page No. _____ Line No. _____ Change to: _____
34 Letter dated December 11, 2008.....310	Reason for change: _____
35 PR45 through 50.....316	Page No. _____ Line No. _____ Change to: _____
36 Multipage accounting document.....322	Reason for change: _____
37 NOT MARKED	
38 NOT MARKED	
39 NOT MARKED	
40 Paintings and photos juxtaposed.....325	
41 Yes Rasta book.....239	
42 Canal Zone book.....86	

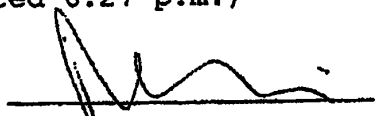
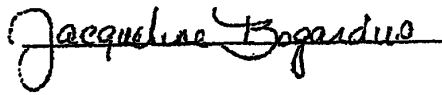


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Richard Prince

October 6, 2009

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1 Prince  
 2 That's it.  
 3 (Time noted 6:27 p.m.)  
 4  
 5   
 6 RICHARD PRINCE  
 7  
 8 Subscribed and sworn to  
 9 before me this 24 day  
 10 of November, 2009.  
 11  
 12   
 13  
 14 Jacqueline Bogardus  
 15 Notary Public State of New York  
 16 No. 01806038391  
 17 Qualified in Greene County  
 18 Commission Expires 12/21/09  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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June 24, 2010

**VIA ECF**

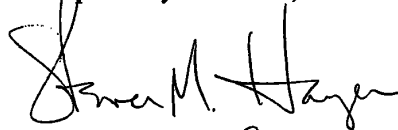
The Honorable Deborah A. Batts  
United States District Court  
United States Courthouse  
500 Pearl Street, Room 2510  
New York, NY 10007

**RE: Patrick Cariou v. Richard Prince, Gagosian Gallery, Inc., Lawrence Gagosian Gallery, Inc., Lawrence Gagosian, and Rizzoli International Publications, Inc. (Docket No. 08-11327)**

Dear Judge Batts:

On June 14, 2010, we submitted Defendants' 56.1 Statement of Uncontested Facts in Response to Plaintiff's Statement Pursuant to Local Civil Rule 56.1 (Defendants' 56.1 Response). Subsequently, Richard Prince discovered that paragraph 34 of Defendants' 56.1 Response contained an error. As such, defendants submit the attached Amendment to Defendants' Rule 56.1 Statement of Uncontested Facts in Response to Plaintiff's Statement Pursuant to Local Civil Rule 56.1.

Respectfully submitted,



Steven M. Hayes

Enclosure  
SMH/dh

cc: Hollis G. Bart (via electronic mail)  
Daniel Brooks, Esq. (via electronic mail)  
Eric Boden, Esq. (via electronic mail)

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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.

-----X

08 CIV 11327 (DAB)

**AMENDMENT TO DEFENDANTS'  
RULE 56.1 STATEMENT OF  
UNCONTESTED MATERIAL  
FACTS IN RESPONSE TO  
PLAINTIFF'S STATEMENT  
PURSUANT TO LOCAL RULE 56.1**

Defendants Richard Prince, Gagolian Gallery, Inc., and Lawrence Gagolian, by and through their attorneys, submit the following Amendment to Defendants' Rule 56.1 Statement of Uncontested Material Facts in Response to Plaintiff's Statement Pursuant to Local Rule 56.1 ("plaintiff's statement").

**I. Defendants' Response to Plaintiff's Statement Pursuant to Local Rule 56.1**

1. Defendants admit the allegations of material fact in paragraph 34 of plaintiff's statement.

**Schnader**  
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**VIA HAND DELIVERY**

Honorable Deborah A. Batts  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 2510  
New York, New York 10007

July 1, 2010  
**USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED**  
DOC #:  
DATE FILED: 7/1/10

**RECEIVED**  
JUL 01 2010  
CHAMBERS OF  
DEBORAH A. BATTIS  
U.S.D.J.

Re: **Cariou v. Prince, et al.; 08 Civ. 11327 (DAB)**

**MEMO ENDORSED**

Dear Judge Batts:

The briefing of the parties' cross-motions for summary judgment was completed on June 24, 2010. As a housekeeping matter, on behalf of plaintiff, and pursuant to the Court's order dated April 23, 2010, we filed in hard copy the two books involved in this case, which were exhibits to my May 7, 2010 declaration in support of plaintiff's motion (*see* docket entry 55). When we attempted to file the balance of the declaration and other exhibits (many of which are in color), we were unable to do so through ECF. As a result, we filed the declaration and exhibits in black and white (*see* docket entry 54). We had, however, provided color copies of the exhibits to the Court (as courtesy copies) and to opposing counsel. Accordingly, we submitted a hard copy with exhibits in color to the Clerk's Office, which took the document but did not enter it on the docket. We, therefore, respectfully request that the Court direct the Clerk's Office to accept in hard copy and enter on the docket sheet plaintiff's notice of motion, Local Rule 56.1 Statement and supporting declarations and exhibits, including my May 7, 2010 declaration, which has attached to it a number of exhibits in color which we were unable to file through ECF.

Grants  
DAB  
7/1/10

Respectfully,



Daniel J. Brooks

For SCHNADER HARRISON SEGAL & LEWIS LLP

cc: Steven M. Hayes, Esq. (via email: [shayes@hanlyconroy.com](mailto:shayes@hanlyconroy.com))  
Hollis Gonerka Bart, Esq. (via email: [hollis.bart@withers.us.com](mailto:hollis.bart@withers.us.com))

**MEMO ENDORSED**

**SO ORDERED**

  
DEBORAH A. BATTIS  
UNITED STATES DISTRICT JUDGE  
7/1/10





<p style="text-align: center;">5</p> <p>1                   Gagosian</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>1                   Gagosian</p> <p>2                   Weismann Celler Spett and Modlin</p> <p>3                   representing Rizzoli International.</p> <p>4                   Publications.</p> <p>5                   Will the court reporter please swear</p> <p>6                   in the witness.</p> <p>7</p> <p>8                   LAWRENCE GAGOSIAN, called as</p> <p>9                   a witness, having been duly sworn by a</p> <p>10                  Notary Public, was examined and testified</p> <p>11                  as follows:</p> <p>12                  THE COURT REPORTER: Please state</p> <p>13                  your name and address for the record.</p> <p>14                  THE WITNESS: Larry Gagosian,</p> <p>15                  980 Madison Avenue, New York, 10021.</p> <p>16</p> <p>17                  EXAMINATION BY</p> <p>18                  MR. BROOKS:</p> <p>19                  Q. Good morning, Mr. Gagosian. My</p> <p>20                  name is Dan Brooks. I represent the plaintiff</p> <p>21                  Patrick Cariou in this case.</p> <p>22                  Are you aware that you are a</p> <p>23                  defendant in this case?</p> <p>24                  A. Yes.</p> <p>25                  Q. Have you ever been a party to a</p>
<p style="text-align: center;">6</p> <p>1                   Gagosian</p> <p>2                   THE VIDEOGRAPHER: This is tape</p> <p>3                   number 1 in the videotaped deposition of</p> <p>4                   Lawrence Gagosian in the matter of Cariou</p> <p>5                   versus Richard Prince, et al, being heard</p> <p>6                   before the U.S. District Court, Southern</p> <p>7                   District of New York, case file number</p> <p>8                   08 CIV 11327.</p> <p>9                   This deposition is being held at</p> <p>10                  Schnader Harrison Segal, 140 Broadway,</p> <p>11                  New York, New York, on October 8, 2009.</p> <p>12                  The time is 10:09 a.m.</p> <p>13                  My name is Peter Ledwith. I'm the</p> <p>14                  videographer. The court reporter is Bryan</p> <p>15                  Nilsen.</p> <p>16                  Counsel, will you please introduce</p> <p>17                  yourselves and whom you represent.</p> <p>18                  MR. BROOKS: Daniel J. Brooks and</p> <p>19                  Eric Boden for the plaintiff.</p> <p>20                  MS. BART: Hollis Gonerka Bart of</p> <p>21                  Withers Bergman representing Lawrence</p> <p>22                  Gagosian.</p> <p>23                  MR. HAYES: Steven Hayes of Hanly</p> <p>24                  Conroy representing Richard Prince.</p> <p>25                  MR. SHERMAN: John Sherman of</p>	<p style="text-align: center;">8</p> <p>1                   Gagosian</p> <p>2                   lawsuit before?</p> <p>3                   A. I don't know.</p> <p>4                   Q. Okay. Have you ever been a</p> <p>5                   plaintiff in a lawsuit?</p> <p>6                   A. I don't think so.</p> <p>7                   Q. Have you ever been a defendant in a</p> <p>8                   lawsuit?</p> <p>9                   A. Not that I recall.</p> <p>10                  Q. Have you ever had your deposition --</p> <p>11                  withdrawn.</p> <p>12                  Do you realize that you're about to</p> <p>13                  have your deposition taken?</p> <p>14                  A. Yes.</p> <p>15                  Q. Have you ever had your deposition</p> <p>16                  taken before?</p> <p>17                  A. Yes.</p> <p>18                  Q. How many times?</p> <p>19                  A. Once or -- I think twice. Twice.</p> <p>20                  Q. Were you a party -- were those in</p> <p>21                  connection with lawsuits?</p> <p>22                  A. You know, I don't know if they were</p> <p>23                  lawsuits actually. One was -- I'm just trying</p> <p>24                  to remember if they were lawsuits or why I</p> <p>25                  was -- I don't recall accurately.</p>

<p>9</p> <p>1 Gagosian</p> <p>2 Q. Okay. When your deposition was</p> <p>3 taken one or two times were you a party to a</p> <p>4 lawsuit?</p> <p>5 MS. BART: Objection, asked and</p> <p>6 answered.</p> <p>7 Q. You can answer.</p> <p>8 Was it in connection with a lawsuit?</p> <p>9 A. There was an income tax -- and I</p> <p>10 don't really know if it was a lawsuit or what</p> <p>11 the status of it was, but there was a</p> <p>12 deposition.</p> <p>13 Not income tax, it was -- I think it</p> <p>14 was sales tax. I'm just not that clear.</p> <p>15 Q. What did you do to prepare for</p> <p>16 today's deposition?</p> <p>17 And if you met with your lawyer,</p> <p>18 don't tell us the subject matter of what you</p> <p>19 discussed with your lawyer. Just tell us what</p> <p>20 you did to prepare.</p> <p>21 MS. BART: Objection, form, and</p> <p>22 your question asks to encroach on the</p> <p>23 attorney/client privilege and work product</p> <p>24 privilege, so I'm going to instruct the</p> <p>25 witness not to answer except to say</p>	<p>11</p> <p>1 Gagosian</p> <p>2 entitled United States of America,</p> <p>3 Plaintiff, versus Lawrence Gagosian,</p> <p>4 Gagosian Gallery, Inc., and several other</p> <p>5 defendants as defendants.</p> <p>6 (Plaintiff's Exhibit 47, copy of</p> <p>7 complaint, was marked for identification,</p> <p>8 as of this date.)</p> <p>9 MS. BART: Excuse me, I'd like to</p> <p>10 have a copy of it, please.</p> <p>11 (Discussion off the record.)</p> <p>12 MS. BART: Mr. Brooks, before you</p> <p>13 ask any questions about a lawsuit</p> <p>14 involving tax matters, I'd like you to</p> <p>15 proffer what the relevance of this</p> <p>16 document is or this line of questioning</p> <p>17 is to whether or not your client has a</p> <p>18 claim against Mr. Gagosian or Gagosian</p> <p>19 Gallery with respect to the images that</p> <p>20 appear in Yes Rasta.</p> <p>21 MR. BROOKS: It goes to his</p> <p>22 credibility. He's a defendant.</p> <p>23 MS. BART: In what way? I don't see</p> <p>24 this.</p> <p>25 MR. BROOKS: You'll see when I ask</p>
<p>10</p> <p>1 Gagosian</p> <p>2 whether or not you met with counsel.</p> <p>3 A. I did.</p> <p>4 Q. Did you review any documents?</p> <p>5 MS. BART: That too is governed by</p> <p>6 privilege and I'm going to instruct the</p> <p>7 witness not to answer. That's my work</p> <p>8 product.</p> <p>9 Q. You said there may have been a case</p> <p>10 involving taxes, is that what you said?</p> <p>11 A. Yes.</p> <p>12 MS. BART: Sales tax.</p> <p>13 A. Sales tax.</p> <p>14 Q. Not income tax?</p> <p>15 A. You know, it was a complicated case.</p> <p>16 I don't remember exactly what was involved. It</p> <p>17 was --</p> <p>18 MR. BROOKS: Let's mark as</p> <p>19 Plaintiff's Exhibit 44 a complaint --</p> <p>20 MR. BODEN: 47.</p> <p>21 MR. BROOKS: We're skipping to 47?</p> <p>22 MR. BODEN: Yes.</p> <p>23 MR. BROOKS: My mistake. 47.</p> <p>24 We'll come back to 44 I guess.</p> <p>25 A copy of a complaint in a case</p>	<p>12</p> <p>1 Gagosian</p> <p>2 the questions.</p> <p>3 MS. BART: Well --</p> <p>4 MR. BROOKS: Either direct him not</p> <p>5 to answer or let's move on.</p> <p>6 MS. BART: If you can give me a</p> <p>7 proffer --</p> <p>8 MR. BROOKS: It goes to his</p> <p>9 credibility. He said he doesn't remember</p> <p>10 being sued, he doesn't remember being sued</p> <p>11 for income tax. This was a huge case. It</p> <p>12 was all over the newspapers. I don't</p> <p>13 think that's a credible answer.</p> <p>14 MS. BART: Once again, I'm asking</p> <p>15 you what this lawsuit has to do with any</p> <p>16 of the claims that your clients have</p> <p>17 alleged in this lawsuit?</p> <p>18 MR. BROOKS: It goes to his</p> <p>19 credibility.</p> <p>20 MS. BART: I'm going to give you a</p> <p>21 certain amount of leeway and then I'm</p> <p>22 going to instruct him not to answer, and</p> <p>23 if you want to take it up with the judge,</p> <p>24 we'll let her decide its relevance.</p> <p>25 But I view this whole line of</p>

13	15
1 Gagosian	1 Gagosian
2 questioning to be objectionable and done	2 corporation?
3 for pure harassment.	3 A. Yes.
4 THE WITNESS: I said there was --	4 Q. Do you know in what state it's
5 MR. BROOKS: I didn't ask you a	5 incorporated?
6 question.	6 A. I think New York.
7 THE WITNESS: I said there was a	7 Q. And where is its principal place of
8 matter involving taxes.	8 business, if you know?
9 MS. BART: Larry -- Larry, just let	9 A. 980 Madison avenue.
10 him -- he asks questions.	10 Q. Now, at the beginning of this
11 BY MR. BROOKS:	11 deposition you were asked for your residence
12 Q. So look at Plaintiff's Exhibit 47.	12 address.
13 Have you ever seen that document before?	13 A. I was asked for my address.
14 A. I don't recall.	14 Q. Okay.
15 Q. Who is Peter Brant?	15 A. I don't think he said residence.
16 A. Peter Brant is a friend of mine and	16 Q. I'm asking you, what's your
17 art collector.	17 residence address?
18 Q. Is he the owner of Interview	18 A. 147 East 69th Street.
19 Magazine?	19 Q. In Manhattan?
20 A. He is now.	20 A. Manhattan.
21 Q. And do you have any recollection of	21 Q. Is 980 Madison Avenue the principal
22 this matter?	22 place of business of Gagosian Gallery?
23 A. Yeah, I do.	23 A. Yes, it is.
24 Q. Now that you see the complaint?	24 Q. Is it a gallery or offices or both?
25 A. Yeah.	25 A. Galleries have offices.
14	16
1 Gagosian	1 Gagosian
2 Q. It comes back to your recollection?	2 Q. But there is a gallery at that --
3 A. No, I remember the matter, I just	3 A. Yeah.
4 didn't remember whether it was a lawsuit. It	4 Q. -- location? Okay.
5 was a complicated thing. I really don't	5 I know you're trying to answer my
6 remember exactly.	6 question, but try to wait until I'm finished.
7 I was deposed. I remember that.	7 Your lawyer may want to object, and also the
8 That's what I told you.	8 court reporter, if we're talking over each
9 Q. So this is a case in which you were	9 other, he won't be able to get my question or
10 deposed?	10 your answer.
11 A. I was deposed, yes.	11 A. Thank you.
12 Q. And when I say this I'm referring to	12 Q. Are you an officer of Gagosian
13 Plaintiff's Exhibit 47.	13 Gallery Inc.?
14 A. That's correct.	14 A. I believe I am.
15 Q. Okay, thank you.	15 Q. What is the title that you hold?
16 What is your occupation?	16 A. President.
17 A. I'm an art dealer.	17 Q. Are you the CEO?
18 Q. Now, in this case, the one that	18 A. I don't think we have a CEO.
19 you're here for today, you're a defendant, you	19 I don't know.
20 already said that, correct?	20 Q. Are there any other officers?
21 A. Yes.	21 A. I have a secretary.
22 Q. And Gagosian Gallery Inc. is a	22 Q. And who is the secretary?
23 defendant, is that your understanding?	23 A. Melissa Lazarov.
24 A. Yes.	24 Q. Can you spell that, please?
25 Q. Is Gagosian Gallery Inc. a	25 A. L-A-Z-A-R-O-V.

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17	19
1 Gagosian	1 Gagosian
2 Q. She's the secretary with a capital S	2 Q. New York, you have several in
3 of the corporation?	3 New York?
4 A. I believe so.	4 A. Three.
5 Q. She keeps the books?	5 Q. Three. One on 24th Street?
6 A. She's not the bookkeeper. She's the	6 A. One on 21st and then Madison.
7 secretary.	7 Q. London?
8 Q. She keeps the minute books?	8 A. London, two.
9 A. Not necessarily.	9 Q. Two in London.
10 Q. Are you a director of that	10 And do you have one in Italy?
11 corporation?	11 A. Rome. And we just opened one in
12 A. I don't know.	12 Athens, Greece.
13 Q. Is there a board of directors?	13 Q. And do you have one in Paris or are
14 A. I don't think so.	14 you in the process of opening one?
15 Q. Are you a shareholder of Gagosian	15 A. I don't have one in Paris.
16 Gallery Inc.?	16 Q. Are you in the process of opening
17 A. I believe I'm the sole owner.	17 one?
18 Q. So you believe you're a hundred	18 A. I'm thinking about it.
19 percent shareholder?	19 Q. And are there any others?
20 A. That's my understanding. Actually,	20 You mentioned Hong Kong has an
21 I think my sister may have -- we may have given	21 office. Are there any other galleries?
22 my sister a small piece of it so I can provide	22 A. No, I don't think so. Not that I
23 her with some money.	23 can think of.
24 Q. What is her name?	24 Q. Are you involved, you personally, in
25 A. Judy Womble.	25 any other business -- businesses other than as
18	20
1 Gagosian	1 Gagosian
2 Q. Can you spell that?	2 the owner of these art galleries?
3 A. W-O-M-B-E-L -- B-L-E, B-E-L.	3 MS. BART: Objection, form.
4 Q. Are you affiliated with any other	4 You're limiting it to in the art
5 corporations other than Gagosian Gallery Inc.	5 industry or?
6 that are in the art business?	6 MR. BROOKS: I think he already
7 A. I'm not sure.	7 answered that. Well, maybe he didn't.
8 Q. Let's talk about just Gagosian	8 BY MR. BROOKS:
9 Gallery Inc. then. Do you know how many	9 Q. Are you involved in any other
10 employees Gagosian Gallery Inc. has?	10 businesses in the art industry?
11 A. I think a little over a hundred.	11 A. In the art industry? I don't think
12 Q. And how many locations -- withdrawn.	12 so. I -- I don't think so.
13 Those employees are situated at how	13 Q. What about outside of the art
14 many locations?	14 industry?
15 A. I have to count.	15 MS. BART: Objection, form and
16 Eight. I believe it's eight. Eight	16 scope.
17 or nine. Eight I think.	17 Q. You can answer.
18 Q. And are those all galleries?	18 A. I'm sorry, what did you say?
19 A. They're all galleries except we have	19 Q. You can answer the question.
20 an office in Hong Kong.	20 A. I can answer the question?
21 Q. That's not a gallery?	21 Q. Yes.
22 A. It's more of an office.	22 MS. BART: Unless I instruct you --
23 Q. Let's see. You have an office -- a	23 don't take the instructions from him. You
24 gallery in Beverly Hills, is that correct?	24 can take them from me --
25 A. Right.	25 THE WITNESS: Well, should I answer

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21	23
1 Gagosian	1 Gagosian
2 the question or not?	2 Q. With respect to Richard Prince is
3 MS. BART: Yes, you can answer the	3 your -- do you represent Richard Prince, your
4 question.	4 gallery?
5 A. I have an interest in a Mexican	5 A. We do.
6 restaurant.	6 Q. Is that an exclusive --
7 Q. Blue Parrot?	7 A. No.
8 A. Blue Parrot.	8 Q. -- representation?
9 Q. In East Hampton?	9 A. No.
10 A. Exactly.	10 Q. Is he also represented by Barbara
11 Q. With Ronald Perelman?	11 Gladstone Gallery?
12 A. And Richard Prince and Renée	12 A. No, no.
13 Zellweger and Bon Jovi.	13 Q. Do you know who else he's
14 Q. Are there Prince artworks hanging in	14 represented by?
15 that restaurant?	15 A. He's represented -- I think he's
16 A. There are.	16 still represented by Sadie Coles in London. I'm
17 Q. Can you tell us the nature of those	17 not sure what the status of the relationship is,
18 artworks?	18 but I believe he's still represented by Sadie
19 A. It's a Mexican restaurant. And as	19 Coles in London.
20 a partner, Richard had the idea to put these	20 Q. C-O-L-E-S?
21 collages on the wall that reference the movie	21 A. Yes.
22 Viva Zapata.	22 Q. Any others, to your knowledge?
23 Q. Other than this Mexican restaurant	23 A. Not to my knowledge.
24 are there any other non-art-related businesses	24 Q. Now, I understand Gagosian Gallery
25 that you're involved in?	25 Inc. does not have any written agreement with
22	24
1 Gagosian	1 Gagosian
2 A. I don't think so. Not that I can	2 Mr. Prince, is that correct?
3 think of.	3 A. That's correct.
4 Q. Does Gagosian Gallery represent some	4 Q. Do you normally have written
5 artists?	5 agreements with the artists you represent?
6 A. Yes, we do.	6 A. No.
7 Q. And what services in general do you	7 Q. Do you ever?
8 render for the artist that you represent?	8 A. I think so. Like I'd have to, you
9 Not you --	9 know, scratch my head. But it's less -- it's
10 MS. BART: Objection.	10 not that frequent.
11 Q. -- but Gagosian Gallery Inc.?	11 Q. When did Gagosian Gallery Inc.
12 MS. BART: Objection, form.	12 commence representing Mr. Prince?
13 You can answer.	13 A. We had our first exhibition I
14 A. We render the same services most	14 believe four years ago. You know, I could be
15 galleries do. We sell the work, we display the	15 off by a year. At that time we were not his
16 work, we promote the work, we produce catalogs,	16 exclusive or primary gallery, but we did an
17 we organize museum shows.	17 exhibition with him.
18 Pretty much what -- you know, pretty	18 Q. Are you his primary gallery now?
19 typical dealer/artist relationships.	19 A. Yes.
20 Q. When you represent an artist is it	20 Q. Where was the exhibition -- no one's
21 normally an exclusive relationship?	21 going to hold you to this -- four years ago or
22 MS. BART: Objection, form.	22 whenever?
23 A. It varies.	23 A. It was in Los Angeles.
24 Q. Sometimes it is, sometimes it isn't?	24 Q. In Los Angeles.
25 A. That's right.	25 Was the Canal Zone show his first

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25	27
1 Gagosian	1 Gagosian
2 solo show for Gagosian Gallery Inc.?	2 MS. BART: Objection, form.
3 A. No.	3 A. No.
4 Q. Was it his first solo show in	4 MR. BROOKS: So let's mark as
5 New York for the Gagosian Gallery Inc.?	5 Plaintiff's Exhibit 44.
6 A. I believe so.	6 (Plaintiff's Exhibit 44, string of
7 Q. And when I say the Canal Zone show	7 e-mails, was marked for identification, as
8 you know what I'm talking about?	8 of this date.)
9 A. Yes, I do.	9 MR. BROOKS: Did we withdraw 43
10 Q. The one in November and December of	10 yesterday? I don't remember what we said
11 last year?	11 on the record.
12 A. Right.	12 MS. BART: You withdrew it.
13 Q. Do you have any financial	13 MR. BROOKS: We withdrew it, okay.
14 arrangement with Mr. Prince?	14 MS. BART: But wait, but then you
15 A. I sell his paintings.	15 substituted it for 43A, B, C and D.
16 Q. At the inception of the relationship	16 MR. BROOKS: Okay. That's what I
17 was any payment made to him by you or your	17 thought. Okay.
18 gallery?	18 MR. HAYES: So there's no 43, but
19 MS. BART: Objection, form.	19 there's a 43A through D?
20 A. You mean like a bonus or something?	20 MR. BROOKS: Yeah.
21 What do you mean by a payment?	21 BY MR. BROOKS:
22 Q. You know, like a retainer payment --	22 Q. Okay. Could you take a look at
23 A. I don't think so.	23 Plaintiff's -- oh, you are looking at it.
24 Q. -- payments --	24 A. I am.
25 A. Not that I recall.	25 Q. This is a string of e-mails, so I'm
26	28
1 Gagosian	1 Gagosian
2 (Multiple speakers talking at once.)	2 going to start at the bottom and work -- you
3 (Interruption by reporter.)	3 send e-mails, don't you, in your ordinary course
4 MS. BART: Let him finish his	4 of business?
5 question.	5 A. Yeah.
6 THE WITNESS: I'm sorry.	6 Q. And you receive them?
7 BY MR. BROOKS:	7 A. Yeah.
8 Q. Let me say it -- a payment that was	8 Q. So you're familiar with e-mails?
9 made to him so that he would, in exchange for	9 A. Yeah.
10 which he would remain with you for a period of	10 Q. And when they're printed out you
11 time?	11 know how that works, if there's a chain that
12 A. I don't believe so.	12 there's an e-mail and a reply and another reply?
13 MS. BART: Objection, form.	13 A. Right.
14 A. Sorry.	14 Q. Okay, fine. So in this case let's
15 Q. You don't believe so?	15 start with the one that was sent by James McKee
16 A. I don't recall.	16 to Louise Neri, N-E-R-I, on October 24th, 2008.
17 Q. You don't recall?	17 Do you know either of these people?
18 A. I think not. But my memory is not	18 A. I know Louise. I'm not sure who
19 perfect.	19 James is.
20 MS. BART: That's it.	20 Q. James McKee, you don't know if he's
21 (Discussion off the record.)	21 an employee of yours?
22 BY MR. BROOKS:	22 A. Well, it says at Gagosian, so he
23 Q. With respect to the Canal Zone	23 must be. He's using our e-mail address.
24 exhibition in November-December of 2008 did you	24 Q. Right.
25 personally curate that show?	25 A. I just don't -- we have a lot of

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29	31
1 Gagosian	1 Gagosian
2 employees. Sometimes --	2 were you involved?
3 Q. About a hundred?	3 A. You know, making decisions about
4 A. -- I might have saw a face, but	4 what should be exhibited and not exhibited, you
5 maybe not the name.	5 know, giving my opinion, which is often
6 Q. You have about a hundred you said?	6 overruled.
7 A. Yeah.	7 Q. Did you have any involvement in
8 Q. Anyway, apparently James McKee --	8 promoting the show through advertisements?
9 and if you look further up, it says -- it	9 A. I'm sorry?
10 indicates that he works at 555 West 24th Street,	10 MS. BART: Objection, form.
11 do you see that under his name?	11 A. I can't hear --
12 A. Yeah.	12 MS. BART: Yeah, I'm having a really
13 Q. That's one of your galleries, right?	13 hard time hearing you.
14 A. That's right.	14 Q. Did you have any involvement in
15 Q. He wrote Louise Neri, Do we know who	15 promoting the show through advertisements?
16 is in charge of curating the Prince show here?	16 A. The gallery advertised the show,
17 And there's a response above it where Louise	17 yes.
18 Neri said Larry. Do you see that?	18 Q. Did you personally?
19 A. Oh, I see. I see my name, yeah.	19 MS. BART: He wants to know if you
20 Q. Now, again, who is Louise Neri?	20 Larry Gagosian --
21 A. She works for the gallery.	21 MR. BROOKS: Correct.
22 Q. For the one on 24th Street?	22 MS. BART: -- as opposed to Gagosian
23 A. That's her -- that's her office.	23 Gallery.
24 Q. So is she incorrect when she appears	24 A. It's also collaborative. So it
25 to be saying --	25 would be a similar answer to the curating
30	32
1 Gagosian	1 Gagosian
2 A. She is -- she is incorrect.	2 question.
3 Q. You were not curating the show?	3 Q. Did you have any involvement in the
4 A. No.	4 production of a book, maybe catalog is the right
5 (Interruption by reporter.)	5 word, in connection with the exhibition?
6 BY MR. BROOKS:	6 MS. BART: In connection with what?
7 Q. Was there someone who was curating	7 MR. BROOKS: Exhibition.
8 the show?	8 Q. A Canal Zone book?
9 A. These shows are often a	9 A. We -- I don't know. We did it with
10 collaborative thing in terms of curating them.	10 Rizzoli. I don't know what -- you know, the
11 That's how we typically curate.	11 gallery was involved. Our name is on the book.
12 Q. Who was collaborating and curating	12 Q. Were you personally involved in any
13 the Canal Zone show?	13 way?
14 A. I don't remember everybody, but it	14 A. Not that much.
15 would have been Richard --	15 Q. With the layout?
16 Q. Prince?	16 A. Not that much.
17 A. -- it would have been some input	17 Q. A little bit?
18 from me, it would have been Sam, it would have	18 A. Very little.
19 been maybe even -- it's a trial-and-error thing.	19 MS. BART: Objection to form.
20 And lot of people are involved, including	20 A. Very little.
21 myself.	21 Q. And I referred to it as a catalog,
22 Q. Can you tell us generally what your	22 is that the right term?
23 involvement was in curating that show?	23 A. Yes.
24 And I'm not looking for specifics	24 Q. Do you know in which outlets
25 because we'll get to that, but in what areas	25 advertisements were placed for the Canal Zone

<p style="text-align: center;">33</p> <p>1 Gagosian</p> <p>2 show?</p> <p>3 MS. BART: Objection to form.</p> <p>4 A. I don't recall.</p> <p>5 MR. BROOKS: I'm going to mark</p> <p>6 as Plaintiff's Exhibit 45 a series of</p> <p>7 e-mails.</p> <p>8 (Plaintiff's Exhibit 45, series of</p> <p>9 e-mails, was marked for identification, as</p> <p>10 of this date.)</p> <p>11 Q. Mr. Gagosian, these are a series of</p> <p>12 e-mails that were produced in discovery.</p> <p>13 MS. BART: Will you just give the</p> <p>14 witness a chance to read this multipage</p> <p>15 document, please?</p> <p>16 MR. BROOKS: If he wants to. I'm</p> <p>17 going to go page by page.</p> <p>18 MS. BART: Yes. We'd like to have</p> <p>19 him have a chance to read them.</p> <p>20 MR. BROOKS: Take as much time as</p> <p>21 you like.</p> <p>22 MS. BART: And, Mr. Brooks, this is</p> <p>23 just a compilation exhibit, not that each</p> <p>24 one of these are part of a chain, correct?</p> <p>25 MR. BROOKS: I don't know. We'll</p>	<p style="text-align: center;">35</p> <p>1 Gagosian</p> <p>2 980 Madison?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know her?</p> <p>5 A. I do.</p> <p>6 Q. And the subject of this e-mail is</p> <p>7 announcement card and adverts. What is an</p> <p>8 announcement card, if you know, with respect to</p> <p>9 the show?</p> <p>10 A. An announcement card is something we</p> <p>11 put in the mail to our clients and museums. It</p> <p>12 goes out to our mailing list.</p> <p>13 Q. Announcing the show?</p> <p>14 A. Announcing the show.</p> <p>15 Q. And does that announcement card have</p> <p>16 any depiction of any of the images from the show</p> <p>17 or does it just announce there will be a show?</p> <p>18 A. It varies.</p> <p>19 Q. In this case do you remember?</p> <p>20 A. I think it did, yes.</p> <p>21 Q. Do you know what it depicted?</p> <p>22 A. An image from the show. I don't</p> <p>23 recall exactly.</p> <p>24 Q. Do you know if it was the same image</p> <p>25 as the invitation?</p>
<p style="text-align: center;">34</p> <p>1 Gagosian</p> <p>2 have to see when we get to it.</p> <p>3 THE WITNESS: I mean --</p> <p>4 MS. BART: There's no question.</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. Mr. Gagosian, let me know when</p> <p>7 you're ready for me to ask you questions about</p> <p>8 this exhibit.</p> <p>9 (Witness looks at exhibit.)</p> <p>10 A. Okay.</p> <p>11 Q. Okay?</p> <p>12 A. Yeah.</p> <p>13 Q. Now, I'm going to ask you some</p> <p>14 questions about the first page.</p> <p>15 A. Which? I'm sorry?</p> <p>16 Q. The first page.</p> <p>17 A. Okay.</p> <p>18 Q. We're just going to go through page</p> <p>19 after page. So the first one is stamped</p> <p>20 GP001991 at the bottom.</p> <p>21 Melissa Lazarov, is that -- the</p> <p>22 recipient of this e-mail, is that the person you</p> <p>23 identified before as being the secretary of --</p> <p>24 A. That's correct.</p> <p>25 Q. And Nicole Hecht works at</p>	<p style="text-align: center;">36</p> <p>1 Gagosian</p> <p>2 A. The invitation?</p> <p>3 Q. Yes.</p> <p>4 A. Well, that is the announcement card.</p> <p>5 Q. That's the same thing?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So Nicole Hecht is writing</p> <p>8 that Larry reviewed the options and wants to run</p> <p>9 the attached ad in ArtForum. And then it says</p> <p>10 will also run in Art in America and Art and</p> <p>11 Auction. Do you recall reviewing ads for the</p> <p>12 show including ads placed in ArtForum magazine?</p> <p>13 A. I always review --</p> <p>14 MS. BART: Objection to form.</p> <p>15 A. I always review the ads. I always</p> <p>16 review the ads. So, you know, I don't recall</p> <p>17 the specific --</p> <p>18 Q. That's a normal function that you</p> <p>19 perform?</p> <p>20 A. Right. They show me options and --</p> <p>21 Q. Right. And on the third line there</p> <p>22 there's a reference to JPEGs. Do you see that?</p> <p>23 It reads, They are JPEGs so do not</p> <p>24 appear very sharp, and then it goes on. Do you</p> <p>25 know what a JPEG is?</p>



37	39
1 Gagosian	1 Gagosian
2 A. It's an electronic image.	2 Q. Do you know what Graphic Thought
3 Q. The next page in this exhibit, do	3 Facility is?
4 you know who Rysia Murphy is?	4 A. It sounds like a graphic studio.
5 A. I do.	5 I don't know specifically.
6 Q. R-Y-S-I-A.	6 Q. Were they employed to -- in
7 A. Mm-hmm.	7 connection with the advertisements?
8 Q. Who is she? Who is she?	8 MS. BART: Objection, form. He just
9 A. She's an assistant.	9 said he doesn't know who they are.
10 Q. That works for your company?	10 A. I don't recall.
11 A. Yes.	11 Q. On the next page, this is from
12 Q. And she says, LG -- is that a	12 Allison McDonald. Was she in charge of the
13 reference to you?	13 show, of the Canal Zone show?
14 A. Yes.	14 A. No, she's sort of the head of our
15 Q. Wants to make sure the ad is large	15 design -- our in-house design department.
16 and very clear, and he also wants to see the	16 Q. Well, does she have a role then in
17 ads to approve. This refers to an ad in the	17 the production of the catalog?
18 New York Times?	18 A. Sometimes.
19 A. I guess so. Does it say so?	19 Q. We'll get to that later.
20 I don't know.	20 Do you recall an ad being placed
21 Q. It says run the attached again in	21 in W and approved by you?
22 NYT.	22 A. Yeah, I guess so. I don't remember,
23 A. Yeah, New York Times, right.	23 but.
24 Q. And this was an ad for two different	24 Q. Okay. On the next page, Meredith
25 shows, the Prince show and a show by an artist	25 Dunn also works for you?
38	40
1 Gagosian	1 Gagosian
2 named Sugimoto, is that right, do you remember	2 A. Yes.
3 that?	3 Q. And what does she do?
4 A. Yes.	4 A. She's an assistant junior
5 Q. Is Mr. or Mrs. or Ms. Sugimoto an	5 salesperson.
6 artist that you represent as well?	6 Q. And she's saying I told Nicole Larry
7 A. Yes.	7 likes the Prince ad with just, all caps, the
8 Q. Is it a man or a woman?	8 Rasta man, not the one in the studio. For the
9 A. It's a man.	9 announcement he likes the Rasta man poster on
10 Q. And on the next page, this also	10 two paint cans, comma, with no books in the
11 refers to the New York Times ad. Do you recall	11 picture.
12 indicating that you wanted the ad to be bigger	12 Do you have any recollection of
13 than it had originally been planned to be?	13 having discussed these matters with Meredith
14 A. I'm sorry, I can't hear you very	14 Dunn?
15 well.	15 A. Not beyond what I'm reading here.
16 MS. BART: You've got to speak up.	16 Q. Did you have input into the
17 MR. BROOKS: Okay.	17 announcement and into the ads?
18 THE WITNESS: Can you restate --	18 A. Yeah, I'm -- typically I'm given
19 MR. BROOKS: Just repeat it. And if	19 options and I'll pick one and, as I said before,
20 he didn't get it, I'll say it again.	20 sometimes I'm overruled.
21 (Record read.)	21 Q. In this last one who is Vanessa
22 A. I don't recall.	22 Riding?
23 Q. Do you know who Ivor at	23 A. She's my PA.
24 GraphicThoughtFacility.com is?	24 Q. What does PA stand for?
25 A. No.	25 A. Personal assistant.

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41	43
1 Gagosian	1 Gagosian
2 Q. What is the purpose of advertising a	2 and I want to find out what he's nodding
3 show before it takes place?	3 about.
4 A. To promote business and to make	4 MS. BART: He nodded after he
5 people aware of the exhibition.	5 answered it.
6 Q. In the hopes that they'll come to	6 Q. All right. Mr. Gagosian, it's not
7 the show?	7 infrequent that pieces are sold before the show
8 A. Come to the show --	8 even opens, right?
9 MS. BART: Objection, form.	9 MS. BART: Objection, form.
10 A. Just informing -- yeah, informing	10 Q. In your business?
11 people.	11 A. Sometimes pieces are sold before the
12 Q. In the hopes that they'll come to	12 show opens.
13 the show and buy some of the artwork?	13 Q. Now, how about more specifically in
14 MS. BART: Objection, form.	14 connection with the Canal Zone show that opened
15 Q. You can answer.	15 in November of 2008 at your gallery, were pieces
16 A. I don't -- I don't think about it	16 sold before that show opened?
17 that way. It's just part of the process.	17 A. I think so.
18 Q. When you have a show you hope to	18 (Plaintiff's Exhibit 46, checklist
19 sell the pieces in the show, don't you?	19 of paintings, was marked for
20 MS. BART: Objection, form.	20 identification, as of this date.)
21 Q. You can answer.	21 Q. Mr. Gagosian, can you tell us what
22 A. Yes.	22 this document is?
23 Q. That's how you make money, right?	23 A. Well, it appears to be a checklist
24 A. That's right.	24 of paintings that Richard made for the
25 Q. That's how you pay your employees?	25 exhibition.
42	44
1 Gagosian	1 Gagosian
2 A. Absolutely.	2 Q. The Canal Zone exhibition?
3 Q. Is it normal, maybe not in this	3 A. Exactly, yes.
4 economy, but if you go back at least a year and	4 Q. Is this a normal type of document
5 before that, is it normal in a show where the	5 that your company creates in connection with a
6 artist is of the caliber of Mr. Prince to sell	6 show?
7 out all or most of the pieces before the show	7 A. Yes.
8 even opens?	8 Q. Does it have a name, this type of
9 MS. BART: Objection, form, in	9 document?
10 particular use of the word normal.	10 A. Checklist -- I don't know what
11 A. Yeah, normal I have a problem with.	11 the -- I call it checklist.
12 Q. That happens sometimes, right?	12 Q. Now, there are a number of paintings
13 MS. BART: Objection. That what?	13 listed, and then to the right there are some
14 Q. That most of the pieces are sold	14 images. Is it the case that the image
15 before the show even opens?	15 corresponds with the painting that's listed?
16 A. That's the exception.	16 A. I'm sorry?
17 MS. BART: Objection, form.	17 MR. BROOKS: Can you read that back.
18 Q. That's the exception?	18 Q. If you don't understand it I'll
19 (Nonverbal response.)	19 rephrase it.
20 Q. You're nodding but you have to say	20 A. I just couldn't hear you, I'm sorry.
21 yes or no.	21 Q. Okay. I'm going to try to speak up.
22 A. I said it's the exception.	22 A. My hearing is not great.
23 MS. BART: He answered your	23 (Record read.)
24 question.	24 A. Yeah, that would be -- that would be
25 MR. BROOKS: Excuse me. He nodded	25 the idea.

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45	47
1 Gagosian	1 Gagosian
2 Q. Are the images what we were	2 week.
3 discussing before, i.e., JPEGs?	3 Q. In the show, when a painting was
4 A. Yes.	4 sold, can you tell us how the payment stream
5 Q. By my count, if you look at the	5 worked, who was the payment made to and how did
6 column just immediately to the left of the JPEGs	6 Mr. Prince get paid?
7 it appears that 11 of these paintings had been	7 A. Mr. Prince gets a percentage of the
8 sold as of October 15th, 2008. Is that what	8 proceeds. The salesperson gets a commission.
9 this indicates?	9 The gallery retains the balance.
10 A. Yeah, I guess so.	10 Q. Well, let's just take a hypothetical
11 Q. Is that -- does that accord with	11 and make it clear. Let's take the very first
12 your recollection, if you have one --	12 one, Especially Around Midnight, which the
13 A. I don't have that kind of a	13 indication is that was sold?
14 recollection.	14 A. Right.
15 Q. I notice that the fourth painting,	15 Q. So let's say Mr. X bought it, and
16 which is an untiled Rasta, it says hold LG, do	16 let's just say he bought it for 2-million
17 you know what that means?	17 dollars?
18 A. Yeah, it means that I'm -- I'm not	18 A. Right.
19 making it available. It's not sold, but I have	19 Q. Who would he pay the 2-million
20 maybe a client that I'm having a conversation	20 dollars to?
21 with, so I don't want the salespeople to have	21 A. To the gallery.
22 access to it because I may have a pending	22 Q. By check, by wire transfer --
23 transaction.	23 A. Either.
24 Q. So it's not available?	24 Q. -- or does it not matter?
25 A. It's not available, correct.	25 A. One of the two.
46	48
1 Gagosian	1 Gagosian
2 Q. At that time?	2 Q. Then what does the gallery do with
3 A. At that time.	3 the -- we're taking 2-million dollars as an
4 Q. It could become available later?	4 example, what does the gallery do with that
5 A. Exactly.	5 2-million dollars?
6 Q. Do the salespeople who work for you	6 A. We pay -- we pay the artist. And
7 receive commissions when they sell a painting?	7 if it was -- if I sold it, then there's no
8 A. Yes, they do.	8 commission. But if somebody else sold it, you
9 Q. All right. I see two others that	9 know, in the organization, then they would get
10 say hold LG. But there's also another two at	10 a commission.
11 the bottom of the first page that say hold CC.	11 Q. And then the gallery would keep the
12 Do you know what that means?	12 balance?
13 A. It could mean Candy Coleman. I'd	13 A. Correct.
14 have to --	14 Q. In the case of this show do you know
15 MS. BART: Don't guess.	15 what the breakdown was, what percent Mr. Prince
16 THE WITNESS: Huh?	16 received?
17 MS. BART: Don't guess.	17 MS. BART: Objection, form.
18 A. I don't know for sure.	18 A. I believe he received 40 -- no,
19 Q. Did she work for you in 2008?	19 60 percent. The gallery received 40 percent.
20 A. Yes.	20 Q. So, again, hypothetically, if the
21 Q. Where?	21 painting sold for 2 million he should receive
22 A. Los Angeles. San Diego.	22 1.2 million, is that right?
23 Q. Do you have a gallery in San Diego?	23 A. Correct.
24 A. No, but she works out of her home in	24 Q. He being Mr. Prince?
25 San Diego and she goes up to LA about once a	25 A. That's right.

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49	51
<p>1 Gagosian</p> <p>2 Q. Does the Gagosian Gallery have a</p> <p>3 website?</p> <p>4 A. Yes, we do.</p> <p>5 Q. Did you -- withdrawn.</p> <p>6 Did your website publicize the fact</p> <p>7 that the Canal Zone show was about to open?</p> <p>8 A. I would imagine so.</p> <p>9 Q. Did Gagosian Gallery issue a press</p> <p>10 release stating that the show was going to open,</p> <p>11 the Prince show was going to open?</p> <p>12 A. We always do.</p> <p>13 Q. Are you aware that Mr. Prince was</p> <p>14 interviewed by Interview Magazine shortly before</p> <p>15 the Canal Zone show opened?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you know if Gagosian Gallery</p> <p>18 arranged such an interview for Mr. Prince?</p> <p>19 A. It wouldn't -- that wouldn't be the</p> <p>20 case usually.</p> <p>21 Q. Do you know Glenn O'Brien?</p> <p>22 A. I do.</p> <p>23 Q. Do you recall, now that I've</p> <p>24 mentioned his name, that he interviewed</p> <p>25 Mr. Prince in Interview Magazine?</p>	<p>1 Gagosian</p> <p>2 Q. Do you recall going to it?</p> <p>3 A. I'm sure I did.</p> <p>4 Q. Was it -- let me see if I can help</p> <p>5 you. Was it in the Gramercy Park Hotel?</p> <p>6 MS. BART: Well, objection. The</p> <p>7 witness has testified that he doesn't</p> <p>8 recall.</p> <p>9 MR. BROOKS: Right. And I can --</p> <p>10 I'm entitled to help his recollection.</p> <p>11 BY MR. BROOKS:</p> <p>12 Q. Do you recall a dinner in the</p> <p>13 Gramercy Park Hotel, which is right near</p> <p>14 Gramercy Park?</p> <p>15 A. I honestly don't, but --</p> <p>16 Q. Do you recall having any</p> <p>17 involvement, you personally, in preparing the</p> <p>18 invitation list for the dinner in connection</p> <p>19 with the opening of the Canal Zone show?</p> <p>20 A. What I almost always do is review a</p> <p>21 list. I'm given a list and I'll sometimes take</p> <p>22 somebody's name off or add somebody's name, but</p> <p>23 it's usually pre-prepared.</p> <p>24 Q. And did you do that in connection</p> <p>25 with the dinner for the opening of this show?</p>
50	52
<p>1 Gagosian</p> <p>2 A. It's possible, I just don't --</p> <p>3 I don't have a specific recollection.</p> <p>4 Q. Do you know whether Gagosian Gallery</p> <p>5 sent JPEGs of images from the Canal Zone show to</p> <p>6 Interview Magazine to be used in connection with</p> <p>7 the publication of the Prince interview?</p> <p>8 A. I don't have a specific</p> <p>9 recollection.</p> <p>10 Q. Do you know if Interview Magazine</p> <p>11 had a slide show in connection with the Canal</p> <p>12 Zone exhibition on its website?</p> <p>13 A. I didn't know that.</p> <p>14 Q. Was Peter Brant the owner of</p> <p>15 Interview Magazine in 2008, if you know?</p> <p>16 A. I know he bought it recently. I</p> <p>17 don't know the date that he bought it, so I</p> <p>18 don't know who was the owner at that point.</p> <p>19 Q. Was there a -- withdrawn.</p> <p>20 The show opened on November 8th,</p> <p>21 2008. Was there a dinner in connection with</p> <p>22 the opening of the show?</p> <p>23 A. I'm sure there was.</p> <p>24 Q. Do you recall?</p> <p>25 A. I don't recall exactly.</p>	<p>1 Gagosian</p> <p>2 A. I almost always do.</p> <p>3 Q. But you don't remember?</p> <p>4 A. I don't have specific recollection.</p> <p>5 Q. Okay.</p> <p>6 (Discussion off the record.)</p> <p>7 MR. BROOKS: This is 48.</p> <p>8 (Plaintiff's Exhibit 48, series of</p> <p>9 e-mails, was marked for identification, as</p> <p>10 of this date.)</p> <p>11 MR. BROOKS: Plaintiff's Exhibit 48</p> <p>12 is a series of -- again, a series of</p> <p>13 e-mails.</p> <p>14 MS. BART: It's just a compilation,</p> <p>15 not that they're one sequence, correct?</p> <p>16 MR. HAYES: They don't appear to be</p> <p>17 a chain.</p> <p>18 MR. BROOKS: I'm not sure.</p> <p>19 MS. BART: They're not.</p> <p>20 MR. HAYES: No, they're not a chain.</p> <p>21 BY MR. BROOKS:</p> <p>22 Q. Again, take your time, look them</p> <p>23 over, tell me when you're ready and I'll ask you</p> <p>24 some questions.</p> <p>25 A. Okay.</p>

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<p style="text-align: center;">53</p> <p>1 Gagosian</p> <p>2 Q. On the first page of Exhibit 48,</p> <p>3 stamp 3313 at the bottom, who is Victoria</p> <p>4 Gelfand, is she in your London --</p> <p>5 A. Yes.</p> <p>6 Q. -- gallery?</p> <p>7 A. Yes.</p> <p>8 MS. BART: Let him finish his</p> <p>9 question.</p> <p>10 Q. And then Karen Ho, H-O, does she</p> <p>11 also work for Gagosian Galleries?</p> <p>12 A. I think so.</p> <p>13 Q. She has a Gagosian.com e-mail</p> <p>14 address apparently?</p> <p>15 A. Yeah. Yeah, then she must.</p> <p>16 Q. She says to Victoria Gelfand, as per</p> <p>17 LG, he needs to approve everyone we are inviting</p> <p>18 to the Prince dinner, is that correct?</p> <p>19 A. That's what it says.</p> <p>20 Q. Was that -- good point. That was a</p> <p>21 bad question. I didn't mean is that what it</p> <p>22 says. What I mean is is that an accurate</p> <p>23 statement by her that you had to approve</p> <p>24 everyone who was invited?</p> <p>25 A. Yes, I think so.</p>	<p style="text-align: center;">55</p> <p>1 Gagosian</p> <p>2 people from the Guggenheim museum to these types</p> <p>3 of openings?</p> <p>4 MS. BART: Objection, form.</p> <p>5 Q. You can answer.</p> <p>6 A. Not typical or normal. It just</p> <p>7 depends.</p> <p>8 Q. Sometimes you do?</p> <p>9 MS. BART: Objection, form.</p> <p>10 Q. You can answer.</p> <p>11 A. Yeah, sometimes we do.</p> <p>12 Q. The next page, which is 3375 at the</p> <p>13 bottom, Rysia Murphy, who I think you've</p> <p>14 identified, says, Please just make sure it is</p> <p>15 not sent to anyone that has not been approved by</p> <p>16 LG as he is being very strict about this dinner.</p> <p>17 Is she correct in saying that you</p> <p>18 were being very strict about that dinner?</p> <p>19 MS. BART: Objection, form.</p> <p>20 A. I don't remember what that meant,</p> <p>21 but it's -- I just take it at face value. I</p> <p>22 really don't remember why I was being strict.</p> <p>23 Maybe I'm always strict.</p> <p>24 MS. BART: Or if you were.</p> <p>25 Q. And the last page attaches the most</p>
<p style="text-align: center;">54</p> <p>1 Gagosian</p> <p>2 Q. Next page, again, that's another</p> <p>3 e-mail from Karen Ho, it's similar to the one we</p> <p>4 just looked at, so I'll pass to the third one.</p> <p>5 Now, here's an e-mail from Rysia</p> <p>6 Murphy saying that you took some names off the</p> <p>7 list, is that your recollection that you did</p> <p>8 that?</p> <p>9 A. I don't have a specific</p> <p>10 recollection.</p> <p>11 Q. It's something you would do?</p> <p>12 A. Yes.</p> <p>13 Q. The next page has -- it says,</p> <p>14 Subject, For LG to check for Prince opening and</p> <p>15 dinner. And it says at the top, Please ask LG</p> <p>16 if he would like any of these people to be</p> <p>17 invited. I assume you don't know which people</p> <p>18 that refers to, correct?</p> <p>19 A. No.</p> <p>20 Q. How about further down it says</p> <p>21 something spelled wrong, but it says something</p> <p>22 about Guggenheim's original list. Do you have</p> <p>23 any idea what that refers to?</p> <p>24 A. Not -- not really.</p> <p>25 Q. Do you normally or typically invite</p>	<p style="text-align: center;">56</p> <p>1 Gagosian</p> <p>2 up-to-date dinner list and states, As you know,</p> <p>3 LG has been super-intense about who is invited,</p> <p>4 et cetera, do you see that, from Rysia Murphy?</p> <p>5 A. Yeah.</p> <p>6 Q. Do you have a recollection of</p> <p>7 being --</p> <p>8 A. Super-intense?</p> <p>9 Q. -- super-intense about this</p> <p>10 particular dinner?</p> <p>11 A. No.</p> <p>12 (Discussion off the record.)</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. Ready?</p> <p>15 A. Yeah.</p> <p>16 MR. BROOKS: I'd like to mark as</p> <p>17 Plaintiff's Exhibit 49 an e-mail.</p> <p>18 (Plaintiff's Exhibit 49, e-mail</p> <p>19 dated October 23, 2008, was marked for</p> <p>20 identification, as of this date.)</p> <p>21 Q. Just for the record, the e-mail is</p> <p>22 dated October 23, 2008. And it's from Meredith</p> <p>23 Dunn, D-U-N-N, to a number of addressees.</p> <p>24 Mr. Gagosian, I believe earlier</p> <p>25 today you said that curating a show like this</p>

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57	59
1 Gagosian	1 Gagosian
2 was a collaborative effort. Do you remember	2 apologize, but where does she work?
3 saying that?	3 A. Los Angeles.
4 A. Yeah, usually, right.	4 Q. I think you said that, right.
5 Q. And in this case it was?	5 Were celebrities invited to this
6 A. Yes.	6 dinner?
7 Q. And I think you mentioned somebody	7 A. I don't recall.
8 named Sam in that answer, do you recall?	8 Q. Were people from MOMA invited?
9 A. Yes, I do.	9 A. Most likely.
10 Q. And is this Sam Orlofsky --	10 Q. And that would be an acronym for the
11 A. Yes.	11 Museum of Modern Art?
12 Q. Is he one of the people who was	12 A. Correct.
13 involved? Yes?	13 Q. Were people from the Guggenheim and
14 A. Yeah.	14 Whitney museums invited?
15 MS. BART: You have to answer yes or	15 A. I would assume so.
16 no.	16 Q. And then it says and other clients
17 MR. BROOKS: What's the problem?	17 who will, capital letters, buy his work. Did
18 MS. BART: I was just saying he has	18 you play a role in making sure that the clients
19 to answer yes or no.	19 who were invited would be likely to buy
20 THE WITNESS: She's telling me how	20 Mr. Prince's work?
21 to answer.	21 MS. BART: Objection, form.
22 MS. BART: Well, no, I'm not. I'm	22 A. Well, you want to invite a range of
23 just saying --	23 people, some of them because they're friends of
24 MR. BROOKS: I know what you mean.	24 the artist, some of them because they're known
25 THE WITNESS: The form of answer.	25 to collect the work, others because they have a
58	60
1 Gagosian	1 Gagosian
2 MR. BROOKS: Right. She's saying	2 museum status. So it's a mix of people, but you
3 you shouldn't nod your head.	3 always want to include customers.
4 THE WITNESS: Right.	4 Q. And do you also want to include
5 BY MR. BROOKS:	5 celebrities to generate some buzz for the show?
6 Q. Sam Orlofsky works for you?	6 A. Yeah --
7 A. Yes, he does.	7 MS. BART: Objection, form, and
8 Q. These other people -- and I'm not	8 asked and answered.
9 going to read all the names, but the other	9 Q. You can answer.
10 people listed on this Exhibit 49 -- A, were they	10 A. Yeah. Yeah.
11 all Gagosian employees, and, B, were any of them	11 Q. So in connection with this
12 involved in curating the show?	12 particular show -- withdrawn.
13 A. I don't recall which of them were	13 MR. BROOKS: Let's mark as
14 involved specifically, no.	14 Plaintiff's Exhibit 50 an e-mail -- this
15 Q. Are they all Gagosian employees, to	15 is a string of e-mails in October 2008.
16 your knowledge?	16 (Plaintiff's Exhibit 50, string of
17 A. I would assume so.	17 e-mails, was marked for identification, as
18 Q. You mentioned a Candy Coleman	18 of this date.)
19 before, do you recall that?	19 Q. The first e-mail appears to be from
20 A. Yes.	20 Barbara Wilhelm Dwek, D-W-E-K. Is she somebody
21 Q. And she's -- her name seems to be in	21 who works at the gallery at which the show took
22 the middle of this list of addressees, do you	22 place?
23 see that?	23 A. At that time I believe she did.
24 A. I do.	24 Q. And there's an e-mail above that
25 Q. If I asked you this before, I	25 from Karen Ho saying these are the people

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61	63
1 Gagosian	1 Gagosian
2 Barbara wants to invite to the dinner after	2 A. Yes, she does.
3 receiving LG's e-mail. And it says yes or no.	3 Q. What does she do?
4 And then Melissa Lazarov wrote Karen Ho saying	4 A. She's -- she works in our
5 will run these names by LG for approval.	5 impressionist department and she's a
6 MS. BART: Will you run these	6 salesperson.
7 e-mails.	7 Q. And she was one of the people who
8 MR. BROOKS: I'm sorry, you're	8 wanted to invite certain people to the dinner,
9 right. Will you run these names by LG	9 is that correct?
10 for approval. Thank you.	10 A. Apparently.
11 BY MR. BROOKS:	11 Q. At the top it says that Karen Ho is
12 Q. And then the final e-mail at the top	12 saying I spoke to Andrea Crane and the other
13 of the chain is from Vanessa Riding. Again, her	13 invites are collectors and their parents are the
14 position?	14 wealthiest people in Holland worth 5 billion.
15 A. Personal assistant.	15 Do you have any recollection of that?
16 Q. To you?	16 A. No.
17 A. Yes.	17 Q. Do you know who those people are?
18 Q. And it says before Larry approves	18 MS. BART: Objection. I'm going to
19 this list he would like to know if you have sold	19 instruct the witness not to disclose the
20 any art to these people. If so, he would like	20 name of the clients.
21 to see proof. Do you have any recollection of	21 A. I don't recall. I don't know who
22 that?	22 they are actually.
23 A. No.	23 MR. BROOKS: We talked about the
24 Q. You don't know what kind of proof	24 invitation before briefly, so I'd like to
25 you were requesting?	25 mark as Plaintiff's Exhibit 52 what
62	64
1 Gagosian	1 Gagosian
2 MS. BART: Objection, form.	2 appears to be a copy of the invitation to
3 A. Well, I mean it could just be she	3 the Canal Zone show.
4 could just call me, you know, I mean she	4 (Plaintiff's Exhibit 52, copy of
5 wouldn't have to present me with an invoice.	5 invitation to Canal Zone show, was marked
6 I would take her word for it on the phone.	6 for identification, as of this date.)
7 It's just a way of limiting the number of	7 Q. Mr. Gagosian, do you recognize and
8 guests. Every salesperson wants to invite a	8 can you identify Plaintiff's Exhibit 52?
9 bunch of their friends, so we try to vet them a	9 A. Appears to be a facsimile of the
10 little bit.	10 invitation.
11 Q. Vet them in terms of what?	11 Q. Have you heard this particular
12 A. In terms of whether they're going to	12 individual who's depicted in the invitation
13 contribute either commercially or in some other	13 referred to as the blue, B-L-U-E, Rasta man?
14 way.	14 A. Yeah --
15 MR. BROOKS: I'd like to mark as	15 MS. BART: Has he heard that?
16 Plaintiff's Exhibit 51 another chain of	16 MR. BROOKS: Yes.
17 e-mails dated October 31st, 2008.	17 A. What do you mean have I heard it?
18 (Plaintiff's Exhibit 51, e-mail	18 Q. Have you heard that?
19 chain, was marked for identification, as	19 A. I don't remember.
20 of this date.)	20 Q. This invitation, is this the same
21 Q. I think this might be a new name,	21 thing as what you were describing before as
22 Andrea Crane with a C?	22 being an announcement card?
23 A. Right.	23 A. Correct.
24 Q. Does she work for Gagosian	24 Q. And these were mailed out before the
25 Galleries?	25 show?

65	67
1 Gagosian	1 Gagosian
2 A. Right.	2 MS. BART: I'm sorry, I couldn't
3 Q. Do you know how many were mailed	3 hear the name.
4 out?	4 Q. Kanye West?
5 A. I don't know the exact number.	5 A. Let me just say these people, all
6 Q. Would it be correct to say it was	6 these people could have been invited but I don't
7 thousands?	7 have a specific recollection.
8 MS. BART: Objection, form, and	8 Q. Let me ask you about actors.
9 caution the witness not to guess.	9 Leonardo DiCaprio?
10 A. I really don't -- I don't know how	10 A. I don't recall.
11 many we mail out. I really don't know that	11 Q. Tobey Maguire.
12 number.	12 A. I don't recall.
13 Q. Did you review the invitation before	13 Q. Philip Seymour Hoffman?
14 it was mailed out?	14 A. I don't recall.
15 A. I always do.	15 Q. Renée Zellweger?
16 Q. Did you have any input into which	16 A. I don't recall.
17 image should be used in the invitation?	17 Q. Penelope Cruz?
18 A. Usually.	18 A. I just don't have a memory like
19 Q. And in this case?	19 that. You can list a hundred names, I just
20 A. I always have input. It's not --	20 don't remember who's on the list and who's not.
21 I don't always have the last word however.	21 Q. Let me ask you about people from
22 Q. Do you know where that image was	22 finance. Do you recall these people being
23 taken from?	23 invited? Leon Black?
24 MS. BART: Objection, form.	24 A. He would -- he's on most of our --
25 A. I really don't know.	25 on our list.
66	68
1 Gagosian	1 Gagosian
2 Q. I think you said you weren't sure if	2 Q. And what does he do?
3 celebrities were invited to the dinner, correct,	3 A. He's a financial guy in New York.
4 this particular dinner?	4 Q. A private equity fund?
5 A. I guess I meant I didn't know which	5 A. Yes.
6 ones. I don't remember. I don't remember if	6 Q. Henry Kravis?
7 they were or who. I don't remember.	7 A. Yeah.
8 Q. Let me try to help you --	8 Q. He was invited?
9 A. If you give me a name --	9 A. You know, I don't -- let me tell
10 Q. -- recollect.	10 you, I don't remember -- I don't remember who
11 A. -- maybe I can respond.	11 was on the guest list, but those are names that
12 Q. Let's talk about musical artists	12 are typically on our guest lists. So I would
13 first. Bono?	13 assume they were invited, but I don't have a
14 A. I don't remember.	14 specific recollection.
15 Q. Mick Jagger?	15 Q. How about, do you know who Steven
16 A. I don't remember.	16 A. Cohen is?
17 Q. Sir Paul McCartney?	17 A. I do.
18 A. I don't remember.	18 Q. Does he have a company called SAC, a
19 Q. Jon Bon Jovi?	19 hedge fund?
20 A. I don't remember.	20 A. I believe so, yes.
21 Q. You know him, right?	21 Q. Is he a fairly substantial
22 A. I know all those people.	22 collector?
23 Q. Beyoncé?	23 MS. BART: Objection, form.
24 A. I don't remember.	24 A. Yes, he is.
25 Q. Kanye West?	25 Q. Sorry?



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69	71
<p>1 Gagosian</p> <p>2 A. Yes, he's a substantial collector.</p> <p>3 Q. For instance, he owns Damien Hirst's</p> <p>4 Shark?</p> <p>5 MS. BART: Objection, form.</p> <p>6 Q. Correct?</p> <p>7 A. Yes, he owns it.</p> <p>8 Q. And Damien Hirst was invited to the</p> <p>9 show, right, to the dinner?</p> <p>10 A. Yeah, we represent Damien Hirst, so</p> <p>11 we almost always invite artists that we</p> <p>12 represent.</p> <p>13 Q. Do you represent John Currin?</p> <p>14 A. Yes, I do.</p> <p>15 Q. C-U-R-R-I-N.</p> <p>16 Was he invited?</p> <p>17 A. Most likely.</p> <p>18 Q. Did Steven A. Cohen buy any of the</p> <p>19 pieces that were part of the Canal Zone show?</p> <p>20 A. Yes, he did.</p> <p>21 Q. Do you remember which one or ones?</p> <p>22 A. I believe he bought one. I don't</p> <p>23 recall the title of it.</p> <p>24 Q. And who is Michael Evans, do you</p> <p>25 know?</p>	<p>1 Gagosian</p> <p>2 Q. Why would it surprise you if Nikki</p> <p>3 and Paris Hilton were --</p> <p>4 A. Because they wouldn't be the type of</p> <p>5 people I would invite to an opening.</p> <p>6 Q. How about the Bush daughters, Lauren</p> <p>7 and Barbara Bush, the daughters of President</p> <p>8 George W. Bush?</p> <p>9 A. They could have been. We know them.</p> <p>10 Q. Tom Brady?</p> <p>11 A. I don't remember. I just don't</p> <p>12 remember these names.</p> <p>13 Q. All right. I'm going to show you</p> <p>14 Exhibit --</p> <p>15 MS. BART: I'm going to object to</p> <p>16 this line of questioning, asking him to</p> <p>17 testify about his memory about a guest</p> <p>18 list. But --</p> <p>19 A. Yeah, I don't get the -- I'm not</p> <p>20 a lawyer, but I don't understand what the</p> <p>21 importance is.</p> <p>22 MS. BART: Well, that's --</p> <p>23 Q. All right. I'm going to show you</p> <p>24 what was marked Tuesday when Mr. Prince</p> <p>25 testified as Plaintiff's Exhibit 35.</p>
70	72
<p>1 Gagosian</p> <p>2 A. I think he's a collector, yeah.</p> <p>3 Q. Did he buy one of the Canal Zone</p> <p>4 paintings?</p> <p>5 A. I don't remember specifically.</p> <p>6 Q. Do you sometimes invite people who</p> <p>7 are famous just for being famous to these shows,</p> <p>8 if you know what I mean?</p> <p>9 MS. BART: Objection, form. I don't</p> <p>10 know what you mean.</p> <p>11 A. I don't understand the question.</p> <p>12 MR. BROOKS: Let's see if he knows.</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. Do you know who Baby Jane Holzer is?</p> <p>15 A. She's an art collector.</p> <p>16 Q. Was she invited?</p> <p>17 A. She could have been.</p> <p>18 MS. BART: Don't guess.</p> <p>19 A. I don't remember. I don't remember</p> <p>20 any of these names.</p> <p>21 Q. How about Nikki and Paris Hilton?</p> <p>22 A. That would surprise me.</p> <p>23 Q. How about Mary-Kate and Ashley</p> <p>24 Olsen?</p> <p>25 A. Possible.</p>	<p>1 Gagosian</p> <p>2 (Discussion off the record.)</p> <p>3 Q. So we're not marking this. It was</p> <p>4 marked Tuesday.</p> <p>5 A. This is a guest list.</p> <p>6 Q. That's what I'm going to ask you.</p> <p>7 This is a --</p> <p>8 MS. BART: You've got 35 and 30 and</p> <p>9 23.</p> <p>10 MR. BROOKS: That's a mistake. It</p> <p>11 should be just -- can you give us back</p> <p>12 some.</p> <p>13 MS. BART: Yes. Here you go.</p> <p>14 MR. BROOKS: Okay. Thank you for</p> <p>15 pointing that out.</p> <p>16 MS. BART: No problem. Here you go.</p> <p>17 BY MR. BROOKS:</p> <p>18 Q. Okay. So now you should just have</p> <p>19 Plaintiff's 35 in front of you, which is a</p> <p>20 seven-page document. Do you recognize it?</p> <p>21 A. Yeah.</p> <p>22 Q. This is the guest list from that</p> <p>23 show?</p> <p>24 A. It seems to be.</p> <p>25 Q. And do you see Nikki and Paris</p>

73	75
<p>1 Gagosian</p> <p>2 Hilton? It's alphabetical.</p> <p>3 A. There they are.</p> <p>4 Q. I don't want to belabor this and</p> <p>5 spend a lot of time with it --</p> <p>6 MS. BART: Good.</p> <p>7 Q. -- but if you look at this, can you</p> <p>8 recall which people, let's say on the first</p> <p>9 page, actually attended at the dinner rather</p> <p>10 than simply being invited, if you can</p> <p>11 remember --</p> <p>12 A. Rather than what?</p> <p>13 Q. Actually attended the dinner rather</p> <p>14 than simply being invited to the dinner?</p> <p>15 MS. BART: You want him to go</p> <p>16 through this?</p> <p>17 Q. No, I mean on just the first page,</p> <p>18 do you remember some -- specifically people that</p> <p>19 were there?</p> <p>20 A. I really don't have a recollection.</p> <p>21 MS. BART: You shouldn't guess.</p> <p>22 A. I don't know.</p> <p>23 Q. No, I don't want you to guess.</p> <p>24 A. There's no way I can remember that.</p> <p>25 Q. All right. Do you recall if you</p>	<p>1 Gagosian</p> <p>2 A. She's an art dealer and collector.</p> <p>3 Q. And did she buy one of the Richard</p> <p>4 Prince Canal Zone paintings?</p> <p>5 A. She did buy one.</p> <p>6 Q. Do you remember which one?</p> <p>7 A. No, I don't.</p> <p>8 Q. And Philip and Stavros Niarchos,</p> <p>9 they're on the list, do you know if either of</p> <p>10 them attended?</p> <p>11 A. It's a father and son. I don't</p> <p>12 remember. Maybe Stavros.</p> <p>13 Q. Are they in shipping?</p> <p>14 A. It's a family business. I don't</p> <p>15 really know what they do.</p> <p>16 Q. Did either of them buy a Richard</p> <p>17 Prince Canal Zone painting, if you know?</p> <p>18 Did either of them buy a Richard</p> <p>19 Prince Canal Zone painting?</p> <p>20 A. Philip. Philip did.</p> <p>21 Q. And is he the father or the son?</p> <p>22 A. He's the father.</p> <p>23 Q. And do you know Mark Jacobs?</p> <p>24 A. I do.</p> <p>25 Q. He's a designer?</p>
74	76
<p>1 Gagosian</p> <p>2 attended that particular dinner?</p> <p>3 MS. BART: Objection, form, and</p> <p>4 asked and answered.</p> <p>5 Q. At the Gramercy Park Hotel?</p> <p>6 A. I did. I think so.</p> <p>7 Q. I've noticed a number of models on</p> <p>8 this list; Tom Brady's wife, Elle Macpherson;</p> <p>9 Kate Moss; Christy Turlington; Lauren Hutton;</p> <p>10 what's the reason for inviting models to a</p> <p>11 dinner for an art opening?</p> <p>12 A. They look good at a dinner table.</p> <p>13 Q. Do you know who Alberto Mugrabi is?</p> <p>14 A. He's an art dealer and friend of</p> <p>15 mine.</p> <p>16 Q. Do you know if he was at the dinner?</p> <p>17 Do you know if he was at the dinner?</p> <p>18 A. I don't recall specifically.</p> <p>19 Q. Do you know if he bought one of the</p> <p>20 works in the Canal Zone show?</p> <p>21 A. That I don't remember.</p> <p>22 Q. Do you know who Jeanne, J-E-A-N-N-E,</p> <p>23 Greenberg hyphen Rohatyn, R-O-H-A-T-Y-N, is?</p> <p>24 A. I know who she is.</p> <p>25 Q. And who is she?</p>	<p>1 Gagosian</p> <p>2 Do you know if a painting was held</p> <p>3 for him or purchased by him?</p> <p>4 A. I don't think he bought one.</p> <p>5 I don't recall him buying one.</p> <p>6 Q. Do you recall holding some of</p> <p>7 the paintings for Leonardo DiCaprio and</p> <p>8 Tobey Maguire?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Do you know if either of them bought</p> <p>11 any of these Richard Prince paintings?</p> <p>12 A. When you say either of them who are</p> <p>13 you referring to?</p> <p>14 Q. Leonardo DiCaprio and Tobey Maguire?</p> <p>15 A. I don't think they bought -- at the</p> <p>16 end of the day they didn't buy.</p> <p>17 Q. The painting or paintings that were</p> <p>18 held, were they held for them jointly?</p> <p>19 MS. BART: Objection, form.</p> <p>20 Q. If you remember.</p> <p>21 A. My recollection is that they were</p> <p>22 going to buy one painting jointly.</p> <p>23 Q. Is that unusual?</p> <p>24 A. Extremely --</p> <p>25 MS. BART: Objection, form.</p>

77	79
<p>1 Gagosian</p> <p>2 Q. You can answer.</p> <p>3 A. Extremely.</p> <p>4 Q. All right. Could you look at</p> <p>5 the invitation again one more time? It's</p> <p>6 Exhibit 52.</p> <p>7 Do you know if at the end of the</p> <p>8 show excess invitations were left over?</p> <p>9 Do you understand what I'm saying?</p> <p>10 A. Usually that's the case.</p> <p>11 Q. And are they then usually discarded?</p> <p>12 A. No, not as a rule. I think we --</p> <p>13 I think we hold onto them. I don't think we</p> <p>14 throw them away.</p> <p>15 Q. Do you ever sell them?</p> <p>16 A. I think we have from time to time.</p> <p>17 Q. To what types of entities do you</p> <p>18 sell them to?</p> <p>19 MS. BART: Objection, form. Are we</p> <p>20 talking about this invitation or --</p> <p>21 MR. BROOKS: Yes.</p> <p>22 MS. BART: -- are we talking about</p> <p>23 invitations generally?</p> <p>24 MR. BROOKS: First in general and</p> <p>25 then I'll get to this one.</p>	<p>1 Gagosian</p> <p>2 but I'm going to -- and we only have five</p> <p>3 minutes left on this tape, so depending on how</p> <p>4 long you want to review it we may have to take a</p> <p>5 break or I can ask you questions now.</p> <p>6 (Witness looks at exhibit.)</p> <p>7 A. Yeah.</p> <p>8 MS. BART: Are you ready?</p> <p>9 Q. So, to make sense of this, to the</p> <p>10 extent it makes sense, you have to start from</p> <p>11 the back and then go forward because</p> <p>12 chronologically the e-mails start from the back.</p> <p>13 Andy Traynor, that's somebody who</p> <p>14 works -- I'm on the last page, 2766.</p> <p>15 A. Yeah, yeah.</p> <p>16 Q. Or 3063, I'm not sure.</p> <p>17 Andy Traynor works in the gallery on</p> <p>18 24th Street?</p> <p>19 A. I guess so. I don't know -- the</p> <p>20 name doesn't ring a bell.</p> <p>21 Q. And I assume you don't know Ryan</p> <p>22 Dowler from Rare Posters?</p> <p>23 A. Never heard of him.</p> <p>24 Q. You see here he -- there were three</p> <p>25 extra boxes of invitations left and apparently</p>
78	80
<p>1 Gagosian</p> <p>2 MS. BART: Well, then I object to</p> <p>3 the form.</p> <p>4 BY MR. BROOKS:</p> <p>5 Q. Okay. You can answer.</p> <p>6 A. I don't know.</p> <p>7 Q. In this case do you recall that some</p> <p>8 excess invitations were sold?</p> <p>9 A. I didn't recall that.</p> <p>10 Q. Would you have approved if you had</p> <p>11 been asked whether it was okay to sell excess</p> <p>12 invitations to a poster company?</p> <p>13 MS. BART: Objection, form, calls</p> <p>14 for the witness to speculate.</p> <p>15 Q. You can answer.</p> <p>16 A. Probably not.</p> <p>17 Q. Why not?</p> <p>18 A. Because it seems kind of tacky.</p> <p>19 MR. BROOKS: Plaintiff's Exhibit 53</p> <p>20 is a series of e-mails again.</p> <p>21 (Plaintiff's Exhibit 53, series of</p> <p>22 e-mails, was marked for identification, as</p> <p>23 of this date.)</p> <p>24 Q. Mr. Prince -- I'm sorry,</p> <p>25 Mr. Gagosian. Take as much time as you want,</p>	<p>1 Gagosian</p> <p>2 Mr. Dowler wanted them. Do you see that?</p> <p>3 A. Yeah.</p> <p>4 Q. Any idea how many invitations in a</p> <p>5 box?</p> <p>6 A. No.</p> <p>7 Q. And then Nicole Hecht, she works for</p> <p>8 Gagosian Gallery?</p> <p>9 A. Yes, she does.</p> <p>10 Q. And she said, Shouldn't we get a</p> <p>11 percentage of the sale if he is selling</p> <p>12 something we paid to produce, do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Do you agree with that?</p> <p>15 A. Do I agree with what?</p> <p>16 Q. What she said.</p> <p>17 A. I don't agree with this whole thing.</p> <p>18 I think it's stupid.</p> <p>19 Q. And then Allison McDonald who was --</p> <p>20 again, her position?</p> <p>21 A. She's the head of kind of design and</p> <p>22 publications in house.</p> <p>23 Q. And at the top of this last page of</p> <p>24 the exhibit she said we should sell them to him,</p> <p>25 referring to Ryan Dowler presumably. You don't</p>

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81	83
1 Gagosian	1 Gagosian
2 know anything about it?	2 She shouldn't have sold them. It's
3 A. I knew nothing about it.	3 silly.
4 Q. And can you turn now to the next	4 Q. Do you -- are you aware that posters
5 page, it's Bates stamped in the lower left	5 sometimes are sold made from invitations to
6 corner 3062. Andy Traynor --	6 openings?
7 A. Wait a minute. I'm trying to find	7 A. Yes.
8 the page.	8 MS. BART: Objection, form.
9 MS. BART: Right here.	9 A. I think I know what you mean.
10 Q. 3062 at the bottom.	10 (Discussion off the record.)
11 A. Okay.	11 MR. BROOKS: So let's make it A.
12 Q. Here Andy Traynor is saying to	12 Let's make it 53A.
13 Jessica Arisohn -- do you know her?	13 (Plaintiff's Exhibit 53A, All
14 A. Not by name. Does she work for me?	14 Posters document, was marked for
15 Q. Apparently.	15 identification, as of this date.)
16 A. Yeah, Gagosian, right, okay.	16 Q. Mr. Gagosian, Exhibit 53A has been
17 Q. She's saying, Hi Jessie, Ryan from	17 placed in front of you. Are you familiar with
18 Rare Posters e-mailed me expressing interest in	18 this company All Posters?
19 scooping up any extra Prince invites we might	19 A. No, I'm not.
20 have. We did get quite a few. We started with	20 Q. Do you see at the top it says Canal
21 seven boxes, three remain. But somehow it	21 Zone invitation 2008, do you see that?
22 doesn't seem right for him to be selling our	22 A. Yes.
23 invitations. Do you agree with that?	23 Q. And does this image on Exhibit 53A
24 A. Do I agree with what?	24 appear to be the invitation that we've been
25 Q. That it doesn't seem right --	25 discussing previously today?
82	84
1 Gagosian	1 Gagosian
2 A. That's what I've been saying. I	2 MS. BART: Which is marked as
3 think it's stupid.	3 Exhibit 52.
4 Q. Can you turn to the next page, which	4 A. This is different.
5 is 3061.	5 Q. This is different?
6 MR. BROOKS: I'm sorry, we have to	6 A. Well, these two are different.
7 take a break. They have to change the	7 Q. Which, 52 and 53A appear to be
8 tape.	8 different?
9 THE VIDEOGRAPHER: 11:26. Off the	9 A. Yes, they do.
10 record. End of tape 1.	10 Q. Can you tell us in which ways?
11 (Recess taken: 11:26 a.m.)	11 A. Well, one of them is -- one of them
12 (Proceedings resumed: 11:36 a.m.)	12 it shows a painting, I presume, in Richard's
13 THE VIDEOGRAPHER: 11:36. On the	13 studio propped up on cans of paint.
14 record. Beginning of tape 2.	14 And this -- the other one is more
15 BY MR. BROOKS:	15 focused on the image. It doesn't show the cans
16 Q. Actually, I don't have any question	16 of paint. This is a black-and-white
17 on 3061, but if you could look at the very --	17 reproduction, this is a color reproduction, so.
18 the first page of the exhibit, which is the last	18 MS. BART: I also would just note
19 one chronologically, it appears that this guy	19 for the record that the organization that
20 Ryan from Rare Posters came and picked up two	20 issued or to whose website you've pulled
21 boxes or 100 invites. Do you see that?	21 this document Exhibit 53A is a company
22 A. Mm-hmm. Yes.	22 called AllPosters.com --
23 Q. And you had no knowledge of this	23 MR. BROOKS: Right.
24 I take it?	24 MS. BART: -- whereas the entity
25 A. None whatsoever.	25 referenced in composite Exhibit 53 is

85	87
<p>1 Gagosian</p> <p>2 RarePosters.com or Rare Posters.</p> <p>3 MR. HAYES: Also just to clarify, I</p> <p>4 notice other differences between the two</p> <p>5 images including hands, at least to my</p> <p>6 eyes.</p> <p>7 MR. BROOKS: Right.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. Could you take a look -- maybe this</p> <p>10 is the explanation -- at Exhibit 45 again. We</p> <p>11 were looking at that.</p> <p>12 MS. BART: Just one second, please.</p> <p>13 Q. Mr. Gagosian, if you look at the</p> <p>14 next to last page of Plaintiff's Exhibit 45,</p> <p>15 which just for the record is Bates stamped</p> <p>16 GGP002418, I think we might have looked at this</p> <p>17 before. I'll just read what it says.</p> <p>18 Meredith Dunn wrote to your</p> <p>19 assistant and other people, I told Nicole Larry</p> <p>20 likes the Prince ad with just, all caps, the</p> <p>21 Rasta man, not the one in the studio, period.</p> <p>22 For the announcement he likes the Rasta man</p> <p>23 poster on two paint cans with no books in the</p> <p>24 picture.</p> <p>25 So the one with the two cans is</p>	<p>1 Gagosian</p> <p>2 A. I don't know. What's the question?</p> <p>3 I'm sorry.</p> <p>4 MS. BART: Exactly.</p> <p>5 Q. It appears from this e-mail that 53A</p> <p>6 is a depiction of the announcement, the Rasta</p> <p>7 man poster on two paint cans?</p> <p>8 MS. BART: Objection to form. He is</p> <p>9 not the author of this e-mail.</p> <p>10 MR. BROOKS: I understand.</p> <p>11 A. I don't really recall.</p> <p>12 Q. But, again, is the announcement</p> <p>13 different than the invitation or is it the same</p> <p>14 thing?</p> <p>15 A. They're usually synonymous.</p> <p>16 I mean --</p> <p>17 Q. So then it's the ad that's different</p> <p>18 than the invitation?</p> <p>19 A. Can be.</p> <p>20 Q. Can be?</p> <p>21 A. Can be.</p> <p>22 Q. So maybe then 52 is an ad, not an</p> <p>23 announcement --</p> <p>24 MS. BART: Objection.</p> <p>25 Q. -- not an invitation?</p>
86	88
<p>1 Gagosian</p> <p>2 Exhibit 52, right?</p> <p>3 MS. BART: Hold on one moment,</p> <p>4 please.</p> <p>5 A. Exhibit --</p> <p>6 MS. BART: 52.</p> <p>7 MR. HAYES: I don't think that's</p> <p>8 correct.</p> <p>9 MS. BART: 52, no, it's not.</p> <p>10 MR. BROOKS: 52 doesn't --</p> <p>11 MS. BART: 52 is the actual</p> <p>12 announcement.</p> <p>13 MR. HAYES: 53A.</p> <p>14 MR. BROOKS: 53A. I'm sorry, I got</p> <p>15 it backwards.</p> <p>16 BY MR. BROOKS:</p> <p>17 Q. 53A is the one with the two cans</p> <p>18 in the studio, I misread it.</p> <p>19 A. Yeah.</p> <p>20 Q. So, okay. So it's saying here that</p> <p>21 for the announcement you preferred the Rasta</p> <p>22 poster on two paint cans, which seems to be what</p> <p>23 53A is showing, right?</p> <p>24 MS. BART: Objection, form.</p> <p>25 Q. You can answer.</p>	<p>1 Gagosian</p> <p>2 MS. BART: Objection, form, calls</p> <p>3 the witness to speculate. I'm not going</p> <p>4 to let him answer.</p> <p>5 MR. BROOKS: I think he's unable to</p> <p>6 answer.</p> <p>7 A. I don't recall.</p> <p>8 Q. Right. We'll have to get somebody</p> <p>9 else to explain this mystery to us.</p> <p>10 Okay. This has been marked as</p> <p>11 Plaintiff's Exhibit 42, correct?</p> <p>12 MR. BODEN: This is what's marked.</p> <p>13 MR. BROOKS: Yeah, but you know</p> <p>14 what, I'm going to ask him to look at</p> <p>15 this, it's just too unwieldy.</p> <p>16 MS. BART: You don't want it torn</p> <p>17 apart again?</p> <p>18 MR. BROOKS: Yeah, it's too</p> <p>19 unwieldy. I'm just going to --</p> <p>20 MS. BART: We'll accept the</p> <p>21 substitution.</p> <p>22 MR. BROOKS: Okay.</p> <p>23 MS. BART: I prefer to work with</p> <p>24 that too.</p> <p>25 MR. BROOKS: Yeah, it's going to</p>

89	91
<p>1 Gagosian</p> <p>2 fall apart.</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. I'm just going to hand you a copy of</p> <p>5 the book called Canal Zone, which is Exhibit 42,</p> <p>6 right, Plaintiff's 42.</p> <p>7 Just do you recognize it?</p> <p>8 A. Yes.</p> <p>9 Q. Did you have a role -- and I may</p> <p>10 have asked you this before -- in the preparation</p> <p>11 of this book?</p> <p>12 A. Minimal, if any.</p> <p>13 Q. Did you have a role -- the book has</p> <p>14 some inserts. There's -- I'm just showing you</p> <p>15 in this copy. By insert I mean it's the pages</p> <p>16 are not the same size, they're smaller.</p> <p>17 A. The text apparently, yeah.</p> <p>18 Q. Yeah. There are three different</p> <p>19 inserts. The first one is an essay entitled</p> <p>20 Ding Dong the Witch is Dead. Do you see that?</p> <p>21 A. Yeah.</p> <p>22 Q. Do you know who wrote that essay?</p> <p>23 A. It says James Frey.</p> <p>24 Q. Well, did you know that though?</p> <p>25 A. Yes.</p>	<p>1 Gagosian</p> <p>2 a name.</p> <p>3 Q. A colophon?</p> <p>4 A. I think that's it. That sounds like</p> <p>5 it, yeah.</p> <p>6 Q. All right. At the top of that page</p> <p>7 it states that this book is published on the</p> <p>8 occasion of the exhibition, and this is the</p> <p>9 Canal Zone exhibition we've been talking about a</p> <p>10 little bit, correct?</p> <p>11 A. Right.</p> <p>12 Q. And then it says publication</p> <p>13 copyright 2008 Gagosian Gallery. Do you have</p> <p>14 any understanding of what that means?</p> <p>15 A. It means that the gallery -- I'm</p> <p>16 just speculating, that the gallery holds the</p> <p>17 copyright to the publication.</p> <p>18 Q. And is the publication the book that</p> <p>19 you're holding in your hand now?</p> <p>20 A. Yes.</p> <p>21 Q. And then it appears that James Frey</p> <p>22 is the copyright holder of that essay Ding Dong</p> <p>23 the Witch is Dead?</p> <p>24 A. Yes.</p> <p>25 Q. And was that your understanding?</p>
90	92
<p>1 Gagosian</p> <p>2 Q. You knew that before today?</p> <p>3 A. Yes.</p> <p>4 Q. Did you know that before the show</p> <p>5 started in November 2008?</p> <p>6 A. Most likely.</p> <p>7 Q. Did you have any input into the</p> <p>8 wording of the essay which I'll call Ding Dong</p> <p>9 the Witch is Dead?</p> <p>10 A. No.</p> <p>11 Q. Did you have any input into the</p> <p>12 layout of this Canal Zone book or the other</p> <p>13 two inserts?</p> <p>14 A. I don't think so.</p> <p>15 MS. BART: Objection, form.</p> <p>16 A. I don't think so.</p> <p>17 Q. Could you look at the last page,</p> <p>18 please. There's a page which has a number of</p> <p>19 copyright notices on it. Is that the page</p> <p>20 you're looking at?</p> <p>21 A. I am.</p> <p>22 Q. Does this type of page have a name</p> <p>23 it's known by, if you know?</p> <p>24 A. Yeah, I think it does. I just</p> <p>25 can't -- I can't think of it. I think there is</p>	<p>1 Gagosian</p> <p>2 A. Yes.</p> <p>3 Q. Okay. At the bottom it says all</p> <p>4 rights reserved, no part of this publication may</p> <p>5 be used or reproduced in any manner whatsoever</p> <p>6 without prior written permission from the</p> <p>7 copyright holders.</p> <p>8 Have you seen that type of notice</p> <p>9 before in any book that the Gagosian Gallery was</p> <p>10 associated with?</p> <p>11 A. I don't recall.</p> <p>12 Q. Have you or attorneys working for</p> <p>13 you ever sent a cease and desist letter to</p> <p>14 anyone who copied materials belonging to any</p> <p>15 artist that you represented?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Do you know what a cease and desist</p> <p>18 letter is?</p> <p>19 A. Not really.</p> <p>20 (Discussion off the record.)</p> <p>21 BY MR. BROOKS:</p> <p>22 Q. It was marked as Plaintiff's</p> <p>23 Exhibit 34. I'm just going to hand you a copy</p> <p>24 of that. When I said cease and desist letter</p> <p>25 that's what I was referring to.</p>

93	95
<p>1 Gagosian</p> <p>2 MS. BART: It says a type.</p> <p>3 Q. That type of letter, yes.</p> <p>4 And I just have a question. Do you</p> <p>5 recall receiving a copy of that letter in</p> <p>6 December 2008, that particular letter?</p> <p>7 A. No, I don't.</p> <p>8 Q. So this is what I'm calling a cease</p> <p>9 and desist letter, and I wanted to know if you</p> <p>10 or attorneys working for you had ever sent such</p> <p>11 a letter on behalf of any artist you represent?</p> <p>12 MS. BART: Objection, form.</p> <p>13 Any artist at any time?</p> <p>14 MR. BROOKS: Yes.</p> <p>15 MS. BART: Object to the form.</p> <p>16 A. I thought you asked the question</p> <p>17 already.</p> <p>18 MS. BART: I don't think it's</p> <p>19 appropriate for you to be inquiring about</p> <p>20 other artists. If you want to ask about</p> <p>21 Mr. Prince with respect to Canal Zone,</p> <p>22 that's fine.</p> <p>23 MR. BROOKS: I'm inquiring about his</p> <p>24 practice.</p> <p>25 MS. BART: I don't think it's</p>	<p>1 Gagosian</p> <p>2 exhibits.</p> <p>3 First of all, they've not been</p> <p>4 produced in this action, so I object on</p> <p>5 that basis.</p> <p>6 I further object on the grounds</p> <p>7 that they relate to a Mr. Currin and have</p> <p>8 nothing to do with the subject of this</p> <p>9 lawsuit.</p> <p>10 MR. BROOKS: Okay. They haven't</p> <p>11 been produced because they wouldn't be</p> <p>12 responsive to any document request that</p> <p>13 we received.</p> <p>14 MS. BART: Well, if you're offering</p> <p>15 them here, there must be some relevance.</p> <p>16 If they're not relevant to any claim and</p> <p>17 you didn't produce them for that reason</p> <p>18 then I think you have no business asking</p> <p>19 this witness any questions about them.</p> <p>20 MR. BROOKS: Okay, that's your view.</p> <p>21 You're entitled to it.</p> <p>22 MS. BART: I want to have a proffer</p> <p>23 before I allow this client to have any</p> <p>24 discussions on the record about an artist</p> <p>25 whose works are not at issue in this</p>
94	96
<p>1 Gagosian</p> <p>2 appropriate. You can answer the question</p> <p>3 yes or no, but without disclosing for</p> <p>4 which artist.</p> <p>5 A. I'm not aware. I don't recall.</p> <p>6 Q. Do you know who Kara, K-A-R-A,</p> <p>7 Vander Weg is?</p> <p>8 A. Yes.</p> <p>9 Q. Who is she?</p> <p>10 A. She's a woman that used to work for</p> <p>11 the gallery.</p> <p>12 Q. And John Currin I believe you</p> <p>13 testified was an artist you represent?</p> <p>14 A. I represent him.</p> <p>15 Q. You still do?</p> <p>16 A. Currently, yes.</p> <p>17 MR. BROOKS: I'd like to mark as</p> <p>18 Plaintiff's Exhibit 62 a number of letters</p> <p>19 dated November 2005.</p> <p>20 (Plaintiff's Exhibit 62, letters</p> <p>21 dated November 2005, was marked for</p> <p>22 identification, as of this date.)</p> <p>23 MS. BART: I'm going to ask for</p> <p>24 Mr. Brooks to make a proffer of relevance</p> <p>25 as to these particular groupings of</p>	<p>1 Gagosian</p> <p>2 lawsuit, otherwise I'm going to instruct</p> <p>3 him not to answer.</p> <p>4 MR. BROOKS: Well, artistic practice</p> <p>5 and the right of copyright owners to</p> <p>6 prevent derivative works from being</p> <p>7 disseminated without their authorization</p> <p>8 are issues in this case.</p> <p>9 MS. BART: But it is well</p> <p>10 established under rules of evidence that</p> <p>11 circumstances relating to another artist,</p> <p>12 another set of paintings, have no</p> <p>13 relevance and no bearing here, so I'm</p> <p>14 going to instruct him -- I'm not going to</p> <p>15 allow him to have any questions on that.</p> <p>16 MR. BROOKS: I haven't have asked</p> <p>17 any questions.</p> <p>18 MS. BART: I'm not -- we're not</p> <p>19 going to have any discussions about this</p> <p>20 document or this group of documents.</p> <p>21 BY MR. BROOKS:</p> <p>22 Q. All right. It's marked as</p> <p>23 Exhibit 62. Turn it over.</p> <p>24 Have you ever been represented by</p> <p>25 the firm of Sidley Austin?</p>

97	99
1 Gagosian	1 Gagosian
2 MS. BART: I'm going to object to	2 MR. BROOKS: I do not --
3 this line of questions to the extent that	3 MS. BART: We're not --
4 you're still asking the same information	4 MR. BROOKS: Please do not
5 relating to the painter John Currin, which	5 interrupt.
6 is the subject of the information set	6 MS. BART: We're not going to allow
7 forth in Exhibit 62.	7 any questions.
8 MR. BROOKS: Okay. It also goes to	8 MR. BROOKS: You asked for the
9 willfulness which is an issue in this case	9 proffer.
10 for all the defendants.	10 MS. BART: No, all you're doing is
11 A person who takes the position	11 reading the letter.
12 through counsel -- and I'm going to read	12 MR. BROOKS: I am.
13 it into the record. You want a proffer.	13 MS. BART: Let me finish. All
14 A person who hires Sidley Austin to	14 you're doing is reading -- all you're
15 send a letter to an artist who lives in	15 doing is reading a letter that has nothing
16 Brooklyn -- no, who lives in Manhattan --	16 to do with any allegation in this lawsuit.
17 no, who lives in Brooklyn -- saying that	17 Whatever the circumstances were with
18 we represent John Currin, it has come to	18 respect to Mr. Currin's painting have no
19 the attention of Gagosian Gallery and	19 bearing or no relevance or no similarity
20 Mr. Currin that are you reproducing and	20 to this particular, and we're not --
21 selling unauthorized copies of	21 MR. BROOKS: And I'm explaining why
22 Mr. Currin's paintings including, and then	22 it does.
23 it gives two titles of paintings.	23 MS. BART: You're not. You're just
24 And then it says the reproduction	24 reading a letter.
25 and sale of copies of Mr. Currin's	25 MR. BROOKS: And then I'm going to
98	100
1 Gagosian	1 Gagosian
2 paintings constitutes a willful violation	2 make a statement.
3 of the copyright act, comma, 17 USC	3 MO MS. BART: Yeah, I'm sure.
4 Sections 101 et seq, E-T, S-E-Q.	4 Well, I move to strike.
5 You should be aware that in such	5 MR. BROOKS: Okay.
6 cases the act provides that the copyright	6 MR. HAYES: For the record, I join
7 owner may be entitled to an award of	7 in Ms. Bart's objections and agree that
8 statutory damages of up to \$150,000.	8 this has no relevance whatsoever.
9 We hereby demand that you	9 MS. BART: Just wasting time.
10 immediately cease and desist from	10 Wasting time.
11 reproducing and selling unauthorized	11 MR. BROOKS: So where was I?
12 copies of the works of John Currin.	12 To warrant that you have and will
13 In connection thereto, we ask that	13 not at any time in the future distribute,
14 you sign and return a copy of this letter	14 prepare derivative works or reproduce
15 by November 21, 2005, this letter being	15 copies of Mr. Currin's works.
16 dated November 10, 2005, to warrant that	16 Gagosian Gallery and Mr. Currin take
17 you have and will not at any time in the	17 violations of their rights very seriously
18 future distribute, prepare derivative	18 and they intend to fully enforce their
19 works, or reproduce copies of Mr. Currin's	19 rights if you fail to comply with our
20 works. Gagosian Gallery and Mr. Currin --	20 demands.
21 MS. BART: All right. We don't need	21 And then this artist Mr. Doeringer
22 you to --	22 wrote back, agreed to stop using
23 MR. BROOKS: No, I'm giving you the	23 Mr. Currin's works and asked for
24 proffer. I'm going to finish.	24 permission to reproduce some of it for
25 MS. BART: We don't need you --	25 an exhibit he was having.



Lawrence Gagosian

October 8, 2009

101	103
<p>1 Gagosian</p> <p>2 And then on November 28th Sidley</p> <p>3 and Austin wrote and said, After due</p> <p>4 consideration our client has reject -- it</p> <p>5 should be rejected I suppose -- your</p> <p>6 request. And it goes on from there.</p> <p>7 A person in Mr. Gagosian's position</p> <p>8 who hires a very prominent law firm to</p> <p>9 scare and intimidate a struggling artist</p> <p>10 in Brooklyn into not creating a derivative</p> <p>11 work is chargeable with willfulness when</p> <p>12 he then represents a multimillionaire</p> <p>13 artist who rips off another struggling</p> <p>14 artist so he can sell these paintings for</p> <p>15 millions and millions of dollars to hedge</p> <p>16 fund millionaires, actors, other financial</p> <p>17 types, and other celebrities.</p> <p>18 And it goes to willfulness, and</p> <p>19 that's why I marked it, and that's why I</p> <p>20 read it, and only read it because you</p> <p>21 asked me to.</p> <p>22 MS. BART: No, I did not ask you</p> <p>23 to read the letter. I asked you for a</p> <p>24 proffer.</p> <p>25 MR. BROOKS: That's my proffer.</p>	<p>1 Gagosian</p> <p>2 constitutes harassment, and it is so far</p> <p>3 beyond the scope of Rule 26 of the Federal</p> <p>4 Rules of Evidence, it's not likely to lead</p> <p>5 to evidence that would be admissible in</p> <p>6 this proceeding, so on that basis I'm</p> <p>7 instructing him not to answer.</p> <p>8 MR. BROOKS: Okay. Do you have</p> <p>9 anything to say, Mr. Hayes?</p> <p>10 MR. HAYES: I already joined in the</p> <p>11 objection.</p> <p>12 MR. BROOKS: Do you?</p> <p>13 MR. SHERMAN: I'll join in the</p> <p>14 objection.</p> <p>15 MR. BROOKS: Okay. Then we'll move</p> <p>16 on.</p> <p>17 BY MR. BROOKS:</p> <p>18 Q. You heard what your counsel just</p> <p>19 said, and you heard her say that Mr. Prince said</p> <p>20 on Tuesday that it's okay with him if anyone</p> <p>21 uses any of his works. Did you hear her say</p> <p>22 that?</p> <p>23 A. I heard her say that.</p> <p>24 Q. Do you agree with that statement</p> <p>25 that Mr. Prince supposedly made?</p>
102	104
<p>1 Gagosian</p> <p>2 MO MS. BART: We move to strike your</p> <p>3 self-serving speech.</p> <p>4 And I would note for the record that</p> <p>5 just two days ago Mr. Richard Prince</p> <p>6 testified that he believes his work should</p> <p>7 be available to everyone. So by sending a</p> <p>8 letter he would be acting -- a letter of</p> <p>9 the type that you're suggesting here would</p> <p>10 be acting in contrary to the wishes of the</p> <p>11 artists that he represents.</p> <p>12 Furthermore, there's no evidence in</p> <p>13 the record that your client or this</p> <p>14 client, this person in these letters is</p> <p>15 a starving artist or that this has any</p> <p>16 relevance to any allegation in this</p> <p>17 action.</p> <p>18 And on that basis we're not having</p> <p>19 any questions about this document. Highly</p> <p>20 improper. Highly inappropriate.</p> <p>21 MR. BROOKS: You're directing him</p> <p>22 not to answer, even though it's not</p> <p>23 privileged, right?</p> <p>24 MS. BART: I am directing him not</p> <p>25 to answer on the grounds that this</p>	<p>1 Gagosian</p> <p>2 MS. BART: Objection, form of the</p> <p>3 question.</p> <p>4 A. It's not my call.</p> <p>5 Q. You agree anyone should be able to</p> <p>6 copy anyone else's work without permission?</p> <p>7 MS. BART: Objection. That is not</p> <p>8 what I said. You are now taking my --</p> <p>9 MR. BROOKS: This is my question.</p> <p>10 MS. BART: I'm sorry, you are now</p> <p>11 taking my words out of context in the most</p> <p>12 unfair way.</p> <p>13 MR. BROOKS: You know what, let's</p> <p>14 call the judge.</p> <p>15 MS. BART: That's fine.</p> <p>16 MR. BROOKS: First I want an answer</p> <p>17 to that question.</p> <p>18 MS. BART: He answered the phone.</p> <p>19 A. What's the question?</p> <p>20 Q. Do you agree that anyone should be</p> <p>21 able to copy anything that somebody else created</p> <p>22 that's copyrighted?</p> <p>23 MS. BART: Objection, form.</p> <p>24 Q. You can answer.</p> <p>25 A. I don't have an opinion.</p>

Lawrence Gagosian

October 8, 2009

105	107
1 Gagosian	1 Gagosian
2 Q. One way or the other?	2 A. Yeah, I don't know --
3 A. No.	3 MS. BART: Can we lay a foundation
4 Q. Okay.	4 on this particular e-mail?
5 (Discussion off the record.)	5 Q. Do you recall receiving this e-mail
6 MR. BROOKS: We're going to	6 from Mr. Prince?
7 continue.	7 A. Yes.
8 BY MR. BROOKS:	8 Q. Okay. And he's talking about his --
9 Q. All right. Now, before this	9 an idea for a movie, right?
10 brouhaha I was asking you about Ding Dong the	10 A. Yeah.
11 Witch is Dead, do you recall that, the essay by	11 MS. BART: Objection, form.
12 James Frey?	12 Q. And did you see other iterations of
13 A. Yes, I recall.	13 this idea for a movie?
14 Q. And I think you said you knew it was	14 MS. BART: Objection, form.
15 going to be in the book, the Canal Zone book,	15 Q. You can answer.
16 the catalog?	16 A. I might have, yeah. It's possible.
17 A. That's what I said.	17 I don't recall very well.
18 Q. Now, backing up a little bit before	18 Q. Do you have any recollection whether
19 that, did you know that Mr. Prince had written	19 the James Frey story was based on Mr. Prince's
20 something he called a pitch, with a capital P,	20 pitch as modified later?
21 that he wanted to sell to a movie studio?	21 MS. BART: May I hear the question
22 A. I was aware that he did some kind of	22 back? I'm having a hard time hearing him.
23 a film scenario. Or a pitch.	23 A. Well --
24 Q. I'm going to show you a document	24 MS. BART: Wait a minute. I want to
25 that was marked Tuesday during Mr. Prince's	25 hear the question.
106	108
1 Gagosian	1 Gagosian
2 deposition as Plaintiff's Exhibit 18.	2 (Record read.)
3 This appears to be an e-mail from	3 MS. BART: Objection, form.
4 Mr. Prince to you, it appears to be, and it's	4 Q. You can answer.
5 dated July 26, 2007.	5 A. I don't have a recollection.
6 Exhibit Plaintiff's 18, can you take	6 Q. Okay. I'm going to hand you what's
7 a look at that, please.	7 been marked as Plaintiff's Exhibit 23. I should
8 (Discussion off the record.)	8 say what was marked as Exhibit 23 at
9 BY MR. BROOKS:	9 Mr. Prince's deposition.
10 Q. This e-mail is from Richard Prince	10 Do you know who Betsy Biscione is?
11 to Anita F-O-D-E-N at Gagosian. Who is she?	11 A. I do.
12 A. She's an employee.	12 Q. And does she work for Mr. Prince?
13 Q. Of Gagosian?	13 A. Yes, she does.
14 A. Yes.	14 Q. And she's writing to Louise --
15 Q. But it's addressed to Larry. In	15 A. Neri.
16 other words, the e-mail isn't addressed to you	16 Q. -- Neri, right.
17 directly, but it says Larry, colon, do you see	17 I hope this finds you well. Per
18 that?	18 Richard's request please find attached the
19 A. Yes.	19 pitch, initial caps and italics, which was
20 Q. Do you know --	20 displayed on the wall at the Eden Rock Hotel in
21 A. Do I know what?	21 St. Barth for the last December 2007, comma,
22 Q. -- how that would happen?	22 Eden Rock show.
23 Is this person Anita somebody who	23 First of all, do you recall seeing
24 gives you e-mails after she gets them for you?	24 this e-mail?
25 MS. BART: Objection, form.	25 At the bottom, just to help you, it

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<p>1 Gagosian</p> <p>2 has additional Eden Rock pitch material written</p> <p>3 March 2008 apparently.</p> <p>4 A. I don't recall.</p> <p>5 Q. What about the show at the</p> <p>6 Eden Rock, do you recall that?</p> <p>7 A. Yes, I do.</p> <p>8 Q. And can you tell us what was</p> <p>9 displayed in that show?</p> <p>10 A. This -- a group of maybe 20 small</p> <p>11 paintings. I think it was called Guns and Ammo,</p> <p>12 that was the name of the show. And they were --</p> <p>13 I can't visualize the paintings that well, but</p> <p>14 they were paintings that Richard had made and he</p> <p>15 thought it would be fun to show them at the</p> <p>16 Eden Rock Hotel. It's a small little gallery</p> <p>17 attached to the hotel.</p> <p>18 Q. And that's in St. Barth's?</p> <p>19 A. Yes, it is.</p> <p>20 Q. Did you go to the show in</p> <p>21 St. Barth's in 2007?</p> <p>22 A. I did.</p> <p>23 Q. Was there one work of art that was</p> <p>24 on a wooden like plywood board and it was a</p> <p>25 collage of photos of Rastafarians, do you</p>	<p>1 Gagosian</p> <p>2 debating whether to put it on or not. I think</p> <p>3 it ended up -- I don't remember if it ended up</p> <p>4 being on the wall or not. He was kind of torn</p> <p>5 about it.</p> <p>6 MR. BROOKS: Let's mark as -- so now</p> <p>7 we go back to number 54.</p> <p>8 (Plaintiff's Exhibit 54, e-mail, was</p> <p>9 marked for identification, as of this</p> <p>10 date.)</p> <p>11 Q. This is in September of 2008. And</p> <p>12 Allison McDonald is saying that Melissa Lazarov</p> <p>13 I guess had requested that she send the Ding</p> <p>14 Dong the Witch is Dead text to you to read.</p> <p>15 It's attached but not final.</p> <p>16 Do you have a recollection of that</p> <p>17 happening in or about September 2008?</p> <p>18 A. No, I don't.</p> <p>19 Q. Again, I may have asked you this</p> <p>20 before, but do you recall reading it before it</p> <p>21 went into final?</p> <p>22 A. I don't remember.</p> <p>23 MS. BART: The it?</p> <p>24 Q. The Ding Dong the Witch is Dead?</p> <p>25 A. I don't remember.</p>
110	112
<p>1 Gagosian</p> <p>2 remember?</p> <p>3 MS. BART: Objection, form.</p> <p>4 A. There was, yeah, a large collage</p> <p>5 piece that Richard made.</p> <p>6 Q. And was the subject -- withdrawn.</p> <p>7 Were the images in the collage</p> <p>8 Rastafarians?</p> <p>9 MS. BART: Objection, form.</p> <p>10 Q. You can answer.</p> <p>11 A. Yes.</p> <p>12 Q. And do you recall what the other</p> <p>13 paintings were about, if you remember?</p> <p>14 A. They were not paintings about</p> <p>15 Rastafarians, as I recall, they were different</p> <p>16 subject matter.</p> <p>17 Q. Did it have anything -- did those</p> <p>18 paintings have anything to do with this pitch,</p> <p>19 which apparently was displayed on the wall of</p> <p>20 that exhibition?</p> <p>21 A. It's possible. I don't recall.</p> <p>22 Q. Do you recall the pitch -- and I'm</p> <p>23 just using Mr. Prince's term -- being on the</p> <p>24 wall of that exhibition?</p> <p>25 A. I think so. I mean I know he was</p>	<p>1 Gagosian</p> <p>2 Q. When you found out -- withdrawn.</p> <p>3 How did you find out that James Frey</p> <p>4 was going to be the author of this essay in the</p> <p>5 Canal Zone catalog?</p> <p>6 A. I think Richard informed me.</p> <p>7 Q. Did you know who James Frey was</p> <p>8 then?</p> <p>9 A. Yes, I did.</p> <p>10 Q. Did you know he had written a memoir</p> <p>11 called A Million Little Pieces?</p> <p>12 A. Yes.</p> <p>13 Q. That turned out not to be a memoir?</p> <p>14 A. I don't know what constitutes a</p> <p>15 memoir.</p> <p>16 Q. Did you ever see -- did you see him</p> <p>17 on the Oprah Winfrey show?</p> <p>18 A. I don't watch Oprah.</p> <p>19 Q. Do you know about that episode?</p> <p>20 A. It's pretty famous. Yes, I do.</p> <p>21 Q. Despite that, you didn't have an</p> <p>22 objection to him being the person writing the</p> <p>23 essay I take it?</p> <p>24 MS. BART: Objection, form, and</p> <p>25 argumentative.</p>

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1 Gagosian	1 Gagosian
2 A. Absolutely not.	2 (Interruption.)
3 MR. HAYES: I'm going to step out	3 (Plaintiff's Exhibit 55, e-mail
4 for just a minute, but keep going.	4 dated September 25, 2008, was marked for
5 MR. BROOKS: You sure?	5 identification, as of this date.)
6 MR. HAYES: Yeah. Is it okay if I	6 (Witness looks at exhibit.)
7 step out for a minute?	7 Q. Mr. Gagosian, this I think is a new
8 MR. BROOKS: It's okay with me.	8 name I haven't seen before, Darlina Goldak,
9 I don't mind taking a break.	9 G-O-L-D-A-K. Does she also work for you, if you
10 MR. HAYES: Pardon?	10 know?
11 MR. BROOKS: I don't mind taking a	11 A. I guess so.
12 short break.	12 Q. It says at the top, M. Laz, that's
13 MS. BART: Why don't we just take a	13 Melissa Lazarov?
14 short break --	14 A. Mm-hmm, yes.
15 MR. HAYES: I don't want to	15 Q. And then it says, LG notes on
16 interrupt --	16 Prince. First, it says they would like the blue
17 THE WITNESS: Why are we taking a	17 man Rasta -- withdrawn -- they would like the
18 break? Let's keep going.	18 blue Rasta man on the cover.
19 MS. BART: All right. Well, if	19 Do you remember I asked you this
20 you're all right to keep going --	20 before if the figure on Exhibit 52 had ever been
21 MR. BROOKS: I think I might have to	21 known as a blue Rasta man?
22 have the same --	22 A. I don't know.
23 MS. BART: You need to take a break?	23 MS. BART: Hold on.
24 MR. BROOKS: I think I need to also.	24 Q. You still don't know? Okay.
25 I didn't take one -- I'm going to do my	25 MS. BART: Let's get Exhibit 52 in
114	116
1 Gagosian	1 Gagosian
2 best to expedite this. You're not going	2 front of him.
3 to be here all day.	3 A. I don't remember.
4 THE VIDEOGRAPHER: 12:13. Off the	4 Q. Okay. Now, down about eight lines
5 record.	5 it says, Please include, quote, essay, unquote,
6 (Recess taken: 12:13 p.m.)	6 or, quote, text by James Frey, unquote, in the
7 (Proceedings resumed: 12:16 p.m.)	7 title page, they want the book to come up if you
8 THE VIDEOGRAPHER: 12:16. On the	8 Google James Frey. Do you see that?
9 record.	9 A. I do.
10 MR. BROOKS: Can you read back the	10 Q. And do you have any recollection of
11 last question and answer, unless it's very	11 making that wish known to anyone?
12 long.	12 A. No.
13 I remember. I asked you if it was	13 MS. BART: I note that the Re line
14 okay --	14 reads, Subject, Richard Prince printing
15 (Record read.)	15 layout notes from M. Laz.
16 BY MR. BROOKS:	16 MR. BROOKS: Right. And it says,
17 Q. Did you want Mr. Frey's name to be	17 M. Laz LG notes on Prince right beneath
18 on the title page of the Canal Zone exhibition	18 the subject line.
19 book?	19 BY MR. BROOKS:
20 A. I don't think I had any opinion on	20 Q. Were you involved at all in the
21 that.	21 pricing of the paintings that were part of the
22 MR. BROOKS: Let's mark as	22 Canal Zone show?
23 Plaintiff's Exhibit 55 an e-mail dated	23 A. Yes.
24 September 25th, 2008.	24 Q. Can you tell us generally what role
25 MS. BART: Someone's at the door.	25 you played in the pricing of the paintings?

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1 Gagosian	1 Gagosian
2 A. It's the same role I play usually	2 of page 3150 from somebody named John Good,
3 with every artist. We have a conversation and	3 G-O-O-D. Do you know who he is?
4 discuss where we think the appropriate price	4 A. He works at the gallery.
5 level should be. And I sometimes also discuss	5 Q. Which gallery?
6 it with other people in the gallery just to get	6 A. Uptown, 980 Madison.
7 different points of view and try to come up with	7 Q. Do you know who Greg is in this
8 what seems like the right number.	8 e-mail?
9 MR. BROOKS: I'm going to mark as	9 A. Gregg Hymowitz.
10 Plaintiff's 56 a series of e-mails.	10 Q. Is he a collector, an employee?
11 (Plaintiff's Exhibit 56, series of	11 A. He's a collector.
12 e-mails, was marked for identification, as	12 Q. He's a collector.
13 of this date.)	13 And then you wrote, Okay prices,
14 MS. BART: Again, this is a	14 question mark, do you see that?
15 compilation as opposed to a single	15 A. I'm looking.
16 sequence for the record?	16 Q. Above, above the e-mail that says
17 MR. BROOKS: I don't know. It	17 Gregg liked the following paintings.
18 looks that way. Well, I think I have to	18 A. Is that what I asked, the question?
19 withdraw that. I think the first two are	19 Q. It looks like Larry Gagosian on
20 related to each other.	20 Saturday --
21 MS. BART: The Re lines are	21 A. Right.
22 different.	22 Q. -- October 4th at 5:45 p.m. --
23 BY MR. BROOKS:	23 A. Okay, right.
24 Q. Do you have 3123 through 31 -- 3123,	24 Q. You said, Okay prices?
25 3124, and 3150, are those the pages?	25 A. That's what it says.
118	120
1 Gagosian	1 Gagosian
2 MR. HAYES: Yes.	2 Q. So you wanted to know the prices, is
3 A. Yes.	3 that right?
4 Q. Okay, fine.	4 A. I'm just reading the same thing you
5 So the first one, Candy Coleman,	5 are. I don't --
6 again, she was in LA, is that right?	6 Q. You don't remember?
7 A. Yes.	7 A. No.
8 Q. Or am I confusing -- she was in LA.	8 Q. Do you know at the top of that page
9 And she sent you an e-mail asking,	9 it says that Sam gave me prices for 1.5 and 1
10 What is the price of the two Prince paintings?	10 I suppose million for the other. Sam, again,
11 Do you have any idea which two paintings that	11 who would that be in this sequence?
12 was?	12 A. Sam Orlofsky I would suppose.
13 A. No, I don't.	13 Q. And where does he work?
14 Q. And on the next page at the bottom	14 A. 24th Street gallery.
15 it looks like you responded from your Blackberry	15 MR. BROOKS: Let's mark as
16 that one was 3 million and one was 1.5 million,	16 Exhibit 57 another series of e-mails.
17 do you see that?	17 (Plaintiff's Exhibit 57, series of
18 A. I do.	18 e-mails, was marked for identification, as
19 Q. Does that help you at all to know	19 of this date.)
20 which two paintings?	20 MS. BART: Again, this appears to be
21 A. Not at all.	21 a composite of e-mails, for the record?
22 Q. Do you recall this exchange of	22 MR. BROOKS: Well, again, the first
23 e-mails?	23 two pages appear to go together.
24 A. No, I don't.	24 MS. BART: Only by Bates Number.
25 Q. Now, there's an e-mail at the bottom	25 MR. BROOKS: Well, let's ask the

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<p>1 Gagosian</p> <p>2 witness.</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. On the first page Bates 3127 there's</p> <p>5 a message from Candy Coleman to you asking, May</p> <p>6 I offer the smaller Prince painting to somebody</p> <p>7 with the restriction that it is on hold until</p> <p>8 tomorrow for another client, and then you wrote,</p> <p>9 If somebody buys, and then she wrote, Sorry.</p> <p>10 And then we go to the next page,</p> <p>11 later that day -- no, later the next day you</p> <p>12 wrote to her, I take it by your silence that</p> <p>13 somebody is not interested in the Prince</p> <p>14 paintings, is that correct?</p> <p>15 And then she wrote, No, he has been</p> <p>16 in meetings since 7 a.m., he will call me.</p> <p>17 And then you wrote, Still in</p> <p>18 meeting, question mark, or on plane, question</p> <p>19 mark, and she wrote, Still in meetings.</p> <p>20 Do you have any recollection of this</p> <p>21 exchange of e-mails with Candy Coleman about</p> <p>22 somebody being interested in a smaller Prince</p> <p>23 painting?</p> <p>24 A. No, I don't.</p> <p>25 Q. Now, on the last page who is Nick --</p>	<p>1 Gagosian</p> <p>2 Q. Do you recall who this guy is?</p> <p>3 A. No, I don't.</p> <p>4 Q. And at the top Nick Simunovic wrote</p> <p>5 that she said everything else was sold. Do you</p> <p>6 have any idea what that refers to?</p> <p>7 A. Honestly, I don't.</p> <p>8 Q. Did you keep track before the show</p> <p>9 started of the amount of inventory that remained</p> <p>10 of these paintings?</p> <p>11 MS. BART: And these being the Canal</p> <p>12 Zone?</p> <p>13 MR. BROOKS: You're right.</p> <p>14 Q. These Canal Zone paintings?</p> <p>15 A. I don't understand the question.</p> <p>16 Q. I'm going to rephrase it.</p> <p>17 The show opened on November 8, 2008.</p> <p>18 Prior to that were you doing anything personally</p> <p>19 to keep track of how many of the paintings still</p> <p>20 had not been sold?</p> <p>21 A. I always did with every show.</p> <p>22 I mean --</p> <p>23 Q. At this point in time, right now as</p> <p>24 we sit here today, some of the paintings have</p> <p>25 not been sold, correct?</p>
122	124
<p>1 Gagosian</p> <p>2 I'm going to spell this, S-I-M-U-N-O --</p> <p>3 A. Simunovic.</p> <p>4 Q. How do you pronounce it?</p> <p>5 A. Simunovic.</p> <p>6 Q. Simunovic, V-I-C.</p> <p>7 He works for you?</p> <p>8 A. Yes, he does.</p> <p>9 Q. He says he's meeting with the guy</p> <p>10 who bought apparently two paintings. I'm trying</p> <p>11 to sell him more prints. I will give him a</p> <p>12 preview of the upcoming show which he'll see in</p> <p>13 person when we come to New York on November 10.</p> <p>14 Is there any way to visit Richard's studio in</p> <p>15 Rensselaerville the week of November 10? Studio</p> <p>16 visits are a major seduction for this guy.</p> <p>17 Do you recall getting that e-mail?</p> <p>18 A. I don't have a specific recollection</p> <p>19 of it.</p> <p>20 Q. And do you recall responding to</p> <p>21 Mr. Simunovic --</p> <p>22 A. Simunovic.</p> <p>23 Q. -- saying, Only if he buys another</p> <p>24 painting, do you recall that?</p> <p>25 A. No.</p>	<p>1 Gagosian</p> <p>2 A. That's correct.</p> <p>3 Q. Do you know where they're located?</p> <p>4 A. I think some are in storage. I</p> <p>5 don't know specific locations.</p> <p>6 Q. Are any of them available for public</p> <p>7 viewing currently, the unsold ones?</p> <p>8 A. I don't know.</p> <p>9 Q. I take it your company has a storage</p> <p>10 facility?</p> <p>11 MS. BART: Objection to form.</p> <p>12 Q. Somewhere?</p> <p>13 A. Yes.</p> <p>14 Q. Do you have a photographer who works</p> <p>15 for you, his first name is Rob, and I'm not</p> <p>16 finding his last name right now?</p> <p>17 A. Yes, I do.</p> <p>18 Q. What's his last name?</p> <p>19 A. McKeever.</p> <p>20 Q. I asked if he works for you. He</p> <p>21 works for your company, is that right?</p> <p>22 A. That's right.</p> <p>23 Q. Okay.</p> <p>24 MR. BROOKS: We're going to mark as</p> <p>25 Plaintiff's Exhibit 58 a series of e-mails</p>

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1 Gagosian	1 Gagosian
2 that were produced by the Gagosian	2 any idea what that refers to?
3 defendants.	3 A. Not really.
4 (Plaintiff's Exhibit 58, series of	4 Q. And then it also indicates that --
5 e-mails, was marked for identification, as	5 A. Oh, wait, I think I do actually.
6 of this date.)	6 Q. What is it?
7 MS. BART: I'll note for the record	7 A. Crozier Fine Art on 21st Street,
8 that these are just a composite grouping	8 their 21st Street location.
9 of e-mails.	9 Q. So that's where Rob was going to go
10 BY MR. BROOKS:	10 to film, to photograph these?
11 Q. Mr. Gagosian, let me know when	11 A. That I don't know.
12 you're ready.	12 Q. And what does Crozier Fine Art have
13 A. I'm ready.	13 to do with your business, your company?
14 Q. Okay. The first page of Exhibit 58,	14 A. They're a commercial art storage
15 before we get to what it shows, at the bottom	15 company.
16 Rob has written, I still need to shoot these,	16 Q. Then the document also indicates
17 can I do them on Friday at Crozier?	17 that Michael Evans and Lise, L-I-S-E, Evans
18 Is that your Rob McKeever?	18 bought Mr. Jones, does that accord with your
19 A. Yes.	19 recollection?
20 Q. And do you have a practice of having	20 A. I don't have a recollection, but I
21 him photograph each of the paintings before it	21 take it at face value.
22 goes in a show?	22 Q. Did you know they bought something?
23 MS. BART: Objection, form.	23 A. I had -- I think I remember.
24 Q. You can answer.	24 Q. And there, the location for that
25 A. Yes.	25 one, 555 West 24th Street, is that your gallery,
126	128
1 Gagosian	1 Gagosian
2 Q. Do you know if he did it in this	2 one of your two galleries in Chelsea?
3 case?	3 A. Yes, it is.
4 A. I would assume so.	4 Q. Is that the gallery where the Canal
5 Q. Is that how you were able to send	5 Zone exhibition took place?
6 JPEGs to various people?	6 A. Yes.
7 MS. BART: Objection, form, and	7 Q. On the next page Betsy Biscone,
8 mischaracterizes his prior testimony.	8 Mr. Prince's studio manager, is writing to
9 Q. You can answer.	9 Melissa Lazarov and copying you to the effect
10 A. Yeah. Yes.	10 that Mr. Jones was sold to somebody for
11 Q. Now, this indicates that Steven	11 2-million dollars. Do you see that?
12 Cohen purchased Especially Around Midnight, do	12 A. Yes, I do.
13 you see that?	13 Q. And then it has instructions for
14 A. Where are we, what page?	14 invoicing that person. Do you see that?
15 Q. There's like a chart at the top --	15 It's been redacted, but there
16 A. Oh, yeah.	16 appears --
17 Q. The last entry indicates Steven	17 A. Yes, I see it.
18 Cohen purchased Especially Around Midnight, do	18 Q. And then the invoice is supposed to
19 you see that?	19 be faxed to that person. Do you see that?
20 A. Yes.	20 A. Yeah, I do.
21 Q. Is that your recollection?	21 Q. And then the work should be sent
22 A. I know he painted -- purchased a	22 to the above-mentioned address, which has been
23 painting. I don't recall the title.	23 redacted, in other words, deleted, in DE.
24 Q. Okay. And the location given for	24 Do you see that?
25 that particular painting is CFA21. Do you have	25 A. Yes.

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<p>1 Gagosian</p> <p>2 Q. Could you turn to the next page,</p> <p>3 please. This is from Melissa Lazarov saying</p> <p>4 that you just met with somebody who was going to</p> <p>5 buy two Richard Prince paintings, Back to the</p> <p>6 Garden and Cookie Crumble. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Oh, and a third one, a Rasta</p> <p>9 collage. Do you see those three?</p> <p>10 A. Yes, I do.</p> <p>11 Q. Now, do you know who that person</p> <p>12 was?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you know if somebody bought those</p> <p>15 three works?</p> <p>16 A. I don't recall.</p> <p>17 Q. Could you turn to the next page,</p> <p>18 please. Who is Rupert Burgess?</p> <p>19 A. He is -- he's an art adviser.</p> <p>20 Q. And it says, Dear Rupert -- this is</p> <p>21 from Melissa Lazarov -- Larry met with somebody</p> <p>22 and they are purchasing the attached. Please</p> <p>23 advise how you want me to invoice.</p> <p>24 And then, again, it refers to the</p> <p>25 same three works as the previous page, Back to</p>	<p>1 Gagosian</p> <p>2 and still half a million for the untitled Rasta</p> <p>3 work. Do you know of any reason for these</p> <p>4 different numbers?</p> <p>5 A. No, I don't.</p> <p>6 Q. And then it says no New York sales</p> <p>7 tax due, out of state sale. Do you know what</p> <p>8 that refers to?</p> <p>9 A. Well, it means that -- it means that</p> <p>10 they were sent out of state so there's no sales</p> <p>11 tax applicable.</p> <p>12 Q. No, New York State sales tax?</p> <p>13 A. Yeah.</p> <p>14 Q. Is that something you monitor</p> <p>15 carefully?</p> <p>16 MS. BART: Objection, form, and</p> <p>17 argumentative.</p> <p>18 Q. You can answer.</p> <p>19 A. The gallery monitors it very</p> <p>20 carefully. I don't personally monitor it.</p> <p>21 Q. Have you ever heard of cases where</p> <p>22 artwork was sold inside New York State but the</p> <p>23 gallery pretended to ship it outside of New York</p> <p>24 State so the buyer could avoid New York State</p> <p>25 sales tax?</p>
130	132
<p>1 Gagosian</p> <p>2 the Garden, Cookie Crumble, and an untitled work</p> <p>3 with a number 2008 dot 0044, is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. The same three works as on the prior</p> <p>6 page we were looking at?</p> <p>7 A. Right.</p> <p>8 Q. Do you have any recollection of</p> <p>9 those three works being sold for those prices?</p> <p>10 A. Not -- not specifically.</p> <p>11 Q. All right. You said not</p> <p>12 specifically. So obviously --</p> <p>13 A. I don't have a clear recollection.</p> <p>14 Q. You don't know --</p> <p>15 A. I don't recall. These things</p> <p>16 change. I don't recall.</p> <p>17 Q. And then on the next page, the same</p> <p>18 date, there are prices -- on the page we were</p> <p>19 just looking at 4103 the prices were given as</p> <p>20 1.8 million for Back to the Garden, 1.8 million</p> <p>21 for Cookie Crumbles, and half a million for the</p> <p>22 untitled painting.</p> <p>23 And then on the next page 4104 the</p> <p>24 numbers are slightly different, 2.2 million for</p> <p>25 Back to the Garden and also for Cookie Crumbles,</p>	<p>1 Gagosian</p> <p>2 MS. BART: Objection, form.</p> <p>3 A. I've heard of cases like that, yeah.</p> <p>4 Q. Do you know Samuel Waksal?</p> <p>5 A. I do.</p> <p>6 Q. From ImClone fame?</p> <p>7 A. Right.</p> <p>8 Q. And Martha Stewart fame?</p> <p>9 A. I know who he is.</p> <p>10 Q. And weren't you personally</p> <p>11 investigated for such an arrangement with</p> <p>12 Mr. Waksal?</p> <p>13 MS. BART: Objection. This is</p> <p>14 really very harassing.</p> <p>15 MR. BROOKS: It goes to credibility.</p> <p>16 MS. BART: I'm going to ask you to</p> <p>17 withdraw the question.</p> <p>18 MR. BROOKS: I'm not going to</p> <p>19 withdraw it.</p> <p>20 MS. BART: There's no issue of sales</p> <p>21 tax in this case.</p> <p>22 MR. BROOKS: It goes to credibility.</p> <p>23 You can direct him not to answer if you</p> <p>24 wish. I'm not going to argue on the</p> <p>25 record. It goes to his credibility.</p>



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<p>1 Gagosian</p> <p>2 MS. BART: Note my objection for the</p> <p>3 record. This is highly improper. It is</p> <p>4 highly irrelevant.</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. You can answer if you remember the</p> <p>7 question. If not --</p> <p>8 MS. BART: I'm going to caution the</p> <p>9 witness that if you are under some sort of</p> <p>10 a restraint, I know nothing about this</p> <p>11 case, but if it was a grand jury you may</p> <p>12 not answer the question, so just bear that</p> <p>13 in mind.</p> <p>14 If you are under any confidentiality</p> <p>15 restraint you may not answer the question.</p> <p>16 A. I can answer it.</p> <p>17 What's the question?</p> <p>18 Q. Were you investigated in connection</p> <p>19 with Samuel Waksal's purchase of works of art</p> <p>20 from your gallery?</p> <p>21 A. Yes. Yes, I was.</p> <p>22 Q. And was that because the works --</p> <p>23 because of where the works were actually sent as</p> <p>24 opposed to where he --</p> <p>25 MS. BART: Objection, form.</p>	<p>1 Gagosian</p> <p>2 objection to form.</p> <p>3 A. That was the point of the</p> <p>4 investigation, sales tax by Waksal.</p> <p>5 Q. Okay.</p> <p>6 MR. BROOKS: Let's mark as</p> <p>7 Plaintiff's 59 a couple of additional</p> <p>8 e-mails -- actually, one e-mail dated</p> <p>9 September 11, 2008.</p> <p>10 (Plaintiff's Exhibit 59, e-mail</p> <p>11 dated September 11, 2008, was marked for</p> <p>12 identification, as of this date.)</p> <p>13 Q. It appears you were CCed on this</p> <p>14 e-mail, Mr. Gagosian. Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And the subject is Evans RP</p> <p>17 purchase, and attached is the Mr. Jones</p> <p>18 painting, right?</p> <p>19 A. Right.</p> <p>20 Q. Do you know Mr. Evans?</p> <p>21 MS. BART: Objection, form.</p> <p>22 A. No, I don't.</p> <p>23 Q. Do you know if he lives in Delaware?</p> <p>24 A. I don't know him. I don't know</p> <p>25 where he lives.</p>
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<p>1 Gagosian</p> <p>2 MR. BROOKS: Well, let me -- that's</p> <p>3 a bad question.</p> <p>4 A. That's a bad question.</p> <p>5 Q. Let me rephrase it.</p> <p>6 A. I'm just agreeing.</p> <p>7 Q. I agree.</p> <p>8 Did this investigation have to do</p> <p>9 with evasion on Mr. Waksal's part of sales tax</p> <p>10 in connection with purchases of art from your</p> <p>11 gallery?</p> <p>12 MS. BART: Objection, form. And</p> <p>13 I'll note specifically the use of the word</p> <p>14 invasion -- evasion.</p> <p>15 MR. BROOKS: Yes, I did.</p> <p>16 A. So what are you asking again?</p> <p>17 MR. BROOKS: I'm going to ask the</p> <p>18 court reporter to read it again. And your</p> <p>19 lawyer has objected, so she can object</p> <p>20 again if she wants as many times as she</p> <p>21 wants, but I'd like you to answer the</p> <p>22 question. And then that's the last</p> <p>23 question I have on this issue.</p> <p>24 (Record read.)</p> <p>25 MS. BART: Then there was an</p>	<p>1 Gagosian</p> <p>2 Q. Did you barter a Larry Rivers</p> <p>3 painting in exchange for some of these Richard</p> <p>4 Prince Canal Zone paintings?</p> <p>5 A. Yes, we did.</p> <p>6 MS. BART: We being?</p> <p>7 A. Richard and I made a trade, yeah.</p> <p>8 Q. I don't know if barter is the right</p> <p>9 word. You exchanged?</p> <p>10 A. Yeah, trade, yeah.</p> <p>11 Q. And the painting that you gave him</p> <p>12 was called Dying and Dead Veteran, by Larry</p> <p>13 Rivers?</p> <p>14 A. Correct.</p> <p>15 Q. 1961 or something?</p> <p>16 A. Right.</p> <p>17 Q. Is that right?</p> <p>18 A. That's right.</p> <p>19 Q. Were you the owner of that painting?</p> <p>20 MS. BART: Objection, form.</p> <p>21 A. Yes, I was.</p> <p>22 Q. How much did you pay for it?</p> <p>23 A. I don't remember.</p> <p>24 Q. How much is it worth?</p> <p>25 A. I don't know.</p>

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<p>1 Gagosian</p> <p>2 Q. How much did you think it was worth</p> <p>3 when you traded it?</p> <p>4 MS. BART: Objection, form, calls</p> <p>5 for speculation.</p> <p>6 A. Three, four million I think.</p> <p>7 I don't know. It's hard to say.</p> <p>8 Q. Mr. Rivers passed away, right?</p> <p>9 A. A few years ago.</p> <p>10 MR. BROOKS: As Plaintiff's</p> <p>11 Exhibit 60 let's mark two pages Bates</p> <p>12 stamped PR127 and 128.</p> <p>13 (Plaintiff's Exhibit 60, PR127 and</p> <p>14 128, was marked for identification, as of</p> <p>15 this date.)</p> <p>16 Q. Mr. Gagosian, take your time, but</p> <p>17 I just want to tell you we obtained these two</p> <p>18 pages from Mr. Prince's counsel in this case.</p> <p>19 A. Okay.</p> <p>20 Q. So there are five images here. The</p> <p>21 first one is the Larry Rivers painting, correct?</p> <p>22 A. That's right.</p> <p>23 Q. Is this one of a series of veterans</p> <p>24 paintings that Mr. Rivers did?</p> <p>25 A. Yes, it is.</p>	<p>1 Gagosian</p> <p>2 Q. Do you know if Mr. Prince purchased</p> <p>3 a James Brown disco ball?</p> <p>4 A. I think so, yes.</p> <p>5 Q. What is a disco ball, one of those</p> <p>6 balls that's up in the ceiling and lights</p> <p>7 reflect off it?</p> <p>8 A. I think that's what it is, yeah.</p> <p>9 Q. So he selected that painting as</p> <p>10 well.</p> <p>11 And now, the third one, Graduation,</p> <p>12 is that the invitation painting?</p> <p>13 MS. BART: Objection, form.</p> <p>14 Q. If you know.</p> <p>15 A. If I saw the invitation I could tell</p> <p>16 you.</p> <p>17 Q. I guess 53A?</p> <p>18 MS. BART: 52.</p> <p>19 A. It looks like it was, yeah.</p> <p>20 MS. BART: Don't guess. He doesn't</p> <p>21 want you to guess.</p> <p>22 Q. Because I'm actually confused --</p> <p>23 A. No, it's a different painting.</p> <p>24 Q. Okay. So let me just ask you to</p> <p>25 look in the book. There's one called Meditation</p>
138	140
<p>1 Gagosian</p> <p>2 Q. And the first painting -- well,</p> <p>3 there are four Prince paintings that you traded</p> <p>4 this one for. Did you select these four or was</p> <p>5 it just random or what?</p> <p>6 A. I selected them.</p> <p>7 Q. And did you select them because you</p> <p>8 liked them?</p> <p>9 A. That's right.</p> <p>10 Q. And in the first one do you know who</p> <p>11 Djuna Barnes, Natalie Barney, Renée Vivien, and</p> <p>12 Romaine Brooks are?</p> <p>13 A. They're writers. I know they're</p> <p>14 female -- I think they're women writers. I</p> <p>15 don't know who Yvonne Barnes is. I don't know</p> <p>16 all of them, but I think they're novelists or</p> <p>17 writers. I'm not sure.</p> <p>18 Q. Is the Guanahani -- though that</p> <p>19 might not be the right spelling -- Hotel in</p> <p>20 St. Barth's?</p> <p>21 A. Yes, it is.</p> <p>22 Q. The next one is James Brown Disco</p> <p>23 Ball. Do you know if Mr. Prince purchased a</p> <p>24 James Brown disco ball?</p> <p>25 A. What are you asking me?</p>	<p>1 Gagosian</p> <p>2 and one called Graduation. They're similar and</p> <p>3 that's why I'm --</p> <p>4 A. Yeah.</p> <p>5 Q. If you look at -- they're both in</p> <p>6 the front of the book. Graduation is the very</p> <p>7 first painting. I'd give you a page number but</p> <p>8 there isn't one.</p> <p>9 A. Yeah, I got it.</p> <p>10 Q. So that's the one you traded for,</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 MS. BART: Objection, form.</p> <p>14 A. I'm sorry.</p> <p>15 Q. And then if you go to the sixth</p> <p>16 painting I think it's Meditation.</p> <p>17 A. Right.</p> <p>18 Q. Did you find Meditation?</p> <p>19 A. I found it.</p> <p>20 Q. Now, is that, to the best of your</p> <p>21 knowledge, is that the invitation?</p> <p>22 A. I think so, yes, looks like it.</p> <p>23 Q. I mean they're similar obviously?</p> <p>24 MS. BART: Objection, form.</p> <p>25 A. The only problem is I'm not looking</p>

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1 Gagosian	1 Gagosian
2 at the actual invitation, so I mean --	2 understanding when you traded the Larry Rivers
3 Q. I know. Do you have any left?	3 painting for the four Prince paintings did you
4 A. I'm sure we do.	4 become, you personally become the owner of the
5 RQ MR. BROOKS: I'd like to request an	5 four Prince paintings?
6 actual invitation, just one.	6 A. I don't know the answer to that.
7 MS. BART: We'll get you one if we	7 It could be that the gallery became the owner.
8 have it.	8 I mean that's my accountant's kind of question.
9 BY MR. BROOKS:	9 I really don't know the answer to that.
10 Q. And the last painting is another one	10 Q. In any event, you sold it for
11 by Richard Prince, right?	11 1.1-million dollars?
12 It's All Over -- I'm back to	12 A. That's correct.
13 exhibit --	13 Q. And your lawyer has instructed
14 A. Yeah --	14 you --
15 MS. BART: Which one are you up to?	15 MS. BART: And the you could be
16 Q. I'm back to Exhibit 60.	16 Gagosian or him, right, that's what you
17 MS. BART: This one.	17 mean?
18 Q. The second page. It's All Over is	18 MR. BROOKS: I guess. I don't think
19 another one of these Richard Prince paintings	19 it matters.
20 from the Canal Zone show, right?	20 MS. BART: Then I'm going to object
21 A. Correct.	21 to the form of the question. Because the
22 Q. Have you sold any of those four	22 witness --
23 paintings that you obtained in exchange for	23 Q. Who got the 1.1-million dollars?
24 Dying and Dead Veteran?	24 A. Gagosian Gallery.
25 A. Yes, I have.	25 Q. Not you?
142	144
1 Gagosian	1 Gagosian
2 Q. Which one or ones?	2 A. Not me.
3 A. I think the only one that I've sold	3 Q. Did you pay a commission on that
4 is It's All Over.	4 particular sale to anyone?
5 Q. And to whom did you sell it?	5 A. I don't recall.
6 MS. BART: I'm going to instruct the	6 Q. When did you sell It's All Over?
7 witness not to answer the name.	7 A. I think it was August I believe.
8 A. I'm not going to give you the name	8 Q. Of what year?
9 of the customer.	9 A. This year.
10 Q. How much did you sell it for?	10 Q. 2009?
11 A. I sold it I believe for 1.1-million	11 A. Yeah.
12 dollars.	12 Q. The other three, you think you
13 Q. And did you sell it personally or	13 didn't sell them yet, right?
14 was it the gallery that sold it?	14 A. I believe I still have them.
15 I asked you a bad question. I said	15 Q. Are you trying to sell them?
16 did you sell it, and I don't know if you in	16 A. Not really.
17 answering that you were referring to I sold it	17 Q. If a buyer came along would you sell
18 personally or Gagosian sold it?	18 them or do you want to keep them?
19 A. The gallery sold it.	19 MS. BART: Objection, form, calls
20 Q. The gallery sold it. So the trade	20 for speculation. Not answering.
21 was not between you and Mr. Prince, it was	21 MR. BROOKS: It's not speculation.
22 between -- maybe there's some confusion?	22 MS. BART: Yeah, you did. If a
23 A. That's my accountant kind of	23 buyer came along would you sell them?
24 question.	24 BY MR. BROOKS:
25 Q. Okay. To the best of your	25 Q. Do you have a present intention of

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<p>1 Gagosian</p> <p>2 selling those paintings?</p> <p>3 A. Not actively.</p> <p>4 MS. BART: Objection, form.</p> <p>5 A. Not actively.</p> <p>6 Q. Passively?</p> <p>7 MS. BART: Objection, form.</p> <p>8 A. That's kind of a difficult question.</p> <p>9 They're not on the market.</p> <p>10 Q. Okay. And how do you put a painting</p> <p>11 on the market?</p> <p>12 A. Well, I indicate either I contact a</p> <p>13 potential customer or I have somebody in my</p> <p>14 organization contact a potential customer and,</p> <p>15 you know, make them aware of the availability.</p> <p>16 Q. And that's not been done?</p> <p>17 MS. BART: Objection, form.</p> <p>18 A. No. To the best of my knowledge,</p> <p>19 these paintings are not actively on the market.</p> <p>20 Q. Was It's All Over on the market</p> <p>21 before you sold it?</p> <p>22 MS. BART: Objection, form.</p> <p>23 A. No, it wasn't.</p> <p>24 Q. Somebody approached you to buy it?</p> <p>25 A. That's right.</p>	<p>1 Gagosian</p> <p>2 MS. BART: Hold on one second.</p> <p>3 (Discussion off the record.)</p> <p>4 MS. BART: I think the witness would</p> <p>5 like to clarify the record.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Go ahead.</p> <p>8 A. I don't know if it's relevant, but</p> <p>9 they were not sold for money, they were sold</p> <p>10 through exchange. I didn't receive any funds.</p> <p>11 Q. Now, are you talking about Back to</p> <p>12 the Garden?</p> <p>13 A. These three pictures.</p> <p>14 MS. BART: That you just made</p> <p>15 reference to.</p> <p>16 A. That we just referenced.</p> <p>17 Q. Okay, but just for the record --</p> <p>18 A. They were not sold for money. It</p> <p>19 was an exchange.</p> <p>20 Q. Okay. You're talking about Back to</p> <p>21 the Garden --</p> <p>22 A. I'm talking about the three</p> <p>23 paintings on this invoice.</p> <p>24 Q. Cookie Crumbles and an untitled --</p> <p>25 A. Right.</p>
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<p>1 Gagosian</p> <p>2 Q. So therefore the other three don't</p> <p>3 have an asking price right now?</p> <p>4 A. They do not.</p> <p>5 Q. Are they in storage?</p> <p>6 A. I believe they're all in storage.</p> <p>7 Q. If you look back at Exhibit 58, we</p> <p>8 were looking at that before. The last three</p> <p>9 pages which we looked at before indicate sales</p> <p>10 of Back to the Garden, Cookie Crumbles, and an</p> <p>11 untitled Rasta 2008 dot 0044. Do you remember</p> <p>12 we looked at this?</p> <p>13 A. Right.</p> <p>14 Q. And there were two different prices</p> <p>15 given?</p> <p>16 A. Right.</p> <p>17 Q. Do you know if these paintings were</p> <p>18 actually sold?</p> <p>19 MS. BART: Objection, form, and</p> <p>20 asked and answered.</p> <p>21 Q. You can answer.</p> <p>22 A. What did I answer?</p> <p>23 Q. I don't know, because I'm not sure</p> <p>24 I asked it.</p> <p>25 A. I believe they were sold.</p>	<p>1 Gagosian</p> <p>2 Q. Oh, okay. They were exchanged?</p> <p>3 A. That's right.</p> <p>4 Q. And with whom were they exchanged?</p> <p>5 A. A client.</p> <p>6 Q. And what did you get in exchange?</p> <p>7 A. I got a sculpture.</p> <p>8 Q. What did Mr. Prince get?</p> <p>9 A. Mr. Prince got the money. I paid</p> <p>10 him money and I got a sculpture.</p> <p>11 Q. Somebody else, who -- and I take it</p> <p>12 your counsel is directing you not to identify</p> <p>13 the other person, is that right?</p> <p>14 MS. BART: We would prefer not.</p> <p>15 A. That's been my instruction in</p> <p>16 general, not to identify people.</p> <p>17 Q. It's not important for this</p> <p>18 question, so I'm not -- I don't really care.</p> <p>19 It doesn't matter. Somebody --</p> <p>20 MS. BART: Mr. X.</p> <p>21 Q. -- we'll call him again Mr. X --</p> <p>22 well, let's call him Mr. Y because we already</p> <p>23 had Mr. X.</p> <p>24 Mr. Y gave you a sculpture? I mean</p> <p>25 I'm not sure I'm following you. What did Mr. Y</p>

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1 Gagosian	1 Gagosian
2 give you?	2 Q. Was it this year?
3 A. I'll tell you exactly what happened,	3 A. It was probably early in the year.
4 okay. Mr. Y was interested in buying some of	4 I would just -- I'm just guessing.
5 these paintings, but then they decided that they	5 MS. BART: Don't guess.
6 were having a cash flow issue or whatever and so	6 A. I don't recall. I don't recall.
7 they suggested that I take a work of art that	7 Q. Just going back to Exhibit 58
8 they owned in lieu of cash payment as an even	8 briefly. This exchange about those three
9 exchange for those three paintings.	9 paintings having been sold was in September
10 Q. So Mr. Y or they, whoever -- is it	10 2008, does that help you at all?
11 more than one person? You can tell me that.	11 A. What are you -- does it help me with
12 A. There's one person.	12 what?
13 Q. One person. So Mr. Y --	13 Q. To remember -- I could be
14 A. Right.	14 misspeaking. Hold on a second.
15 Q. -- got those three paintings --	15 Yeah, September 2008 is -- these
16 A. That's right.	16 e-mails in Exhibit 58 say it was in September
17 Q. Back to the Garden, Cookie	17 2008 that Back to the Garden, Cookie Crumbles,
18 Crumbles --	18 and the untitled Rasta were sold. Does that --
19 A. Right.	19 it might not --
20 Q. -- and one of the untitled	20 A. It doesn't really help in this
21 paintings?	21 particular case because initially it was going
22 A. That's right.	22 to be a cash transaction, and then there was
23 Q. And in exchange you got a sculpture?	23 quite a bit of time, and then they said we don't
24 A. That's right.	24 have the cash, will you do this.
25 Q. By whom?	25 Q. Okay, I got it.
150	152
1 Gagosian	1 Gagosian
2 A. Richard Serra.	2 So now in Exhibit 36 the first page
3 Q. And what's the value of that	3 of Exhibit 36 is entitled February 2009 Sales
4 sculpture?	4 Accounting. Do you have any idea what that is?
5 MS. BART: Objection, form.	5 It's on the Gagosian Gallery
6 A. Three to four-million dollars.	6 letterhead.
7 Q. And who owns the Richard Serra	7 MS. BART: It's this page right
8 sculpture now?	8 here.
9 A. I own it.	9 A. Oh. This is a reconciliation of
10 MS. BART: Personally?	10 sales I guess.
11 Q. And what did -- personally?	11 Q. Is it a form your company sends out
12 A. I mean the gallery owns it.	12 normally?
13 Q. What did Mr. Prince get?	13 A. I'm not familiar with the form.
14 A. He got his percentage of the	14 MR. BROOKS: We're going to have to
15 agreed-upon prices.	15 take a short break.
16 Q. Okay. I think I understand.	16 THE WITNESS: That's all we do is
17 Thank you.	17 break here.
18 I'm going to show you what was	18 MR. BROOKS: Well, he's run out of
19 marked Tuesday as Plaintiff's Exhibit 36.	19 film.
20 Before we get into this document,	20 THE VIDEOGRAPHER: 1:01 p.m. Off
21 when did you exchange Cookie Crumbles, Back to	21 the record. End of tape 2.
22 the Garden, and the untitled Rasta for the	22 (Recess taken: 1:01 p.m.)
23 sculpture?	23 (Proceedings resumed: 1:12 p.m.)
24 A. I don't -- I don't know the exact	24 THE VIDEOGRAPHER: 1:12. On the
25 time.	25 record. Beginning of tape 3.

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<p>1 Gagosian</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. I had shown you Plaintiff's</p> <p>4 Exhibit 36, and if you look through it, it shows</p> <p>5 sales and moneys transmitted to Mr. Prince.</p> <p>6 For instance, let's just take the</p> <p>7 first one on the second page, it shows -- it</p> <p>8 seems to show that the Canal Zone painting was</p> <p>9 sold for 1.2 million and that Mr. Prince</p> <p>10 received 60 percent of that, namely \$720,000.</p> <p>11 Do you see that?</p> <p>12 Do you see that?</p> <p>13 A. Yeah.</p> <p>14 Q. Okay. And it goes on from there</p> <p>15 painting by painting, and then also there are</p> <p>16 some sheets like this -- and I'm referring to</p> <p>17 PR000120 -- which seem to summarize at least</p> <p>18 some of these sales -- for instance, this is</p> <p>19 that Mr. Jones painting we talked about before,</p> <p>20 sold for 2 million that Mr. Prince would get</p> <p>21 60 percent of that 1.2 million.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Are these documents familiar to you</p> <p>25 at all?</p>	<p>1 Gagosian</p> <p>2 Him or Gagosian Gallery?</p> <p>3 Q. Gagosian Gallery?</p> <p>4 A. I believe we do.</p> <p>5 Q. And then this is how one of these</p> <p>6 transactions would work, the money would be</p> <p>7 wired -- would be paid to Gagosian Gallery and</p> <p>8 then wired out, at least in Mr. Prince's case,</p> <p>9 from Gagosian Gallery to Mr. Prince as shown</p> <p>10 on 122?</p> <p>11 A. That's correct.</p> <p>12 Q. On page 124 how much do you think</p> <p>13 this doodle is worth?</p> <p>14 MS. BART: We're not answering that</p> <p>15 question. I don't think he meant it</p> <p>16 seriously.</p> <p>17 Q. I've looked through this. You're</p> <p>18 free to look through it, but you'll see there's</p> <p>19 no accounting, if that's what these are, for</p> <p>20 Cookie Crumbles, Garden of Eden, and I'm not</p> <p>21 sure about that third, that untitled Rasta.</p> <p>22 But I know there's nothing in here</p> <p>23 for Cookie Crumbles or Garden of Eden, which</p> <p>24 you've explained how they were exchanged for a</p> <p>25 sculpture?</p>
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<p>1 Gagosian</p> <p>2 A. No.</p> <p>3 Q. Do you have an accounting</p> <p>4 department?</p> <p>5 A. Yes.</p> <p>6 Q. They send these out?</p> <p>7 A. Yes.</p> <p>8 Q. And finally, just another type of</p> <p>9 document. There's like a wire transfer</p> <p>10 PR000122.</p> <p>11 MS. BART: You mean the Bank of</p> <p>12 America statement?</p> <p>13 MR. BROOKS: Yeah.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. It says the following wire was</p> <p>16 credited today.</p> <p>17 A. Today?</p> <p>18 Q. It just says that.</p> <p>19 A. Oh, okay.</p> <p>20 Q. That day.</p> <p>21 A. Right. Right.</p> <p>22 Q. Do you have an account with the Bank</p> <p>23 of America?</p> <p>24 A. I think so.</p> <p>25 MS. BART: Objection, form.</p>	<p>1 Gagosian</p> <p>2 A. Right.</p> <p>3 Q. Do you have any explanation for why</p> <p>4 that would be?</p> <p>5 MS. BART: Objection, form.</p> <p>6 Why that what?</p> <p>7 Q. If Mr. Prince received money why it</p> <p>8 would not be reflected in these accountings?</p> <p>9 A. I really don't know the answer to</p> <p>10 that.</p> <p>11 Q. Is it possible that he received the</p> <p>12 money subsequent to February 2008 -- 2009?</p> <p>13 A. I don't know.</p> <p>14 RQ MR. BROOKS: For the record, the</p> <p>15 last sales accounting I have is dated</p> <p>16 February 2009. I've received none</p> <p>17 subsequent to that and would request if</p> <p>18 there are any that both Mr. Prince's</p> <p>19 lawyer and the lawyer for the Gagosian</p> <p>20 defendants produce those so we'll know how</p> <p>21 much has been sold to date. It's now</p> <p>22 October 2009.</p> <p>23 A. I think --</p> <p>24 MR. HAYES: We'll take the request</p> <p>25 under advisement.</p>

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1 Gagosian	1 Gagosian
2 MS. BART: To my knowledge our	2 MR. BROOKS: Let me finish.
3 production is complete. We have given you	3 How much Prince has gotten and how
4 all of the documents that we are aware	4 much Gagosian Gallery and/or Mr. Gagosian
5 exist. But we'll take your request under	5 have gotten.
6 advisement.	6 MS. BART: Again, we've already said
7 BY MR. BROOKS:	7 we'll take it under advisement.
8 Q. Do you know if there have been	8 MR. HAYES: Indeed.
9 any --	9 MS. BART: To my knowledge our
10 MR. BROOKS: Are you finished?	10 production is complete.
11 MS. BART: We'll take your request	11 MR. BROOKS: All right. Last thing,
12 under advisement.	12 I don't want to belabor this, but then I'm
13 BY MR. BROOKS:	13 going to need an interrogatory answer
14 Q. Do you know if there have been any	14 because your production doesn't show how
15 accountings to Mr. Prince since February 2009?	15 much they all got.
16 MS. BART: With respect to the Canal	16 For instance, there's no indication
17 Zone?	17 that Mr. Prince received any money for
18 MR. BROOKS: Yes.	18 Cookie Crumble or Garden of Eden.
19 A. I don't know specifically.	19 MS. BART: Or what?
20 Q. Do you know if any of the Canal Zone	20 MR. BROOKS: Garden of Eden.
21 paintings have been sold subsequently to	21 (Discussion off the record.)
22 February 2009?	22 MR. BROOKS: Just again, for the
23 MS. BART: Objection, and asked and	23 record, and I'm sure there's an innocent
24 answered. Objection, form, and asked and	24 explanation for it, but there are a number
25 answered.	25 of different documents we've gotten about
158	160
1 Gagosian	1 Gagosian
2 Q. You can answer.	2 sales, and the numbers are inconsistent
3 A. I'm not sure.	3 with one another. So there must be some
4 Q. You're not sure.	4 master list or master something that shows
5 MR. BROOKS: Okay. Well, I've made	5 exactly to the penny how much everyone
6 my request on the record.	6 got.
7 Because I can't tell from all the	7 MR. HAYES: I'm not sure there is,
8 documents that have been produced exactly	8 but I'll take your request under
9 how much Mr. Prince has received and	9 advisement.
10 exactly how much Gagosian Gallery has	10 MS. BART: Same.
11 received.	11 MR. BROOKS: Or I'll take an
12 And since this is a business, seems	12 interrogatory answer. Either way.
13 to be a competently-run business, I find	13 BY MR. BROOKS:
14 it inconceivable that there isn't	14 Q. I asked you about Mr. Prince
15 something that summarizes this clearly.	15 saying -- sending you that pitch, remember, and
16 Alternatively, we've asked for it in	16 saying he wanted to make a movie?
17 an interrogatory that we propounded in	17 A. Yes.
18 April, and we would be willing if the	18 Q. Did he ever discuss with you also
19 answer can't be produced provided in a	19 the possibility of his getting video game rights
20 deposition with documents, to get an	20 in connection with that movie?
21 interrogatory answer.	21 A. That I don't remember.
22 All we want to know is how much --	22 Q. Do you know that Mr. -- well, do
23 MS. BART: We'll take your	23 you know whether Mr. Prince has retained Michael
24 request -- we've already told you we will	24 Ovitiz to sell a book about -- based on the pitch
25 take your request under advisement.	25 that he gave you?

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161	163
1 Gagosian	1 Gagosian
2 A. I know they've had conversations.	2 A. I doubt -- I don't think so.
3 Whether it was a formal retainer relationship,	3 Q. Were you ever consulted about it,
4 I'm not aware.	4 about the formulation of the answer?
5 Q. You're not involved in that?	5 A. No, I wasn't.
6 A. Not at all.	6 MR. BROOKS: So this will be the
7 Q. That wouldn't be something within	7 last exhibit, it's Plaintiff's Exhibit 61,
8 the scope of your gallery's representation of	8 a series of e-mails.
9 Mr. Prince?	9 (Plaintiff's Exhibit 61, series of
10 A. Not typically.	10 e-mails, was marked for identification, as
11 Q. And not in this case?	11 of this date.)
12 A. Not in this case.	12 Q. Take as much time looking at this as
13 Q. I have one more exhibit. But before	13 you want, and then I'll have a few questions and
14 I get to that, have you ever seen the complaint	14 that will be it for the deposition.
15 in this lawsuit?	15 MS. BART: This appears to be a
16 A. I don't believe so.	16 composite exhibit as opposed to one single
17 Q. I'm just going to show it to you	17 e-mail.
18 so you can be sure.	18 MR. BROOKS: Yes, that's correct.
19 I'm going to show you the amended	19 BY MR. BROOKS:
20 complaint. It's Exhibit 2. It's like the	20 Q. I'm showing you the Canal Zone book.
21 complaint I showed you before in the U.S.	21 Are you looking at the spine?
22 government case.	22 A. Yes.
23 MS. BART: No, it is not like --	23 Q. Is that -- the spine is this part?
24 MR. BROOKS: Well, it's a complaint.	24 A. Yes.
25 MS. BART: It is not like that	25 Q. I don't know how else to refer to
162	164
1 Gagosian	1 Gagosian
2 complaint.	2 it. That's the spine?
3 MR. BROOKS: It's just like it.	3 A. That's the spine.
4 MS. BART: It is not.	4 Q. Okay. And on this spine it says
5 MR. BROOKS: It's a complaint that	5 Canal Zone Richard Prince Gagosian, and there's
6 initiates a lawsuit in the Southern	6 a letter R at the bottom?
7 District of New York. They both are.	7 A. Right.
8 MS. BART: I'll give you that,	8 Q. Do you know if that letter R is a
9 Mr. Brooks.	9 logo for any particular entity?
10 MR. BROOKS: That's the only	10 A. I believe it's Rizzoli.
11 similarity. It has a caption and he's a	11 Q. This first e-mail says that somebody
12 defendant in both --	12 wanted to show the spine to Rizzoli. Were you
13 MS. BART: Okay. We're done. We're	13 aware of that?
14 done. Let him look at it.	14 A. No.
15 A. I'm not going to --	15 Q. Do you know the company -- I may
16 Q. No. Have you ever seen it before?	16 have asked you this before, Graphic Thought
17 That's all.	17 Facility in London, what were they doing, were
18 A. No.	18 they helping make this book?
19 Q. Okay. Give it back, please.	19 A. I don't know.
20 Do you know if an answer was	20 MR. SHERMAN: Object to the form.
21 submitted on behalf of yourself and Gagosian	21 A. I don't know.
22 Gallery to this complaint?	22 Q. Was Rizzoli the distributor of the
23 A. I'm not aware of it.	23 Canal Zone book?
24 Q. If one was submitted did you ever	24 A. I don't know.
25 see it?	25 MS. BART: Objection, form.



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165	167
1 Gagosian	1 Gagosian
2 MR. SHERMAN: Object to the form.	2 MS. BART: Well, that's not
3 A. I don't know.	3 evidence.
4 Q. On the second page of Exhibit 61	4 MR. BROOKS: Do you see it? How do
5 Allison McDonald is saying Rizzoli will commit	5 you think I got it?
6 to 1,000 copies. Do you know if that was the	6 MS. BART: I don't know, Mr. Brooks.
7 case, do you have any knowledge of that?	7 MR. BROOKS: I bought it at the
8 MR. SHERMAN: Object to the form.	8 gallery, so.
9 A. I don't know.	9 THE WITNESS: So what's the
10 MR. SHERMAN: It's out of context.	10 question?
11 MS. BART: Lack of foundation, join.	11 MR. BROOKS: I forgot.
12 MR. SHERMAN: Yeah.	12 Could you read it?
13 Q. Do you see at the bottom it says	13 MS. BART: Why is there no bar code?
14 we should be able to make about 30 to 40,000	14 BY MR. BROOKS:
15 dollars back from Rizzoli copies that sell in	15 Q. Do you know -- okay, look at the
16 addition to any gallery sales of the books, do	16 third page --
17 you see that?	17 A. Is there supposed to be a bar code?
18 A. Yes.	18 I have no idea.
19 Q. Do you recall ever discussing how	19 Q. Right. Let's go to the third page
20 much money Gagosian could make from the Rizzoli	20 and I'll lay a foundation, the third page of
21 copies of the Canal Zone book?	21 Exhibit 61.
22 MS. BART: I'm going to object --	22 It says, Hi, Christian -- it's from
23 MR. SHERMAN: Object to the form.	23 Darlina Goldak who works for your company.
24 MS. BART: -- to the form and note	24 As you know, 1,000 copies of the
25 for the record that Mr. Gagosian's name	25 Richard Prince books are for Rizzoli. These
166	168
1 Gagosian	1 Gagosian
2 appears nowhere on this e-mail, so.	2 1,000 copies have the sticker bar codes on them.
3 MR. BROOKS: That's right.	3 A. Uh-huh.
4 A. I have no recollection.	4 Q. And then it gives shipping
5 Q. Okay. On the next page -- first, do	5 instructions from Rizzoli for the shipment on
6 you notice that there's no bar code on the Canal	6 the bill of lading, pallet tag, and packing
7 Zone book, which is -- a copy of which has been	7 list.
8 marked as Exhibit 42?	8 And then it says at the bottom,
9 A. Yeah.	9 Please let me know when you expect these copies
10 Q. And let me just see if this is	10 to arrive and if you plan on sending any
11 right. There's no bar code on the -- what do we	11 non-barcode copies for Gagosian along with.
12 call this page, I forgot?	12 I need to make sure these 1,000 copies stay
13 A. Colophon.	13 separate from the other copies for Gagosian.
14 Q. Yeah, colophon page, right?	14 So having reviewed this -- and maybe
15 A. Yes.	15 you don't have any personal knowledge, if you
16 Q. Do you know how come there's no	16 don't, fine -- do you know anything about why
17 bar code on the books that were sold from the	17 some books in the exhibition would be barcoded
18 gallery?	18 and others wouldn't?
19 MS. BART: Objection, form. There	19 A. I really don't --
20 is no evidence in this record that any	20 MS. BART: Objection, form.
21 books have been sold.	21 A. I don't know.
22 MR. SHERMAN: Object to the form.	22 MR. SHERMAN: Objection.
23 MR. BROOKS: Well, I bought this one	23 Q. Okay. Do you know where you got
24 at the gallery. I paid 80 dollars cash	24 the R on the spine, which you think is the
25 for it.	25 Rizzoli logo?

<p style="text-align: center;">169</p> <p>1 Gagosian</p> <p>2 MR. SHERMAN: Object to the form.</p> <p>3 A. What's --</p> <p>4 Q. Do you know where you got the R</p> <p>5 that's on the spine of this book?</p> <p>6 MS. BART: You meaning?</p> <p>7 A. I didn't get anything.</p> <p>8 Q. Well, whoever made this book for</p> <p>9 you?</p> <p>10 A. I don't know.</p> <p>11 MS. BART: For Gagosian Gallery.</p> <p>12 Q. Gagosian Gallery is the publisher of</p> <p>13 the book, right?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know where Gagosian Gallery</p> <p>16 or its agents obtained the R logo that's on the</p> <p>17 spine?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay. And look at page 1517 of</p> <p>20 Exhibit 61 at the bottom.</p> <p>21 Now, this page we can tell from the</p> <p>22 Bates stamp it came from your production. It</p> <p>23 appears to resemble the spine.</p> <p>24 MS. BART: Is there a question?</p> <p>25 MR. BROOKS: There will be.</p>	<p style="text-align: center;">171</p> <p>1 Gagosian</p> <p>2 Q. Are they being offered for sale</p> <p>3 currently?</p> <p>4 A. I don't know.</p> <p>5 MS. BART: I was in the gallery</p> <p>6 yesterday, your new store, and they're not</p> <p>7 being offered for sale.</p> <p>8 MR. BROOKS: Which gallery?</p> <p>9 MS. BART: Right next to -- on</p> <p>10 Madison Avenue.</p> <p>11 BY MR. BROOKS:</p> <p>12 Q. Where was the show?</p> <p>13 A. The show was on 24th Street in</p> <p>14 Chelsea.</p> <p>15 MR. BROOKS: I have nothing further.</p> <p>16 MR. HAYES: No questions.</p> <p>17 MR. SHERMAN: No questions.</p> <p>18 MS. BART: I have no questions.</p> <p>19 Thank you.</p> <p>20 MR. BROOKS: Thank you.</p> <p>21 MS. BART: I'd like to thank the</p> <p>22 court reporter for staying.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 1:30 p.m. End of tape 3.</p> <p>25 (Time noted: 1:30 p.m.)</p>
<p style="text-align: center;">170</p> <p>1 Gagosian</p> <p>2 MS. BART: Okay.</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. Do you have any knowledge of how</p> <p>5 page 1517 of Exhibit 61 came into the possession</p> <p>6 of your company?</p> <p>7 MR. SHERMAN: Object to the form.</p> <p>8 MS. BART: Objection, form.</p> <p>9 A. I don't understand the question.</p> <p>10 Q. Do you know how -- you're looking at</p> <p>11 page 1517. Do you know how that got into your</p> <p>12 company's files, which it did obviously?</p> <p>13 MR. SHERMAN: Object to the form.</p> <p>14 A. No idea.</p> <p>15 Q. Okay. Do you know how many copies</p> <p>16 of the Canal Zone book Gagosian Gallery sold?</p> <p>17 MS. BART: Objection, form.</p> <p>18 A. No, I don't.</p> <p>19 Q. Do you know if Gagosian Gallery</p> <p>20 currently has in its possession any copies of</p> <p>21 the Canal Zone catalog?</p> <p>22 A. I would think so.</p> <p>23 Q. Where would those be?</p> <p>24 A. Somewhere in the gallery storage.</p> <p>25 I'm not sure of the exact location.</p>	<p style="text-align: center;">172</p> <p>1 Gagosian</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p style="text-align: center;">LAWRENCE GAGOSIAN</p> <p>7</p> <p>8 Subscribed and sworn to</p> <p>9 before me this ____ day</p> <p>10 of _____, 2009.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 Gagosian	1 Gagosian
2 CERTIFICATE	2 ----- EXHIBITS -----
3	3 PLAINTIFF'S FOR ID.
4 STATE OF NEW YORK )	4 44 String of e-mails.....27
5 )ss:	5 45 Series of e-mails.....33
6 COUNTY OF NEW YORK)	6 46 Checklist of paintings.....43
7	7 47 Copy of complaint.....11
8 I, BRYAN NILSEN, a Notary Public	8 48 Series of e-mails.....52
9 within and for the State of New York, do	9 49 E-mail dated October 23, 2008.....56
10 hereby certify:	10 50 String of e-mails.....60
11 That LAWRENCE GAGOSIAN, the witness	11 51 E-mail chain.....62
12 whose deposition is hereinbefore set	12 52 Copy of invitation to Canal Zone show....64
13 forth, was duly sworn by me and that such	13 53 Series of e-mails.....78
14 deposition is a true record of the	14 53A All Posters document.....83
15 testimony given by such witness.	15 54 E-mail.....111
16 I further certify that I am not	16 55 E-mail dated September 25, 2008.....115
17 related to any of the parties to this	17 56 Series of e-mails.....117
18 action by blood or marriage and that I am	18 57 Series of e-mails.....120
19 in no way interested in the outcome of	19 58 Series of e-mails.....125
20 this matter.	20 59 E-mail dated September 11, 2008.....135
21 IN WITNESS WHEREOF, I have hereunto	21 60 PR127 and 128.....137
22 set my hand this ___ day of _____, 2009.	22 61 Series of e-mails.....163
23	23 62 Letters dated November 2005.....94
24	24
25	25 ** EXHIBITS RETAINED BY COUNSEL **
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1 Gagosian	1 CAPTION
2 ----- I N D E X -----	2
3 WITNESS EXAMINATION BY PAGE	3 The Deposition of LAWRENCE GAGOSIAN,
4 LAWRENCE GAGOSIAN MR. BROOKS.....7	4 taken in the matter, on the date, and at the time and
5	5 place set out on the title page hereof.
6	6 It was requested that the deposition be taken
7	7 by the reporter and that same be reduced to
8	8 typewritten form.
9 ----- INFORMATION REQUESTS -----	9 It was agreed by and between counsel and the
10 REQUESTS: PAGE	10 parties that the Deponent will read and sign the
11 Invitation.....141	11 transcript of said deposition.
12 Sales accountings after February 2009.....156	12
13	13
14 MOTIONS:	14
15 Motion to strike.....100	15
16 Motion to strike.....102	16
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19	19
20	20
21	21
22	22
23	23
24	24
25	25

Lawrence Gagosian

October 8, 2009

<p style="text-align: center;">177</p> <p>1                    CERTIFICATE</p> <p>2</p> <p>3    STATE OF                    :</p> <p>4    COUNTY/CITY OF                    :</p> <p>5                    Before me, this day, personally appeared,</p> <p>6    LAWRENCE GAGOSIAN, who, being duly sworn, states that the</p> <p>7    foregoing transcript of his/her Deposition, taken in the</p> <p>8    matter, on the date, and at the time and place set out</p> <p>9    on the title page hereof, constitutes a true and accurate</p> <p>10   transcript of said deposition.</p> <p>11</p> <p>12</p> <p>13                    _____</p> <p>14                    LAWRENCE GAGOSIAN</p> <p>15</p> <p>16                    SUBSCRIBED and SWORN to before me this</p> <p>17                    day of _____, 20__ in the</p> <p>18                    jurisdiction aforesaid.</p> <p>19</p> <p>20</p> <p>21                    _____</p> <p>22                    My Commission Expires    Notary Public</p> <p>23</p> <p>24                    *If no changes need to be made on the following two pages,</p> <p>25                    place a check here _____, and return only this signed page.</p>	<p style="text-align: center;">179</p> <p>1    Deposition of LAWRENCE GAGOSIAN</p> <p>2</p> <p>3    Page No. _____ Line No. _____ Change to: _____</p> <p>4    _____</p> <p>5    Reason for change: _____</p> <p>6    Page No. _____ Line No. _____ Change to: _____</p> <p>7    _____</p> <p>8    Reason for change: _____</p> <p>9    Page No. _____ Line No. _____ Change to: _____</p> <p>10   _____</p> <p>11   Reason for change: _____</p> <p>12   Page No. _____ Line No. _____ Change to: _____</p> <p>13   _____</p> <p>14   Reason for change: _____</p> <p>15   Page No. _____ Line No. _____ Change to: _____</p> <p>16   _____</p> <p>17   Reason for change: _____</p> <p>18   Page No. _____ Line No. _____ Change to: _____</p> <p>19   _____</p> <p>20   Reason for change: _____</p> <p>21   _____</p> <p>22</p> <p>23</p> <p>24   SIGNATURE: _____ DATE: _____</p> <p>25                    LAWRENCE GAGOSIAN</p>
<p style="text-align: center;">178</p> <p>1                    DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3    RE:    Esquire Deposition Solutions</p> <p>4    File No. 13829</p> <p>5    Case Caption: PATRICK CARIOU</p> <p>6    vs. RICHARD PRINCE, et al.</p> <p>7    Deponent: LAWRENCE GAGOSIAN</p> <p>8    Deposition Date: October 8, 2009</p> <p>9    To the Reporter:</p> <p>10   I have read the entire transcript of my Deposition taken</p> <p>11   in the captioned matter or the same has been read to me.</p> <p>12   I request that the following changes be entered upon the</p> <p>13   record for the reasons indicated. I have signed my name to</p> <p>14   the Errata Sheet and the appropriate Certificate and</p> <p>15   authorize you to attach both to the original transcript.</p> <p>16</p> <p>17   Page No. _____ Line No. _____ Change to: _____</p> <p>18   _____</p> <p>19   Reason for change: _____</p> <p>20   Page No. _____ Line No. _____ Change to: _____</p> <p>21   _____</p> <p>22   Reason for change: _____</p> <p>23   Page No. _____ Line No. _____ Change to: _____</p> <p>24   _____</p> <p>25   Reason for change: _____</p>	

**Condensed Transcript**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PATRICK CARIOU,  
Plaintiff,

vs.

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

Defendants.

Index No.:  
08 CIV 11327 (DAB)

**DEPOSITION OF**

**ANTHONY PETRILLOSE**

October 23, 2009  
10:00 a.m.

New York, New York

Reported by: Bryan Nilsen, RPR



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Anthony Petrillose

October 23, 2009

<p style="text-align: center;">1</p> <p style="text-align: center;">Petrillose UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK</p> <p>-----x</p> <p>PATRICK CARIOU, Plaintiff, Index No.: 08 CIV 11327 (DAB)</p> <p>vs. RICHARD PRINCE, GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN, and RIZZOLI INTERNATIONAL PUBLICATIONS, INC., Defendants.</p> <p>-----x</p> <p style="text-align: center;">DEPOSITION OF ANTHONY PETRILLOSE New York, New York Friday, October 23, 2009</p> <p>Reported by: Bryan Nilsen, RPR JOB NO. 304685</p>	<p style="text-align: center;">3</p> <p>1 Petrillose 2 APPEARANCES: 3 4 SCHNADER HARRISON SEGAL &amp; LEWIS LLP 5 Attorneys for Plaintiff 6 140 Broadway, Suite 3100 7 New York, New York 10005-1101 8 BY: DANIEL J. BROOKS, ESQ. 9 BY: ERIC A. BODEN, ESQ. 10 PHONE: (212)973-8000 11 EMAIL: dbrooks@schnader.com 12 13 WITHERS BERGMAN LLP 14 Attorneys for Defendants Gagorian Gallery, Inc., 15 and Lawrence Gagorian 16 430 Park Avenue, 10th Floor 17 New York, New York 10022-3505 18 BY: HOLLIS GONERKA BART, ESQ. 19 PHONE: (212)848-9800 20 EMAIL: hollis.bart@withers.us.com 21 22 23 24 25</p>
<p style="text-align: center;">2</p> <p>1 Petrillose 2 3 4 5 6 October 23, 2009 7 10:00 a.m. 8 9 10 Deposition of ANTHONY PETRILLOSE, 11 held at the offices of Schnader Harrison 12 Segal &amp; Lewis LLP, 140 Broadway, New York, 13 New York, pursuant to Notice, before 14 Bryan Nilsen, RPR, a Notary Public of 15 the State of New York. 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p>1 Petrillose 2 APPEARANCES (Cont'd.) 3 4 HANLY CONROY BIERSTEIN SHERIDAN FISHER &amp; HAYES LLP 5 Attorneys for Defendant Richard Prince 6 112 Madison Avenue 7 New York, New York 10016-7416 8 BY: STEVEN M. HAYES, ESQ. 9 PHONE: (212)784-6400 10 EMAIL: shayes@hanlyconroy.com 11 12 WEISMANN CELLER SPETT &amp; MODLIN P.C. 13 Attorneys for Defendant Rizzoli International 14 Publications, Inc., 15 445 Park Avenue, No. 1500 16 New York, New York 10022 17 BY: JOHN B. SHERMAN, ESQ. 18 PHONE: (212)371-5400 19 EMAIL: jsherman@wscsm445.com 20 21 22 23 24 25</p>



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<p style="text-align: center;">5</p> <p>1                   Petrillose</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>1                   Petrillose</p> <p>2                   Q.   Without going into any substance</p> <p>3                   just tell us what you did.</p> <p>4                   MR. SHERMAN: Don't say anything</p> <p>5                   that was said.</p> <p>6                   A.   Met with the attorney, went over a</p> <p>7                   few documents.</p> <p>8                   Q.   Did you meet with anyone else at the</p> <p>9                   same time?</p> <p>10                  A.   No.</p> <p>11                  Q.   When you say the attorney, you're</p> <p>12                  referring to Mr. Sherman?</p> <p>13                  A.   Yes, I am.</p> <p>14                  Q.   What is your education?</p> <p>15                  A.   I graduated college from State</p> <p>16                  University of New York, Geneseo.</p> <p>17                  Q.   What year?</p> <p>18                  A.   1990.</p> <p>19                  Q.   How long have you been freelancing</p> <p>20                  for Rizzoli?</p> <p>21                  A.   I started in January 2008 -- I'm</p> <p>22                  sorry -- it's about a year and a half, so</p> <p>23                  whatever that is.</p> <p>24                  Q.   So 2008?</p> <p>25                  A.   2008, yes.</p>
<p style="text-align: center;">6</p> <p>1                   Petrillose</p> <p>2                   ANTHONY PETRILLOSE, called as</p> <p>3                   a 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: Anthony J. Petrillose,</p> <p>9                   370 Convent Avenue, New York New York,</p> <p>10                  10031.</p> <p>11                  EXAMINATION BY</p> <p>12                  MR. BROOKS:</p> <p>13                  Q.   Mr. Petrillose, by whom are you</p> <p>14                  employed?</p> <p>15                  A.   I'm freelance, but I'm freelance</p> <p>16                  employed by Rizzoli Publications.</p> <p>17                  Q.   Rizzoli International Publications?</p> <p>18                  A.   Correct.</p> <p>19                  Q.   Are you here today to testify on</p> <p>20                  behalf of Rizzoli?</p> <p>21                  A.   Correct.</p> <p>22                  Q.   What, if anything, did you do to</p> <p>23                  prepare for this deposition?</p> <p>24                  MR. SHERMAN: Object on the grounds</p> <p>25                  of attorney/client work product privilege.</p>	<p style="text-align: center;">8</p> <p>1                   Petrillose</p> <p>2                   Q.   How were you employed before that?</p> <p>3                   A.   Self-employed, I had small book</p> <p>4                   imprint that I published books on my own.</p> <p>5                   Q.   Does your current position have any</p> <p>6                   title that goes with it?</p> <p>7                   A.   I'm managing editor.</p> <p>8                   Q.   Of what?</p> <p>9                   A.   On the editorial side of books,</p> <p>10                  managing editor of our publishing our books.</p> <p>11                  Q.   Where physically do you work for</p> <p>12                  them?</p> <p>13                  A.   300 Park Avenue South in New York.</p> <p>14                  Q.   Is that Rizzoli's headquarters?</p> <p>15                  A.   I don't know if it's technically its</p> <p>16                  headquarters, but it's its editorial offices.</p> <p>17                  Q.   Are your duties confined to certain</p> <p>18                  types of books that Rizzoli --</p> <p>19                  MR. SHERMAN: Object to -- I'm</p> <p>20                  sorry, go ahead.</p> <p>21                  Q.   -- that Rizzoli puts out?</p> <p>22                  A.   I'm sorry?</p> <p>23                  Q.   Are your duties confined to certain</p> <p>24                  types of books that Rizzoli puts out?</p> <p>25                  MR. SHERMAN: Object to the form.</p>





Anthony Petrillose

October 23, 2009

<p style="text-align: center;">9</p> <p>1 Petrillose</p> <p>2 Q. Let me rephrase.</p> <p>3 You said you were the managing</p> <p>4 editor. I'm just trying to understand it is for</p> <p>5 all of Rizzoli International's books or a</p> <p>6 certain division or certain types of books?</p> <p>7 A. It's the books that come out of the</p> <p>8 New York office, so it ranges. It's roughly a</p> <p>9 hundred-some-odd books.</p> <p>10 Q. You realize that this case involves</p> <p>11 a book called Canal Zone?</p> <p>12 A. Yes.</p> <p>13 Q. In your capacity as managing editor</p> <p>14 do you oversee books like the Canal Zone mostly,</p> <p>15 art books, or is it all different kinds of</p> <p>16 publications?</p> <p>17 MR. SHERMAN: Object to the form.</p> <p>18 MS. BART: Same.</p> <p>19 A. It's all -- it's various types of</p> <p>20 publications.</p> <p>21 Q. Not just art books?</p> <p>22 A. Not just art books.</p> <p>23 Q. Is Rizzoli International</p> <p>24 Publications part of a larger corporation,</p> <p>25 corporate entity?</p> <p style="text-align: center;">10</p> <p>1 Petrillose</p> <p>2 MR. SHERMAN: I object to the form,</p> <p>3 calls for a legal conclusion.</p> <p>4 You can answer if you can.</p> <p>5 A. Yes.</p> <p>6 Q. And what entity?</p> <p>7 A. I'm not sure of the official title.</p> <p>8 It's -- I believe it's RCS, which is based out</p> <p>9 of Milan.</p> <p>10 Q. Do you know what RCS stands for?</p> <p>11 A. Rizzoli -- I don't know.</p> <p>12 Q. Rizzoli something?</p> <p>13 A. Yes.</p> <p>14 Q. Is there any --</p> <p>15 MR. SHERMAN: I can't answer the</p> <p>16 questions for you.</p> <p>17 Q. Is there any relationship between</p> <p>18 Rizzoli and Random House?</p> <p>19 A. Yes.</p> <p>20 Q. What is the nature of that</p> <p>21 relationship?</p> <p>22 MR. SHERMAN: Object to the form,</p> <p>23 that calls for a legal conclusion.</p> <p>24 You can answer.</p> <p>25 A. Random House handles the</p>	<p style="text-align: center;">11</p> <p>1 Petrillose</p> <p>2 distribution of Rizzoli's books.</p> <p>3 Q. And do you know how long that's been</p> <p>4 the case?</p> <p>5 A. I do not.</p> <p>6 Q. Since you've been working for</p> <p>7 Rizzoli?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. I'm going to show you the</p> <p>10 Canal Zone book, which has been marked as --</p> <p>11 I think it was marked as Plaintiff's Exhibit 42</p> <p>12 in a prior deposition.</p> <p>13 Have you ever seen that book before?</p> <p>14 A. I have.</p> <p>15 Q. Do you know if Rizzoli has</p> <p>16 previously distributed any other books with</p> <p>17 artworks by Richard Prince in them?</p> <p>18 A. I don't know.</p> <p>19 Q. Now, could you turn to the I guess</p> <p>20 it's called the colophon page at the end?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. No, it should be at the very end.</p> <p>23 A. I'm sorry, title page.</p> <p>24 Q. Do you see where it says distributed</p> <p>25 by Rizzoli International Publications, 300 Park</p> <p style="text-align: center;">12</p> <p>1 Petrillose</p> <p>2 Avenue South, et cetera?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if Rizzoli was in fact</p> <p>5 the distributor of the Canal Zone book?</p> <p>6 MR. SHERMAN: Object to the form.</p> <p>7 A. We didn't distribute it. It was the</p> <p>8 intention that we distribute it.</p> <p>9 Q. Whose intention?</p> <p>10 A. Our intention, Rizzoli's intention</p> <p>11 to eventually distribute the book.</p> <p>12 Q. Is that why it says distributed by</p> <p>13 Rizzoli?</p> <p>14 A. Correct.</p> <p>15 Q. On that same page there is --</p> <p>16 towards the bottom it says ISBN. What does that</p> <p>17 stand for?</p> <p>18 A. It's an identifying symbol or number</p> <p>19 that identifies this particular book.</p> <p>20 Q. Does ISBN stand for International</p> <p>21 Standard Book Number?</p> <p>22 A. I believe so.</p> <p>23 Q. And then there's a number given</p> <p>24 there 9780847832606, correct?</p> <p>25 A. Correct.</p>
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Anthony Petrillose

October 23, 2009

13	15
<p>1 Petrillose</p> <p>2 Q. So that's the number that identifies</p> <p>3 this book?</p> <p>4 A. Correct.</p> <p>5 MR. SHERMAN: Object to the form.</p> <p>6 Q. Did you obtain that number or have</p> <p>7 any part in obtaining that number?</p> <p>8 MR. SHERMAN: Object to the form.</p> <p>9 Do you mean Rizzoli or him</p> <p>10 personally?</p> <p>11 MR. BROOKS: Him.</p> <p>12 MR. SHERMAN: Okay.</p> <p>13 A. I requested that an ISBN number be</p> <p>14 generated and then passed it.</p> <p>15 Q. And to whom did you make that</p> <p>16 request?</p> <p>17 A. I believe it was to a colleague</p> <p>18 that's in my office at Rizzoli.</p> <p>19 Q. And what is the purpose, if there is</p> <p>20 one, of getting an ISBN number for a book that's</p> <p>21 published?</p> <p>22 A. It's to identify a particular book</p> <p>23 so it goes into a standard to be readily</p> <p>24 identifiable so it can be searched, can be</p> <p>25 located and just identified.</p>	<p>1 Petrillose</p> <p>2 discuss having a contract?</p> <p>3 MR. SHERMAN: Object to the form.</p> <p>4 By you, you mean the witness</p> <p>5 personally or Rizzoli generally?</p> <p>6 Q. You personally?</p> <p>7 MR. SHERMAN: Okay.</p> <p>8 A. My counterpart at Gagosian, Alison</p> <p>9 McDonald.</p> <p>10 Q. Gagosian Gallery?</p> <p>11 A. Correct.</p> <p>12 MR. BROOKS: All right. I'm going</p> <p>13 to mark as Plaintiff's Exhibit 63</p> <p>14 Rizzoli's answer in this case.</p> <p>15 (Plaintiff's Exhibit 63, Rizzoli's</p> <p>16 answer, was marked for identification, as</p> <p>17 of this date.)</p> <p>18 Q. Have you ever seen this document</p> <p>19 before?</p> <p>20 A. I believe so. I believe I've seen</p> <p>21 this document. I'm not a hundred percent sure,</p> <p>22 but I think so.</p> <p>23 Q. When did you see it?</p> <p>24 A. I believe I saw it in early 2009.</p> <p>25 Q. Did you have any input into any of</p>
14	16
<p>1 Petrillose</p> <p>2 Q. Beneath that there is a -- and when</p> <p>3 I say that, on that same page the colophon page,</p> <p>4 which just for the record appears to have been</p> <p>5 Bates stamped C00213 in our production --</p> <p>6 there's a Library of Congress control number</p> <p>7 which is given, do you see that?</p> <p>8 A. Correct.</p> <p>9 Q. 2008939337, right?</p> <p>10 A. Yes.</p> <p>11 Q. And did you have any role in</p> <p>12 obtaining that number?</p> <p>13 A. Again, I think it was the same --</p> <p>14 requested at the same time, the ISBN number and</p> <p>15 the Library of Congress number at the same time.</p> <p>16 Q. What is the purpose of the Library</p> <p>17 of Congress control number, if you know?</p> <p>18 A. I don't know. I don't know the</p> <p>19 exact purpose of it.</p> <p>20 Q. Do you know if Rizzoli entered into</p> <p>21 a written contract to distribute the Canal Zone</p> <p>22 book?</p> <p>23 A. We started to discuss a contract but</p> <p>24 one was never executed.</p> <p>25 Q. With what entity or person did you</p>	<p>1 Petrillose</p> <p>2 the --</p> <p>3 MR. SHERMAN: I'm going to object --</p> <p>4 MR. BROOKS: I'm not finished.</p> <p>5 MR. SHERMAN: Okay, go ahead.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Did you have any input into</p> <p>8 preparing this answer?</p> <p>9 MR. SHERMAN: I'm going to object on</p> <p>10 the grounds of attorney/client privilege</p> <p>11 and work product and instruct the witness</p> <p>12 not to answer.</p> <p>13 MR. BROOKS: Well, I don't think --</p> <p>14 I'm not asking for the substance of what</p> <p>15 he said or was told, I'm asking if he had</p> <p>16 any input into the preparation of the</p> <p>17 answer. That doesn't call for any</p> <p>18 privileged information.</p> <p>19 MR. SHERMAN: If you can not say</p> <p>20 anything about conversations I'll let you</p> <p>21 answer that.</p> <p>22 A. I'm sure I probably provided some</p> <p>23 feedback to some degree. I'd have to read</p> <p>24 through the whole thing.</p> <p>25 Q. All right.</p>



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<p style="text-align: center;">17</p> <p>1                   Petrillose</p> <p>2           A. I'm just not sure.</p> <p>3           Q. Why don't we -- let's turn to page 4</p> <p>4 of this document. And I'll call your attention</p> <p>5 to paragraph 34. Do you see that?</p> <p>6           A. 34, yes.</p> <p>7           Q. Above that it says in capital</p> <p>8 letters third affirmative defense and crossclaim</p> <p>9 against Defendants.</p> <p>10          A. Mm-hmm.</p> <p>11          Q. Do you see where I'm reading that?</p> <p>12          A. Yes.</p> <p>13          Q. It says that if it is found that</p> <p>14 Plaintiff sustained damages as alleged in the</p> <p>15 complaint and if it is found that Rizzoli is</p> <p>16 liable to Plaintiff for all or any part of</p> <p>17 such damages, then Rizzoli is entitled to</p> <p>18 indemnification from and judgment over against</p> <p>19 the codefendants for all or any verdict or</p> <p>20 judgment that the plaintiff may recover against</p> <p>21 Rizzoli, comma, based on the codefendant's</p> <p>22 culpable conduct and/or contractual agreement.</p> <p>23           Do you know who Rizzoli's</p> <p>24 codefendants are in this lawsuit?</p> <p>25          A. Yes.</p>	<p style="text-align: center;">19</p> <p>1                   Petrillose</p> <p>2           same grounds, and also on grounds of</p> <p>3 attorney/client work product privilege.</p> <p>4           I'll instruct the witness not to</p> <p>5 answer.</p> <p>6           MS. BART: Join in the objection and</p> <p>7 also to the word wrongful.</p> <p>8           MR. BROOKS: I think you're</p> <p>9 mistaken, but we'll have to move on.</p> <p>10          Are you instructing him not to</p> <p>11 answer?</p> <p>12          MR. SHERMAN: I'm instructing him</p> <p>13 not to answer.</p> <p>14 BY MR. BROOKS:</p> <p>15          Q. In paragraph 34 there's a reference</p> <p>16 to a contractual agreement with codefendants.</p> <p>17 Do you know what contractual agreement that</p> <p>18 refers to?</p> <p>19          MS. BART: Objection to the form.</p> <p>20          MR. SHERMAN: Objection, form.</p> <p>21          MS. BART: There's no statement</p> <p>22 about a contract.</p> <p>23          MR. SHERMAN: That calls for a legal</p> <p>24 conclusion.</p> <p>25          MR. BROOKS: All right.</p>
<p style="text-align: center;">18</p> <p>1                   Petrillose</p> <p>2           Q. Can you tell us?</p> <p>3           A. Gagosian Gallery and Richard Prince.</p> <p>4           Q. And how about Lawrence Gagosian?</p> <p>5           A. I didn't know, wasn't aware.</p> <p>6           Q. If you look at the first page of the</p> <p>7 answer there's something called a caption which</p> <p>8 lists the parties, do you see that?</p> <p>9           A. I do.</p> <p>10          Q. But you weren't aware that Lawrence</p> <p>11 Gagosian personally was a codefendant?</p> <p>12          A. Not personally, no.</p> <p>13          Q. Now, turning back to paragraph 34,</p> <p>14 do you have any knowledge of what culpable</p> <p>15 conduct is being referred to in the answer?</p> <p>16          MR. SHERMAN: Object to the form.</p> <p>17           That calls for a legal conclusion. I'll</p> <p>18 instruct the witness not to answer.</p> <p>19          MS. BART: Join.</p> <p>20 BY MR. BROOKS:</p> <p>21          Q. Do you know, are you aware of</p> <p>22 anything that Gagosian Gallery or Mr. Prince did</p> <p>23 that was wrongful in this case?</p> <p>24          MS. BART: Object to the form.</p> <p>25          MR. SHERMAN: Object to the form,</p>	<p style="text-align: center;">20</p> <p>1                   Petrillose</p> <p>2 BY MR. BROOKS:</p> <p>3          Q. It's an objection to the form, so</p> <p>4 you can answer the question if you know.</p> <p>5          A. Based on the codefendant's conduct</p> <p>6 or contractual agreement, that's what you're</p> <p>7 specifically asking me about?</p> <p>8          Q. Yes.</p> <p>9          A. I'm sorry, can you repeat the</p> <p>10 question?</p> <p>11          Q. Do you know, is there an agreement</p> <p>12 between Rizzoli and any of the other defendants</p> <p>13 in this case?</p> <p>14          A. Not that I'm aware of, no.</p> <p>15          Q. Is there an oral agreement?</p> <p>16           You told me about a written</p> <p>17 agreement that was negotiated but not executed.</p> <p>18 Is there an oral agreement?</p> <p>19          MS. BART: Objection to form.</p> <p>20          MR. SHERMAN: Object to the form,</p> <p>21 asked and answered, and I think it's also</p> <p>22 mischaracterizing a little bit the</p> <p>23 witness's last answer, so I ask that you</p> <p>24 rephrase it, please.</p> <p>25          MS. BART: Join in the objection.</p>



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<p>21</p> <p>1 Petrillose</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. All right. Is there an oral</p> <p>4 agreement between Rizzoli and any of the other</p> <p>5 defendants pursuant to which the other</p> <p>6 defendants have agreed to indemnify Rizzoli?</p> <p>7 MR. SHERMAN: Object to the form.</p> <p>8 That calls for a legal conclusion.</p> <p>9 I'm instructing the witness not</p> <p>10 to answer.</p> <p>11 MS. BART: Object to form.</p> <p>12 MR. BROOKS: It doesn't call for a</p> <p>13 legal conclusion. This answer says --</p> <p>14 there is a crossclaim in this case which</p> <p>15 says that the other defendants are</p> <p>16 contractually obliged to indemnify</p> <p>17 Rizzoli. That's in your answer.</p> <p>18 MR. SHERMAN: Right.</p> <p>19 MR. BROOKS: And this is the witness</p> <p>20 you've brought here to testify on behalf</p> <p>21 of Rizzoli. I want to know if there is</p> <p>22 any such oral agreement.</p> <p>23 MR. SHERMAN: I think that an</p> <p>24 agreement asking the witness to</p> <p>25 interpret -- well.</p>	<p>23</p> <p>1 Petrillose</p> <p>2 delve into the attorney/client privilege,</p> <p>3 it doesn't seek the disclosure of any</p> <p>4 confidential information.</p> <p>5 The fact that somebody else may be</p> <p>6 paying your client's fees is not</p> <p>7 privileged.</p> <p>8 A. I don't know --</p> <p>9 MR. SHERMAN: Do you know the</p> <p>10 answer?</p> <p>11 A. I don't know the answer.</p> <p>12 Q. You said before you were personally</p> <p>13 negotiating with Alison McDonald about a</p> <p>14 potential contract?</p> <p>15 A. Correct.</p> <p>16 Q. When did those negotiations begin</p> <p>17 and when did they end, if you remember?</p> <p>18 A. Sometime around fall 2008 I believe</p> <p>19 it was.</p> <p>20 Q. That's when they began?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. And how long did they continue?</p> <p>23 A. I want to say a month to two months</p> <p>24 perhaps. I mean off and on again, you know,</p> <p>25 it's a phone call or an e-mail.</p>
<p>22</p> <p>1 Petrillose</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. Let me make it simple.</p> <p>4 Do you know who is paying Rizzoli's</p> <p>5 legal fees in this case?</p> <p>6 A. Do I know who's paying Rizzoli's?</p> <p>7 Q. Yes.</p> <p>8 MR. SHERMAN: I object to that.</p> <p>9 You don't have to answer that.</p> <p>10 MR. BROOKS: You're instructing him</p> <p>11 not to answer who's paying the legal fees?</p> <p>12 That's not privileged. There is a</p> <p>13 lot of case law that says that that is not</p> <p>14 privileged.</p> <p>15 We have a conspiracy claim in this</p> <p>16 case. There is a crossclaim by your</p> <p>17 client against the other defendants.</p> <p>18 I'm entitled to find out if there's</p> <p>19 an indemnification and, if so, who</p> <p>20 indemnified Rizzoli. It's not privileged,</p> <p>21 it's not a legal conclusion, and if he</p> <p>22 knows he should answer the question.</p> <p>23 There is abundant case law that says</p> <p>24 that that's not privileged, who is paying</p> <p>25 somebody's attorneys' fees. It doesn't</p>	<p>24</p> <p>1 Petrillose</p> <p>2 Q. And was there actually a draft or</p> <p>3 drafts that were exchanged?</p> <p>4 A. There was a draft.</p> <p>5 Q. There was some redline changes?</p> <p>6 A. I believe so, yeah.</p> <p>7 Q. You don't have a law degree, right?</p> <p>8 A. No.</p> <p>9 Q. Do you know why Rizzoli decided --</p> <p>10 you say they didn't distribute the book. Do you</p> <p>11 know why Rizzoli decided not to distribute the</p> <p>12 book?</p> <p>13 MR. SHERMAN: I'm going to object to</p> <p>14 the extent that calls for communications</p> <p>15 or content of communications between</p> <p>16 Rizzoli and its attorneys.</p> <p>17 MR. BROOKS: Fine.</p> <p>18 MR. SHERMAN: If you know the</p> <p>19 answer, other than what any lawyer may</p> <p>20 have told you, then you can answer.</p> <p>21 A. We just knew there was some sort of</p> <p>22 discrepancy going on between the plaintiff and</p> <p>23 Gagosian, so we --</p> <p>24 Q. So you didn't want to get involved?</p> <p>25 A. Yeah, we wanted to stay away.</p>



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Anthony Petrillose

October 23, 2009

25	27
1 Petrillose	1 Petrillose
2 Q. Okay. Let me ask you to look back	2 attorneys had told them. I'm going to
3 at paragraph 17 of this same document,	3 instruct the witness not to respond to
4 Exhibit 63, which is the answer.	4 that extent.
5 A. Yes.	5 MS. BART: And may I just hear the
6 Q. This answer towards the end says	6 question back, please?
7 that Rizzoli admits that it received on or about	7 (Record read.)
8 December 11th, 2008, a certain letter from	8 MS. BART: Object to form, compound.
9 Plaintiff's counsel. Do you have any knowledge	9 And I'll also join in the objection as to
10 about that letter?	10 privilege.
11 A. Yes. I believe it was sent to me,	11 Q. You can answer.
12 but I can't recall. I think it came to our	12 A. I believe so. I don't remember a
13 editorial office.	13 specific conversation, but I believe that I
14 Q. So you saw it on or about	14 probably -- I most likely talked to Alison at
15 December 11th --	15 some point.
16 A. Correct.	16 Q. And do you remember anything you
17 Q. -- 2008?	17 said to her or she said to you?
18 A. Yes.	18 A. I don't. Not specifically.
19 Q. And is that letter what caused	19 Q. Did you exchange any correspondence,
20 Rizzoli to not want to distribute the Canal Zone	20 again, excluding lawyers, with people at
21 book?	21 Gagosian about this letter Exhibit 34?
22 MR. SHERMAN: Object to form.	22 A. I don't believe we discussed by
23 Q. Without getting into anything a	23 e-mail specifically about the letter, but I'm
24 lawyer told you?	24 not 100 percent sure.
25 MR. SHERMAN: Object to the form.	25 Q. And you don't remember what Alison
26	28
1 Petrillose	1 Petrillose
2 You can answer.	2 McDonald said to you?
3 A. I believe -- yeah, that definitely	3 MR. SHERMAN: Object to the form.
4 was a consideration.	4 MS. BART: Join.
5 Q. I'm going to show the witness	5 MR. SHERMAN: You can answer.
6 what's previously been marked as Plaintiff's	6 A. I don't remember specifically what
7 Exhibit 34, which is a letter dated	7 the response was.
8 December 11th, 2008, a two-page letter.	8 Q. Did you tell her Rizzoli would not
9 Is this the letter you think you	9 be distributing the book?
10 received on or about December 11th, 2008?	10 MR. SHERMAN: Object to the form.
11 MS. BART: Objection, form.	11 You can answer.
12 MR. SHERMAN: Objection, form.	12 A. I believe we did, we came to that
13 Q. You can answer.	13 conclusion eventually. I don't think the day
14 A. This looks like it is the letter,	14 that we got this letter that was what the
15 yes.	15 conclusion was.
16 Q. All right. I'm done with those two.	16 Q. Do you have -- I don't know if this
17 Without getting into any	17 is the right terminology, but do you have an
18 conversations with lawyers, after you received	18 e-mail account at Rizzoli?
19 this letter did you have any conversations with	19 A. Yes.
20 non-lawyers at Gagosian about the letter or the	20 Q. An e-mail address --
21 book?	21 A. Yes.
22 MR. SHERMAN: Okay, I'm going to	22 Q. -- like a Rizzoli USA?
23 object to the extent that that calls for	23 A. That's right.
24 if anybody told you what counsel had told	24 Q. And are you able to search for your
25 them, anybody at Rizzoli had told you what	25 own e-mails?



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Anthony Petrillose

October 23, 2009

29	31
<p>1 Petrillose</p> <p>2 A. I am to a certain -- I mean it shows</p> <p>3 all the e-mails I've received and sent, yes.</p> <p>4 Q. Have you searched in this case for</p> <p>5 e-mails that you sent or received that have to</p> <p>6 do with this Canal Zone book?</p> <p>7 A. Yes.</p> <p>8 MR. BROOKS: I'd like to mark as</p> <p>9 Plaintiff's Exhibit 64 a one-page document</p> <p>10 Bates stamped GGP000800.</p> <p>11 (Plaintiff's Exhibit 64, GGP000800,</p> <p>12 was marked for identification, as of this</p> <p>13 date.)</p> <p>14 Q. This appears to be an exchange of</p> <p>15 e-mails. I just want to know if you know who</p> <p>16 these people are. Do you know who Ivor Williams</p> <p>17 at Graphic Thought Facility is?</p> <p>18 MS. BART: Objection, form.</p> <p>19 MR. SHERMAN: I join in the</p> <p>20 objection.</p> <p>21 You can answer.</p> <p>22 Q. You can answer.</p> <p>23 MS. BART: Can you ask the witness</p> <p>24 to say whether or not he's seen this</p> <p>25 before?</p>	<p>1 Petrillose</p> <p>2 what it says there?</p> <p>3 A. Canal Zone, Richard Prince,</p> <p>4 Gagosian, and then the R logo.</p> <p>5 Q. You say the R logo, whose logo is</p> <p>6 that?</p> <p>7 A. The Rizzoli logo.</p> <p>8 MR. BROOKS: Let's mark as</p> <p>9 Plaintiff's 65 a copy of the spine I think</p> <p>10 of this book.</p> <p>11 (Plaintiff's Exhibit 65, copy of</p> <p>12 spine, was marked for identification, as</p> <p>13 of this date.)</p> <p>14 Q. Plaintiff's Exhibit 65 has been</p> <p>15 placed in front of you. Does that appear to be</p> <p>16 a reproduction of the spine from the Canal Zone</p> <p>17 book?</p> <p>18 A. Yes.</p> <p>19 Q. Did Gagosian Gallery have Rizzoli's</p> <p>20 permission to use the logo?</p> <p>21 A. Yes.</p> <p>22 MS. BART: Objection, form.</p> <p>23 MR. SHERMAN: Objection to form.</p> <p>24 MR. BROOKS: Mark as Plaintiff's</p> <p>25 Exhibit 66 a one-page document Bates</p>
30	32
<p>1 Petrillose</p> <p>2 Q. You can answer.</p> <p>3 A. I haven't seen this document before.</p> <p>4 Q. Do you know Ivor Williams?</p> <p>5 A. I don't. I can guess as to who he</p> <p>6 is, but --</p> <p>7 Q. No, no, no.</p> <p>8 MR. SHERMAN: Don't guess.</p> <p>9 Q. Do you know Alison McDonald?</p> <p>10 A. I do.</p> <p>11 Q. Do you see she appears to be saying,</p> <p>12 Great, everything looks good to send to</p> <p>13 Transcontinental, can I have the spine to show</p> <p>14 Rizzoli, do you see that?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Do you know what a spine is?</p> <p>17 A. Yes.</p> <p>18 Q. What is it?</p> <p>19 A. It's the outside of the middle part</p> <p>20 of the book, the thinnest part of the book where</p> <p>21 it's bound.</p> <p>22 Q. If I show you the book that's been</p> <p>23 marked as Plaintiff's 42 is there a spine there?</p> <p>24 A. Yes.</p> <p>25 Q. And can you just read for the record</p>	<p>1 Petrillose</p> <p>2 stamped GGP000801.</p> <p>3 (Plaintiff's Exhibit 66, GGP000801,</p> <p>4 was marked for identification, as of this</p> <p>5 date.)</p> <p>6 Q. Did you receive a copy of this</p> <p>7 e-mail from Alison McDonald on or about</p> <p>8 October 9, 2008?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. Can you tell us who, if you know who</p> <p>11 Darlina Goldak, G-O-L-D-A-K, is?</p> <p>12 A. Darlina works at Gagosian with</p> <p>13 Alison.</p> <p>14 Q. Where does Alison work, if you know?</p> <p>15 A. The Gagosian office on -- I think</p> <p>16 it's like 76th Street and Madison.</p> <p>17 Q. 980?</p> <p>18 A. 980 Madison.</p> <p>19 Q. Thank you.</p> <p>20 Do you know what these attachments</p> <p>21 are, can you tell? They indicate they're PDFs.</p> <p>22 Do you have any recollection of what they were?</p> <p>23 MR. SHERMAN: Object to the form.</p> <p>24 You can answer.</p> <p>25 A. I think that's the spine. I can see</p>



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Anthony Petrillose

October 23, 2009

<p style="text-align: center;">33</p> <p>1                   Petrillose</p> <p>2 the spine showing -- she's showing us kind of</p> <p>3 what the book is going to look like from an</p> <p>4 electronic version showing us the document you</p> <p>5 just showed me.</p> <p>6       Q. You mean the spine?</p> <p>7       A. The spine.</p> <p>8       Q. And?</p> <p>9       A. And the landscape pages I believe is</p> <p>10 the interior.</p> <p>11       Q. Of the Canal Zone book?</p> <p>12       A. Correct. And I believe the other</p> <p>13 parts are also the interior portions of the</p> <p>14 Canal Zone book.</p> <p>15 MO       MS. BART: I'm going to object and</p> <p>16 move to strike the witness's answer as</p> <p>17 speculative.</p> <p>18       Q. The e-mail says, Here is the final</p> <p>19 layout with Rizzoli included as we discussed</p> <p>20 this morning. What is a final layout, if you</p> <p>21 know?</p> <p>22       A. A final layout would be an approved</p> <p>23 layout, meaning that from page 1 to the end of</p> <p>24 the book, the cover all the way through the end</p> <p>25 of the book has been --</p>	<p style="text-align: center;">35</p> <p>1                   Petrillose</p> <p>2 approval?</p> <p>3       A. I believe I did.</p> <p>4       Q. And this e-mail is dated</p> <p>5 October 9th, 2008?</p> <p>6       A. Correct.</p> <p>7       Q. Do you recall when the exhibition</p> <p>8 took place?</p> <p>9       A. I believe it was within several</p> <p>10 weeks, November of the same year.</p> <p>11       Q. 2008?</p> <p>12       A. Correct.</p> <p>13       MR. BROOKS: Please mark as</p> <p>14 Plaintiff's Exhibit 67 a one-page document</p> <p>15 Bates stamped GGP001040.</p> <p>16       (Plaintiff's Exhibit 67, GGP001040,</p> <p>17 was marked for identification, as of this</p> <p>18 date.)</p> <p>19       Q. Before we look at that document,</p> <p>20 did you personally play any role at all in the</p> <p>21 creation of the Canal Zone book?</p> <p>22       MR. SHERMAN: Object to the form.</p> <p>23 If you understand the question.</p> <p>24 I think it's vague.</p> <p>25       A. Other than the part of the colophon</p>
<p style="text-align: center;">34</p> <p>1                   Petrillose</p> <p>2       Q. The entire book?</p> <p>3       A. Correct.</p> <p>4       Q. And then the e-mail says, We need</p> <p>5 your approval ASAP, as soon as possible, right?</p> <p>6       A. Correct.</p> <p>7       Q. What was your understanding, if you</p> <p>8 had one, of what you were being asked to</p> <p>9 approve?</p> <p>10       MR. SHERMAN: Object to the form.</p> <p>11       Q. You can answer.</p> <p>12       MS. BART: Join.</p> <p>13       A. I would say looking at the spine to</p> <p>14 make sure that we're using the right Rizzoli</p> <p>15 logo, checking the colophon page to make sure</p> <p>16 that the ISBN number was correct and the Library</p> <p>17 of Congress number was correct.</p> <p>18       Q. Anything having to do with the</p> <p>19 interior of the book I think was the term you</p> <p>20 used?</p> <p>21       MR. SHERMAN: Object to form.</p> <p>22       MS. BART: Object to form.</p> <p>23       MR. SHERMAN: You can answer.</p> <p>24       A. No.</p> <p>25       Q. Do you recall if you gave your</p>	<p style="text-align: center;">36</p> <p>1                   Petrillose</p> <p>2 page we discussed and the spine, maybe the title</p> <p>3 page, just reviewing it with the Rizzoli logo,</p> <p>4 no, not the interior.</p> <p>5       Q. Just so the record is clear, when</p> <p>6 you say title page --</p> <p>7       A. Right there.</p> <p>8       (Witness indicating.)</p> <p>9       Q. If you could just read into the</p> <p>10 record what's on the title page, please.</p> <p>11       A. Canal Zone, Richard Prince, words by</p> <p>12 James Frey, November 8th to December 20th, 2008,</p> <p>13 Gagosian Gallery, 555 West 24th Street,</p> <p>14 New York, Rizzoli, New York.</p> <p>15       Q. Thank you.</p> <p>16       With respect to Plaintiff's</p> <p>17 Exhibit 67, which is in front of you, is it</p> <p>18 correct that Rizzoli intended to commit to</p> <p>19 one-thousand copies of the Canal Zone book?</p> <p>20       MR. SHERMAN: Object to the form.</p> <p>21       Q. You can answer.</p> <p>22       A. I believe so.</p> <p>23       Q. And then it says they think</p> <p>24 optimistically they could sell more like fifteen</p> <p>25 hundred. Do you have any recollection of that?</p>



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Anthony Petrillose

October 23, 2009

37	39
<p>1 Petrillose</p> <p>2 MR. SHERMAN: Object to the form.</p> <p>3 A. I believe that's correct.</p> <p>4 Q. Beneath that it says 3,000 total</p> <p>5 equals \$115,000, and then in parentheses it says</p> <p>6 38 dollars per book. Do you have any</p> <p>7 understanding of what that 38-dollar figure</p> <p>8 refers to?</p> <p>9 MR. SHERMAN: Object to the form.</p> <p>10 The witness is not -- there's no</p> <p>11 foundation that the witness has ever seen</p> <p>12 this e-mail before today, and he's not one</p> <p>13 of the people who it's addressed to.</p> <p>14 MS. BART: Join in the objection.</p> <p>15 Q. You can answer.</p> <p>16 MR. SHERMAN: You can answer.</p> <p>17 A. I believe they're trying to break it</p> <p>18 down of a per-unit basis.</p> <p>19 Q. Per-unit cost?</p> <p>20 A. Yes.</p> <p>21 MO MS. BART: Object to the answer.</p> <p>22 Move to strike as speculative.</p> <p>23 MR. SHERMAN: I object to the</p> <p>24 question. It's calling for speculation.</p> <p>25 A. That's my best guess that it's based</p>	<p>1 Petrillose</p> <p>2 by Rizzoli in this case?</p> <p>3 MR. SHERMAN: Object to the form.</p> <p>4 Object to the -- that calls for work</p> <p>5 product. I'll instruct the witness not</p> <p>6 to answer.</p> <p>7 Q. When you searched your e-mail did</p> <p>8 you find this e-mail?</p> <p>9 A. I'm not sure. If it wasn't</p> <p>10 produced --</p> <p>11 MR. SHERMAN: Object to the form.</p> <p>12 Don't guess.</p> <p>13 Object to the form of the question.</p> <p>14 A. No.</p> <p>15 Q. No what?</p> <p>16 A. No, I don't know why it was -- if it</p> <p>17 wasn't produced why --</p> <p>18 MS. BART: That wasn't the question.</p> <p>19 Can we hear the question back please so</p> <p>20 the witness makes sure he's answering the</p> <p>21 question.</p> <p>22 (Record read.)</p> <p>23 BY MR. BROOKS:</p> <p>24 Q. Let's move on.</p> <p>25 Mr. Petrillose, why did you send</p>
38	40
<p>1 Petrillose</p> <p>2 upon what the retail price is. I'm not sure.</p> <p>3 Q. Retail price was 80 dollars?</p> <p>4 MR. SHERMAN: Hold on a second.</p> <p>5 Don't guess if you don't know the answer.</p> <p>6 A. I don't know.</p> <p>7 Q. Was the retail price 80 dollars?</p> <p>8 A. I'd have to double check, but I</p> <p>9 believe that's correct.</p> <p>10 MR. BROOKS: I'm going to mark as</p> <p>11 Plaintiff's Exhibit 68 a document Bates</p> <p>12 stamped GGP001563.</p> <p>13 (Plaintiff's Exhibit 68, GGP001563,</p> <p>14 was marked for identification, as of this</p> <p>15 date.)</p> <p>16 Q. Plaintiff's Exhibit 68 has at the</p> <p>17 bottom an e-mail that you sent, correct?</p> <p>18 A. Correct.</p> <p>19 Q. On October 14th?</p> <p>20 A. Correct.</p> <p>21 Q. 2008, right?</p> <p>22 A. Correct.</p> <p>23 Q. To Alison McDonald?</p> <p>24 A. Correct.</p> <p>25 Q. Do you know why this wasn't produced</p>	<p>1 Petrillose</p> <p>2 Alison McDonald a bar code for Richard Prince?</p> <p>3 A. All books will have a bar code, and</p> <p>4 we generate the bar code for this particular</p> <p>5 book.</p> <p>6 Q. Do you always generate all the bar</p> <p>7 codes for the books you distribute?</p> <p>8 A. Yes.</p> <p>9 Q. And you said all books have a bar</p> <p>10 code, do you know why they have a bar code?</p> <p>11 A. It's -- again, identifying purposes,</p> <p>12 for selling at retail, they can be swiped.</p> <p>13 Q. Do you know if the bar code comes</p> <p>14 with the ISBN number?</p> <p>15 A. I don't.</p> <p>16 Q. Okay.</p> <p>17 MR. BROOKS: As Plaintiff's</p> <p>18 Exhibit 69 I'm going to mark a document</p> <p>19 Bates stamped GGP001250.</p> <p>20 (Plaintiff's Exhibit 69, GGP001250,</p> <p>21 was marked for identification, as of this</p> <p>22 date.)</p> <p>23 Q. Before we get to that, I forgot to</p> <p>24 ask you about the bar code document. How did</p> <p>25 you generate it or obtain it?</p>



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October 23, 2009

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<p>1                   Petrillose</p> <p>2           A. Another colleague in our office,</p> <p>3 I put a request in and they generate it --</p> <p>4           Q. Internally?</p> <p>5           A. -- and they forward it to me,</p> <p>6 correct.</p> <p>7           Q. They generate it in house?</p> <p>8           A. I believe so. I put a request in</p> <p>9 and they e-mail it to me.</p> <p>10          Q. Now, with respect to Exhibit 69, did</p> <p>11 you send this e-mail to Alison McDonald at the</p> <p>12 top on October 14th, 2008?</p> <p>13          MR. SHERMAN: Object to the form.</p> <p>14          A. I believe so, yes.</p> <p>15          Q. And it says, This is the LCCN number</p> <p>16 for Richard Prince, it can be listed just below</p> <p>17 the ISBN, do you see that?</p> <p>18          A. I do.</p> <p>19          Q. And then there's a Library of</p> <p>20 Congress Control Number which is found in the</p> <p>21 book beneath the ISBN, correct?</p> <p>22          A. Correct.</p> <p>23          Q. Do you know what the purpose is of</p> <p>24 the Library of Congress Control Number?</p> <p>25          A. I don't.</p>	<p>1                   Petrillose</p> <p>2 participation in the PCN program is contingent</p> <p>3 on full compliance with this obligation. Do you</p> <p>4 have any understanding of what a best edition of</p> <p>5 a book refers to?</p> <p>6           MR. SHERMAN: Object to the form,</p> <p>7 lack of foundation. The witness is not on</p> <p>8 this e-mail.</p> <p>9           MR. BROOKS: He forwarded it. He</p> <p>10 received it and forwarded it.</p> <p>11          MR. SHERMAN: He's not one of the</p> <p>12 addressees.</p> <p>13          MR. BROOKS: He forwarded it at the</p> <p>14 top.</p> <p>15          MR. SHERMAN: You didn't ask him</p> <p>16 that question, first of all. And second</p> <p>17 of all --</p> <p>18          MR. BROOKS: It's self-evident.</p> <p>19          MR. SHERMAN: Anyway, I'm not</p> <p>20 instructing him not to answer.</p> <p>21          MR. BROOKS: I know, good.</p> <p>22          A. I'm sorry, could you just repeat</p> <p>23 that?</p> <p>24          Q. First of all, you forwarded this</p> <p>25 message from Julie Schumacher to Alison</p>
42	44
<p>1                   Petrillose</p> <p>2           Q. In the e-mail below your e-mail</p> <p>3 there's a message from somebody named Tina</p> <p>4 Chubbs to Julie Schumacher, do you see that?</p> <p>5           A. Yes.</p> <p>6           Q. Do you know who Julie Schumacher is?</p> <p>7           A. Yes.</p> <p>8           Q. Who is she?</p> <p>9           A. She's a colleague of mine at</p> <p>10 Rizzoli.</p> <p>11          Q. And the subject is PCN for Canal</p> <p>12 Zone, and there's a discussion that follows</p> <p>13 towards the bottom of this document that says</p> <p>14 continuing participation in the PCN program,</p> <p>15 et cetera. Do you know what the PCN program is,</p> <p>16 first of all?</p> <p>17          A. I don't.</p> <p>18          Q. Do you see that in this document</p> <p>19 they're telling Ms. Schumacher to send a</p> <p>20 complimentary copy of the best edition of the</p> <p>21 book immediately upon publication, and it gives</p> <p>22 two different addresses for the Library of</p> <p>23 Congress?</p> <p>24          A. Yes, I see that.</p> <p>25          Q. And then it says continuing</p>	<p>1                   Petrillose</p> <p>2 McDonald, right?</p> <p>3           A. Yes.</p> <p>4           Q. Do you have any understanding what,</p> <p>5 quote, the best edition of the book, unquote,</p> <p>6 means?</p> <p>7           MS. BART: Objection, form.</p> <p>8           Q. And I'm only asking if you have an</p> <p>9 understanding?</p> <p>10          A. I believe it's just a clean copy of</p> <p>11 the book.</p> <p>12          Q. Is this something that Rizzoli</p> <p>13 normally does when a book is going to be</p> <p>14 published, forward a copy to the Library of</p> <p>15 Congress?</p> <p>16          MR. SHERMAN: Object to the form.</p> <p>17          Q. You can answer.</p> <p>18          A. I believe so.</p> <p>19          Q. You've done it before?</p> <p>20          A. I personally don't do it, but</p> <p>21 there's someone in our office who I believe</p> <p>22 handles that specific task.</p> <p>23          Q. And do you have any knowledge of why</p> <p>24 that task needs to be performed?</p> <p>25          A. I don't.</p>



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Anthony Petrillose

October 23, 2009

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<p>1 Petrillose</p> <p>2 Q. Do you know in this particular case</p> <p>3 whether a copy of this Canal Zone book was</p> <p>4 forwarded to the Library of Congress?</p> <p>5 A. I don't.</p> <p>6 Q. Did you instruct anyone to do that?</p> <p>7 A. No.</p> <p>8 Q. Do you know if a book can be</p> <p>9 published without an ISBN number?</p> <p>10 MR. SHERMAN: Object to the form.</p> <p>11 You can answer.</p> <p>12 A. I don't believe it can.</p> <p>13 Q. Do you know if a book can be</p> <p>14 published without an LCCN number?</p> <p>15 A. I don't know.</p> <p>16 MR. BROOKS: I'd like to mark as</p> <p>17 Exhibit 70, Plaintiff's Exhibit 70, a</p> <p>18 one-page document Bates stamped GGP001610.</p> <p>19 (Plaintiff's Exhibit 70, GGP001610,</p> <p>20 was marked for identification, as of this</p> <p>21 date.)</p> <p>22 Q. Did you receive a copy of this</p> <p>23 e-mail on or about October 17th from Darlina</p> <p>24 Goldak?</p> <p>25 A. I believe so, yes.</p>	<p>1 Petrillose</p> <p>2 for this book?</p> <p>3 MR. SHERMAN: Objection, asked and</p> <p>4 answered.</p> <p>5 You can answer.</p> <p>6 A. Again, I would have been asking</p> <p>7 Julie, my colleague.</p> <p>8 Q. Julie Schumacher?</p> <p>9 A. Schumacher.</p> <p>10 Q. Who works for Rizzoli?</p> <p>11 A. Yes.</p> <p>12 MR. BROOKS: All right. I'd like to</p> <p>13 mark as Plaintiff's Exhibit 71 a one-page</p> <p>14 document Bates stamped GGP001654.</p> <p>15 (Plaintiff's Exhibit 71, GGP001654,</p> <p>16 was marked for identification, as of this</p> <p>17 date.)</p> <p>18 Q. I think you'll see that the e-mail</p> <p>19 at the bottom of this Exhibit 71 is the same one</p> <p>20 that we were looking at as Exhibit 70 --</p> <p>21 A. Correct.</p> <p>22 Q. -- where Darlina asked you for the</p> <p>23 shipping instructions, do you agree with that?</p> <p>24 A. Yes.</p> <p>25 Q. And you respond to that, is that</p>
46	48
<p>1 Petrillose</p> <p>2 Q. And can you tell us who Tracy Pettit</p> <p>3 is? Am I pronouncing that correctly?</p> <p>4 A. Yes, that's correct. She's a</p> <p>5 colleague of mine at Rizzoli.</p> <p>6 Q. You see Darlina Goldak is asking you</p> <p>7 for Rizzoli shipping instructions for this</p> <p>8 publication, do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. At that time did Rizzoli have</p> <p>11 standard shipping instructions?</p> <p>12 A. I believe so, yes.</p> <p>13 Q. And do you recall if you sent them</p> <p>14 to her?</p> <p>15 A. I believe Tracy would have sent</p> <p>16 those instructions.</p> <p>17 Q. Can you just look back, I'm sorry,</p> <p>18 at Exhibit 69 just for a moment?</p> <p>19 A. Sure.</p> <p>20 Q. I think I forgot to ask you</p> <p>21 something.</p> <p>22 At the top there you're writing this</p> <p>23 is the LCCN too, T-O-O, for Richard Prince and</p> <p>24 can be listed just below the ISBN -- I may have</p> <p>25 asked you this before. Did you obtain the ISBN</p>	<p>1 Petrillose</p> <p>2 right, on October 23rd?</p> <p>3 A. Yes.</p> <p>4 Q. Or you replied I should say.</p> <p>5 And you said to Darlina, Can you</p> <p>6 conform the price and page count and your</p> <p>7 on-sale date at the gallery?</p> <p>8 A. Yes.</p> <p>9 Q. What does that mean on-sale date at</p> <p>10 the gallery?</p> <p>11 A. I was trying to assess when they</p> <p>12 were going to have their book available at the</p> <p>13 gallery.</p> <p>14 Q. Is there a reason you wanted to know</p> <p>15 that?</p> <p>16 A. We want to know when the book is</p> <p>17 going to be delivered to their gallery.</p> <p>18 Q. And is there a reason you wanted to</p> <p>19 know the price and the page count?</p> <p>20 A. I believe, and I'm not sure --</p> <p>21 I believe it was probably we were probably in</p> <p>22 the same time of generating the bar code, which</p> <p>23 we have to know what the price is in order to</p> <p>24 generate a bar code.</p> <p>25 Q. Does Rizzoli publish a catalog?</p>



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Anthony Petrillose

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<p>1 Petrillose</p> <p>2 A. Yes.</p> <p>3 Q. In the catalog, if you have a book</p> <p>4 offered for sale in the catalog do you need to</p> <p>5 be able to give the price and the page count?</p> <p>6 A. Yes.</p> <p>7 Q. And if it's on sale at a gallery do</p> <p>8 you need to be able to give the on-sale date at</p> <p>9 the gallery?</p> <p>10 A. No.</p> <p>11 Q. But the price and the page count?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember if you received the</p> <p>14 information you were requesting in Exhibit 71?</p> <p>15 A. I don't recall. I don't recall.</p> <p>16 MR. BROOKS: As Plaintiff's</p> <p>17 Exhibit 72 I'd like to mark a one-page</p> <p>18 document stamped GGP001659.</p> <p>19 (Plaintiff's Exhibit 72, GGP001659,</p> <p>20 was marked for identification, as of this</p> <p>21 date.)</p> <p>22 Q. Did you receive a reply from Darlina</p> <p>23 Goldak on or about October 23rd providing the</p> <p>24 price, the page count, and the on-sale gallery</p> <p>25 date?</p>	<p>1 Petrillose</p> <p>2 you walk into the gallery.</p> <p>3 Q. And the book was being offered for</p> <p>4 sale there, right?</p> <p>5 A. I don't know if --</p> <p>6 MS. BART: Objection.</p> <p>7 MR. SHERMAN: Objection to form.</p> <p>8 Q. You can answer.</p> <p>9 A. I don't know if it was for sale.</p> <p>10 I don't know if there was one copy or several.</p> <p>11 I don't recall.</p> <p>12 Q. Did Rizzoli sell any copies of the</p> <p>13 Canal Zone book ever?</p> <p>14 A. No.</p> <p>15 Q. Do you know if the Canal Zone books</p> <p>16 at the gallery would have the bar code on them?</p> <p>17 A. I don't know. I'm not a hundred</p> <p>18 percent sure.</p> <p>19 Q. If Rizzoli had sold any of the Canal</p> <p>20 Zone books those would have had a bar code on</p> <p>21 them, correct?</p> <p>22 MR. SHERMAN: Object to the form.</p> <p>23 Q. You can answer.</p> <p>24 A. Yes.</p> <p>25 Q. Did you ever deliver, you</p>
50	52
<p>1 Petrillose</p> <p>2 A. Yes.</p> <p>3 Q. And is that reflected in Plaintiff's</p> <p>4 Exhibit 72?</p> <p>5 A. Yes.</p> <p>6 Q. Again, do you know if these e-mails</p> <p>7 were in your e-mail account at Rizzoli?</p> <p>8 A. I believe they would be.</p> <p>9 Q. Did you search for them?</p> <p>10 A. Not specifically.</p> <p>11 Q. Did you find them?</p> <p>12 A. I don't know if I provided these or</p> <p>13 not.</p> <p>14 Q. Do you happen to know if any</p> <p>15 copies of the Canal Zone book were sold at the</p> <p>16 exhibition at the gallery?</p> <p>17 A. I don't know if they were sold</p> <p>18 there. I believe I saw a copy, but I'm not a</p> <p>19 hundred percent sure.</p> <p>20 Q. You believe you saw a copy at the</p> <p>21 gallery?</p> <p>22 A. I believe so.</p> <p>23 Q. Was there a little desk when you</p> <p>24 walked in?</p> <p>25 A. There's typically a front desk when</p>	<p>1 Petrillose</p> <p>2 personally, any of the Canal Zone books to the</p> <p>3 Gagosian Gallery where the exhibition took</p> <p>4 place?</p> <p>5 A. No.</p> <p>6 Q. Is that something you do sometimes?</p> <p>7 MR. SHERMAN: Object to the form.</p> <p>8 Do you mean Rizzoli generally?</p> <p>9 MR. BROOKS: He personally.</p> <p>10 BY MR. BROOKS:</p> <p>11 Q. Do you sometimes deliver books to</p> <p>12 galleries in connection with shows?</p> <p>13 A. For Rizzoli books I don't believe</p> <p>14 so. I don't think I would bring copies of the</p> <p>15 book to them. No, not to my knowledge.</p> <p>16 Q. Have you done that recently, brought</p> <p>17 any catalogs to any galleries say in the last</p> <p>18 couple weeks?</p> <p>19 MR. SHERMAN: Object to the form,</p> <p>20 asked and answered.</p> <p>21 A. I mean that gets beyond Rizzoli</p> <p>22 books. I mean, you know, I have my own gallery</p> <p>23 stuff that I do.</p> <p>24 Q. Not as a representative of Rizzoli?</p> <p>25 A. Not as a representative of Rizzoli.</p>



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Anthony Petrillose

October 23, 2009

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<p>1 Petrillose</p> <p>2 Q. Okay. You said Rizzoli did not sell</p> <p>3 any of the Canal Zone books. Now, I have a</p> <p>4 slightly different question.</p> <p>5 Do you know if Rizzoli received any</p> <p>6 payments from Gagosian Gallery or anyone else in</p> <p>7 connection with the Canal Zone book?</p> <p>8 MS. BART: Objection, form.</p> <p>9 MR. SHERMAN: Objection to form.</p> <p>10 Q. You can answer.</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. Can you tell us in the context of</p> <p>13 this type of book what a blurb is, B-L-U-R-B?</p> <p>14 A. A blurb can mean a couple of</p> <p>15 different things. If it's -- a blurb can be --</p> <p>16 sometimes we'll use a blurb for the back of the</p> <p>17 book on -- you know, if someone says something</p> <p>18 great about it we'll excerpt it and put a blurb</p> <p>19 on the back.</p> <p>20 Or a blurb can mean -- a blurb that</p> <p>21 appears in Vanity Fair, for example, of a</p> <p>22 snippet that they take from the book, it's a</p> <p>23 blurb about the book.</p> <p>24 Q. Do you recall asking Gagosian for</p> <p>25 a blurb on this Canal Zone book?</p>	<p>1 Petrillose</p> <p>2 MR. SHERMAN: Object to the form.</p> <p>3 I think that's vague. What do you mean by</p> <p>4 presentation?</p> <p>5 Q. You can answer.</p> <p>6 MR. SHERMAN: You can answer if you</p> <p>7 understand it.</p> <p>8 A. I believe we talked about it at the</p> <p>9 editorial meeting that this book was going to be</p> <p>10 happening and we should -- we were likely going</p> <p>11 to be distributing it or, you know.</p> <p>12 MS. BART: I'm sorry, I couldn't</p> <p>13 hear the end of your answer.</p> <p>14 A. I think we were talking about it an</p> <p>15 editorial meeting that this book was something</p> <p>16 that we were interested in and we round-tabled</p> <p>17 it and thought it was a great book.</p> <p>18 Q. What is the purpose of doing that,</p> <p>19 of telling your coworkers about the book?</p> <p>20 A. We typically sit around once a week</p> <p>21 to talk about new projects that are coming up or</p> <p>22 ones that we're working on down the road and</p> <p>23 present new projects. It's just a way that we</p> <p>24 all kind of stay informed about what's going on</p> <p>25 editorially.</p>
54	56
<p>1 Petrillose</p> <p>2 A. I don't specifically.</p> <p>3 MR. BROOKS: Mark as Plaintiff's</p> <p>4 Exhibit 73 a one-page e-mail Bates stamped</p> <p>5 GGP001668.</p> <p>6 (Plaintiff's Exhibit 73, GGP001668,</p> <p>7 was marked for identification, as of this</p> <p>8 date.)</p> <p>9 Q. This e-mail states, I'll quote it,</p> <p>10 Have you written a blurb on the Prince book,</p> <p>11 Anthony at Rizzoli wants one, dot dot dot.</p> <p>12 Does that refresh your recollection?</p> <p>13 A. Yes.</p> <p>14 Q. And can you tell us why you wanted a</p> <p>15 blurb on the Prince book?</p> <p>16 A. I believe at this stage we were</p> <p>17 starting to think about what we were going to --</p> <p>18 if we were going to go forward, what we would</p> <p>19 put in the catalog.</p> <p>20 Q. And at this stage refers to</p> <p>21 October 27th, 2008, or thereabouts?</p> <p>22 A. Correct.</p> <p>23 Q. In connection with the Canal Zone</p> <p>24 book did you make any presentation to your</p> <p>25 coworkers at Rizzoli about the book?</p>	<p>1 Petrillose</p> <p>2 MR. BROOKS: Let's mark as</p> <p>3 Plaintiff's Exhibit 74 a one-page document</p> <p>4 Bates stamped GGP001670.</p> <p>5 (Plaintiff's Exhibit 74, GGP001670,</p> <p>6 was marked for identification, as of this</p> <p>7 date.)</p> <p>8 Q. Do you recall speaking to Darina</p> <p>9 Goldak on or about October 27th and telling her</p> <p>10 you were going to be giving this presentation to</p> <p>11 your coworkers?</p> <p>12 MR. SHERMAN: Object to the form.</p> <p>13 A. Not specifically, but I could have.</p> <p>14 Q. Do you see she says that she sent</p> <p>15 you a press release for the show along with some</p> <p>16 JPEGs. Do you recall -- of the page layouts,</p> <p>17 sorry, and some low-res images. Do you recall</p> <p>18 that she sent you those items?</p> <p>19 A. I do.</p> <p>20 Q. Can you explain what a JPEG is, if</p> <p>21 you know?</p> <p>22 A. It's an electronic document that's</p> <p>23 typically photographic.</p> <p>24 Q. And is that the same or different as</p> <p>25 a low-res image?</p>



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<p>1 Petrillose</p> <p>2 A. It's a version of a JPEG. It can be</p> <p>3 a high-res version or a low-res version.</p> <p>4 Q. What's the difference?</p> <p>5 A. A high-res version is higher</p> <p>6 resolution, better print quality, low-res is</p> <p>7 not.</p> <p>8 Q. And is there a reason you wanted the</p> <p>9 JPEGs and the images?</p> <p>10 A. I think we were trying to inform the</p> <p>11 rest of the department what the book is about</p> <p>12 and get a better idea, so we wanted to show them</p> <p>13 some materials from the interior of the book so</p> <p>14 I could show it to them.</p> <p>15 Q. Exhibit 74 refers to a press</p> <p>16 release. I'm going to show you a document that</p> <p>17 was previously marked as Plaintiff's Exhibit 31</p> <p>18 in this case. It's a three-page document.</p> <p>19 Take your time looking at that</p> <p>20 document, but when you're ready to answer I'd</p> <p>21 like to know if that's the press release that</p> <p>22 you received on or about October 27th, 2008,</p> <p>23 from Darina Goldak?</p> <p>24 A. I believe it's the same document.</p> <p>25 Q. Do you know if this came from the</p>	<p>1 Petrillose</p> <p>2 Q. Could you look at the second page of</p> <p>3 the press release, please?</p> <p>4 A. Yes.</p> <p>5 Q. Where it says, and I'll quote,</p> <p>6 Some images, comma, scanned from originals</p> <p>7 are printed directly onto the base canvas,</p> <p>8 semicolon, others are quote dragged on, unquote,</p> <p>9 using a primitive collage technique, et cetera.</p> <p>10 What did you understand that to</p> <p>11 mean, if anything?</p> <p>12 MR. SHERMAN: Object to the form.</p> <p>13 A. That he's collaging photographs to</p> <p>14 make his artwork.</p> <p>15 Q. How about scanning originals, what</p> <p>16 did you understand that to mean, some images</p> <p>17 scanned from originals?</p> <p>18 A. Scanning is --</p> <p>19 MS. BART: Objection to form.</p> <p>20 MR. SHERMAN: Objection to form.</p> <p>21 Q. You can answer.</p> <p>22 A. Scanning is a typical, you know,</p> <p>23 technique of capturing imagery.</p> <p>24 Q. What did you understand the word</p> <p>25 originals with an S at the end to mean?</p>
58	60
<p>1 Petrillose</p> <p>2 Gagosian Gallery website?</p> <p>3 That's a bad question.</p> <p>4 Do you know if this press release</p> <p>5 was also found on the Gagosian Gallery website,</p> <p>6 if you know?</p> <p>7 A. I believe so.</p> <p>8 Q. Did you read this press release when</p> <p>9 you received it?</p> <p>10 A. Yes.</p> <p>11 Q. Did you discuss it with your</p> <p>12 colleagues at the presentation that you</p> <p>13 testified to?</p> <p>14 A. I might have summarized a little</p> <p>15 bit. I didn't read it out loud to them.</p> <p>16 Q. Before receiving this press release</p> <p>17 had you ever heard of Richard Prince?</p> <p>18 A. Yes.</p> <p>19 Q. On the first page of Plaintiff's</p> <p>20 Exhibit 31 there are some images. There seems</p> <p>21 to be somebody on a donkey, do you see that?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. Did you have any knowledge of where</p> <p>24 those images were derived from?</p> <p>25 A. I did not.</p>	<p>1 Petrillose</p> <p>2 MR. SHERMAN: Object to the form.</p> <p>3 Q. Original what?</p> <p>4 MS. BART: Objection, form.</p> <p>5 Q. You can answer.</p> <p>6 A. Original artwork.</p> <p>7 Q. Created by others?</p> <p>8 MS. BART: Objection to form.</p> <p>9 MR. SHERMAN: Objection to form.</p> <p>10 Q. You can answer.</p> <p>11 MS. BART: Calls for speculation.</p> <p>12 A. I didn't think of it either way,</p> <p>13 just originals, you know.</p> <p>14 Q. Did you know anything about Richard</p> <p>15 Prince's artistic practices before October 2008?</p> <p>16 MR. SHERMAN: Object to the form.</p> <p>17 MS. BART: Objection, form.</p> <p>18 MR. HAYES: Objection, form.</p> <p>19 A. Yes.</p> <p>20 Q. Did you know he was well-known as an</p> <p>21 appropriation artist?</p> <p>22 MR. SHERMAN: Objection to the form,</p> <p>23 no foundation.</p> <p>24 A. I knew that was part of his -- what</p> <p>25 he does.</p>



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<p>1 Petrillose</p> <p>2 Q. Did you know that he had created a</p> <p>3 lot of artwork, works of art by rephotographing</p> <p>4 photographs of Marlboro cowboy advertisements?</p> <p>5 MS. BART: Object to the form.</p> <p>6 MR. SHERMAN: Object to the form.</p> <p>7 MR. HAYES: Form.</p> <p>8 MR. SHERMAN: No foundation.</p> <p>9 Q. You can answer.</p> <p>10 A. That's probably what I knew most.</p> <p>11 Q. So you knew that he had made a</p> <p>12 practice of rephotographing the works of others,</p> <p>13 correct?</p> <p>14 MS. BART: Object to the form.</p> <p>15 MR. HAYES: Objection to form.</p> <p>16 MR. SHERMAN: Object to the form, no</p> <p>17 foundation.</p> <p>18 A. That particular -- the Marlboro man</p> <p>19 advertisements?</p> <p>20 Q. Right.</p> <p>21 A. Yes.</p> <p>22 Q. And did you also know he had</p> <p>23 rephotographed a picture of Brooke Shields when</p> <p>24 she was ten years old in a bathtub --</p> <p>25 MR. SHERMAN: Objection --</p>	<p>1 Petrillose</p> <p>2 MS. BART: Objection, form.</p> <p>3 MR. SHERMAN: No foundation.</p> <p>4 Q. You can answer.</p> <p>5 A. Yes.</p> <p>6 Q. And did you also know that</p> <p>7 Mr. Prince was not the original author of the</p> <p>8 Marlboro cowboy advertisements?</p> <p>9 MR. SHERMAN: Objection to the form,</p> <p>10 no foundation.</p> <p>11 MR. HAYES: Objection, form.</p> <p>12 Q. You can answer.</p> <p>13 A. Originally, no, until I later came</p> <p>14 to realize.</p> <p>15 Q. When did you come to realize?</p> <p>16 A. I think it, you know, started to</p> <p>17 become common knowledge or, you know, it comes</p> <p>18 up in articles written.</p> <p>19 Q. And was that before October 2008?</p> <p>20 A. Yes.</p> <p>21 Q. Now, the plaintiff in this case is</p> <p>22 named Patrick Cariou. Have you ever heard of</p> <p>23 him?</p> <p>24 A. I have now, yes.</p> <p>25 Q. No, before this lawsuit?</p>
62	64
<p>1 Petrillose</p> <p>2 MR. BROOKS: I'm not finished.</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. -- called Spiritual America?</p> <p>5 MR. SHERMAN: Object to the form.</p> <p>6 MS. BART: Form.</p> <p>7 MR. HAYES: Form.</p> <p>8 Q. You can answer.</p> <p>9 A. I don't know specifically if I</p> <p>10 remember that one at the time. Again, the</p> <p>11 Marlboro man stuff was the stuff I was most</p> <p>12 familiar with.</p> <p>13 Q. Did you know Mr. Prince had a</p> <p>14 mid-career retrospective at the Guggenheim</p> <p>15 Museum in late 2007?</p> <p>16 MR. SHERMAN: Object to the form, no</p> <p>17 foundation.</p> <p>18 A. I believe, yes, I was aware of that.</p> <p>19 Q. And you went to it?</p> <p>20 A. I'm not positive if I went to it or</p> <p>21 not. I don't think I did.</p> <p>22 Q. And were you aware that Mr. Prince</p> <p>23 had created paintings by reproducing covers of</p> <p>24 books about nurses?</p> <p>25 MR. SHERMAN: Object to the form.</p>	<p>1 Petrillose</p> <p>2 A. I'm sorry, no.</p> <p>3 Q. This is a book of photographs taken</p> <p>4 by Mr. Cariou. You can open it if you want.</p> <p>5 I'm just going to ask you if you've ever seen it</p> <p>6 before?</p> <p>7 A. I have.</p> <p>8 Q. And when was that?</p> <p>9 A. After this lawsuit had started.</p> <p>10 Q. And were you aware of that book</p> <p>11 before the lawsuit started?</p> <p>12 A. I wasn't.</p> <p>13 Q. Can you look at the end, is there a</p> <p>14 colophon page on that book?</p> <p>15 A. Yes.</p> <p>16 Q. Who does it indicate owns the</p> <p>17 copyrights to the photographs?</p> <p>18 MR. SHERMAN: Object to the form.</p> <p>19 Q. You can answer.</p> <p>20 A. There's three copyrights here.</p> <p>21 I see a copyright to Powerhouse Cultural</p> <p>22 Entertainment Inc., there's a photographs</p> <p>23 copyright 2000 Patrick Cariou, and there's an</p> <p>24 essay copyright to Perry Henzell.</p> <p>25 Q. Can I see that for a minute?</p>



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<p style="text-align: center;">65</p> <p>1                   Petrillose</p> <p>2           A. Sure.</p> <p>3           Q. Thank you.</p> <p>4           This book also has an ISBN number?</p> <p>5           A. Mm-hmm.</p> <p>6           Q. You have to say yes or no.</p> <p>7           A. Yes.</p> <p>8           Q. Getting back to Exhibit 31, on the</p> <p>9 second page where the press release states that</p> <p>10 some images scanned from originals are printed</p> <p>11 directly onto the base canvas, semicolon, others</p> <p>12 are dragged on, et cetera.</p> <p>13 Did you conduct any investigation in</p> <p>14 an attempt to find out what the source of those</p> <p>15 images was?</p> <p>16 MS. BART: Objection to the form.</p> <p>17 MR. SHERMAN: Objection, form.</p> <p>18 Q. You can answer.</p> <p>19 MR. SHERMAN: Are you talking about</p> <p>20 the witness personally?</p> <p>21 MR. BROOKS: Yes.</p> <p>22 MR. SHERMAN: Go ahead.</p> <p>23 A. No.</p> <p>24 Q. Do you know if anyone else at</p> <p>25 Rizzoli made such an investigation?</p>	<p style="text-align: center;">67</p> <p>1                   Petrillose</p> <p>2           A. Right.</p> <p>3           Q. C00010?</p> <p>4           A. Correct.</p> <p>5           Q. You're not sure you received that</p> <p>6 page?</p> <p>7           A. I don't -- I'm not sure.</p> <p>8 MR. BROOKS: I'd like to mark as</p> <p>9 Plaintiff's Exhibit 75 a one-page document</p> <p>10 Bates stamped GGP001700.</p> <p>11 (Plaintiff's Exhibit 75, GGP001700,</p> <p>12 was marked for identification, as of this</p> <p>13 date.)</p> <p>14 Q. Mr. Petrillose, can you tell us if</p> <p>15 you know what this document depicts?</p> <p>16 MR. SHERMAN: Object to the form.</p> <p>17 There's no foundation to this at all. You</p> <p>18 don't even know -- you haven't even asked</p> <p>19 if he's ever seen this.</p> <p>20 MR. BROOKS: I asked him if he knows</p> <p>21 what it is. Either he does or he doesn't.</p> <p>22 MS. BART: I'll join in the</p> <p>23 objection.</p> <p>24 MR. SHERMAN: You can answer it,</p> <p>25 but I object to the form. My objection</p>
<p style="text-align: center;">66</p> <p>1                   Petrillose</p> <p>2 MR. SHERMAN: Objection.</p> <p>3 Q. You can answer.</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Could you turn to the third page of</p> <p>6 Plaintiff's Exhibit 31, please?</p> <p>7 A. Yes.</p> <p>8 Q. Where it says among others things,</p> <p>9 Prince has redefined the concepts of authorship,</p> <p>10 comma, ownership, comma, and aura, do you see</p> <p>11 that?</p> <p>12 A. Yes.</p> <p>13 Q. What, if anything, did that mean</p> <p>14 to you, based on the knowledge you had of</p> <p>15 Mr. Prince's work prior to receiving this press</p> <p>16 release?</p> <p>17 A. I don't know if I received it --</p> <p>18 MR. SHERMAN: Object to the form.</p> <p>19 Go ahead.</p> <p>20 A. I don't know if I received this</p> <p>21 press release.</p> <p>22 Q. The third page?</p> <p>23 A. Right.</p> <p>24 Q. For the record, that's Bates stamped</p> <p>25 C00010 in the lower right-hand corner?</p>	<p style="text-align: center;">68</p> <p>1                   Petrillose</p> <p>2 stands.</p> <p>3 A. It looks like maybe an advertisement</p> <p>4 or a list of books that Gagosian and Rizzoli has</p> <p>5 distributed, a list of titles that Rizzoli has</p> <p>6 distributed of Gagosian titles.</p> <p>7 MO MS. BART: In light of the witness's</p> <p>8 answer, he's guessing, move to strike it</p> <p>9 as speculative.</p> <p>10 Q. Have you ever seen this before?</p> <p>11 A. I might have. It doesn't ring any</p> <p>12 bells.</p> <p>13 Q. Where do you think you might have</p> <p>14 seen it?</p> <p>15 A. Perhaps maybe -- perhaps Gagosian</p> <p>16 showed it to me to let me know that this was --</p> <p>17 MR. BROOKS: Let him finish.</p> <p>18 MR. SHERMAN: Go ahead.</p> <p>19 A. To make sure the ISBN numbers or</p> <p>20 something was correct, but I just don't recall.</p> <p>21 MS. BART: Object to the witness --</p> <p>22 MR. SHERMAN: Yeah, I object to the</p> <p>23 form of the question. I think it calls</p> <p>24 for speculation and that's the answer you</p> <p>25 got.</p>



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<p>69</p> <p>1 Petrillose</p> <p>2 Q. Did Rizzoli publish a book with</p> <p>3 artworks from Cecily Brown?</p> <p>4 A. Yes.</p> <p>5 Q. Is she an artist represented by</p> <p>6 Gagosian Gallery?</p> <p>7 A. Yes.</p> <p>8 Q. Did Rizzoli publish a book with</p> <p>9 artworks from John Currin, C-U-R-R-I-N?</p> <p>10 A. Publish is -- it's more of</p> <p>11 distributed as opposed to published.</p> <p>12 Q. Yes.</p> <p>13 A. Yes.</p> <p>14 Q. And is Mr. Currin an artist</p> <p>15 represented by Gagosian Gallery?</p> <p>16 A. I believe so, yes.</p> <p>17 Q. And do you know what Ferris is?</p> <p>18 A. I do.</p> <p>19 Q. Can you tell us?</p> <p>20 A. In this particular case it's a book</p> <p>21 about the gallery that was an LA-based gallery.</p> <p>22 Q. That's the name of a gallery,</p> <p>23 Ferris?</p> <p>24 A. Correct.</p> <p>25 Q. Is that a book that Rizzoli either</p>	<p>71</p> <p>1 Petrillose</p> <p>2 book?</p> <p>3 A. Yes.</p> <p>4 Q. How do you know?</p> <p>5 A. We distributed the title for them.</p> <p>6 Rizzoli distributed the title for them.</p> <p>7 Q. And under Tom Sachs Space Program it</p> <p>8 mentions an interview with Buzz Aldrin. Is he</p> <p>9 an astronaut, do you know?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. Tom Sachs, do you know who Tom Sachs</p> <p>12 is?</p> <p>13 A. Yes.</p> <p>14 Q. Who is he?</p> <p>15 A. He's an artist.</p> <p>16 Q. And Louise Neri, is she an employee</p> <p>17 of Gagosian Gallery?</p> <p>18 A. I don't know.</p> <p>19 Q. And finally on this Exhibit 75</p> <p>20 there's a picture of the cover of the Canal Zone</p> <p>21 book, is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. With the ISBN number we looked at</p> <p>24 before?</p> <p>25 A. I believe that's correct, yes.</p>
<p>70</p> <p>1 Petrillose</p> <p>2 published or distributed?</p> <p>3 A. Distributed.</p> <p>4 Q. Do you know if Gagosian Gallery has</p> <p>5 any relationship to that book or the Ferris</p> <p>6 Gallery?</p> <p>7 MS. BART: Object to the form.</p> <p>8 MR. SHERMAN: Object to the form.</p> <p>9 Q. You can answer.</p> <p>10 A. Relationship, is that what you asked</p> <p>11 me?</p> <p>12 Q. Yes.</p> <p>13 A. If there's a relationship?</p> <p>14 I don't know.</p> <p>15 Q. Did Rizzoli distribute a book with</p> <p>16 artwork from Robert Therrien, T-H-E-R-R-I-E-N?</p> <p>17 A. Yes, distributed.</p> <p>18 Q. Is that an artist who is represented</p> <p>19 by Gagosian Gallery?</p> <p>20 A. Yes, it is.</p> <p>21 Q. Did Rizzoli distribute a book called</p> <p>22 Tom Sachs Space Program?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know if Gagosian Gallery had</p> <p>25 any involvement with the publication of that</p>	<p>72</p> <p>1 Petrillose</p> <p>2 Q. You can look inside if you want to</p> <p>3 refresh your recollection.</p> <p>4 (Witness looks at book.)</p> <p>5 A. That's correct.</p> <p>6 MR. BROOKS: I'm going to mark as</p> <p>7 Plaintiff's Exhibit 76 a one-page document</p> <p>8 Bates stamped GGP001332.</p> <p>9 (Plaintiff's Exhibit 76, GGP001332,</p> <p>10 was marked for identification, as of this</p> <p>11 date.)</p> <p>12 Q. Have you ever seen this document</p> <p>13 before?</p> <p>14 A. I don't believe so.</p> <p>15 Q. Do you know, there's a reference</p> <p>16 here to a Rizzoli one-page summary for pallet</p> <p>17 requirements and carton markings, do you have</p> <p>18 any knowledge of what that is?</p> <p>19 MR. SHERMAN: Object to the form.</p> <p>20 You can answer.</p> <p>21 A. I believe that's for the shipping</p> <p>22 instructions.</p> <p>23 Q. Whose shipping instructions?</p> <p>24 For Rizzoli's?</p> <p>25 A. That's correct, yes.</p>





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<p>1 Petrillose</p> <p>2 MR. BROOKS: Let's mark as</p> <p>3 Plaintiff's Exhibit 77 a multipage</p> <p>4 document Bates stamped GGP001333 through</p> <p>5 1381.</p> <p>6 (Plaintiff's Exhibit 77, GGP001333</p> <p>7 through 1381, was marked for</p> <p>8 identification, as of this date.)</p> <p>9 Q. The previous document we were</p> <p>10 looking at Exhibit 76 seems to have attached, it</p> <p>11 says attached, WM binder's kit summary, and it</p> <p>12 also referred -- it says attached is Rizzoli's</p> <p>13 one-page summary for pallet requirements and</p> <p>14 carton markings, do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Now, could you look at Exhibit 77?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know if the first page of</p> <p>19 Exhibit 77 is Rizzoli's summary, one-page</p> <p>20 summary for pallet requirements and carton</p> <p>21 markings?</p> <p>22 A. It appears to be Random House's,</p> <p>23 right.</p> <p>24 Q. And, again, you already mentioned</p> <p>25 this, what is the relationship with Random House</p>	<p>1 Petrillose</p> <p>2 Q. And do you know what a binder's kit</p> <p>3 means, what that term means?</p> <p>4 A. I really don't.</p> <p>5 Q. Have you heard it before?</p> <p>6 A. No.</p> <p>7 Q. That's all I have for that.</p> <p>8 MR. BROOKS: As Plaintiff's</p> <p>9 Exhibit 78 I'd like to mark a one-page</p> <p>10 document Bates stamped GGP004033.</p> <p>11 (Plaintiff's Exhibit 78, GGP004033,</p> <p>12 was marked for identification, as of this</p> <p>13 date.)</p> <p>14 Q. Do you know if any of the Canal Zone</p> <p>15 books were ever shipped to Random House?</p> <p>16 A. I don't believe they were.</p> <p>17 Q. Do you know if they were ever</p> <p>18 shipped anywhere else?</p> <p>19 A. I don't.</p> <p>20 Q. Do you know where they are now?</p> <p>21 MS. BART: Objection, form.</p> <p>22 MR. SHERMAN: Objection, form.</p> <p>23 A. I don't know where they are.</p> <p>24 Q. When was Rizzoli planning to</p> <p>25 distribute the Canal Zone book?</p>
74	76
<p>1 Petrillose</p> <p>2 when it comes to distributing books?</p> <p>3 MR. SHERMAN: Object to the form,</p> <p>4 asked and answered.</p> <p>5 A. They do our distribution of our</p> <p>6 titles.</p> <p>7 Q. So when Rizzoli sends its shipping</p> <p>8 instructions you send the Random House shipping</p> <p>9 instructions?</p> <p>10 A. Correct.</p> <p>11 Q. And the first page is the summary of</p> <p>12 those instructions?</p> <p>13 A. Yes.</p> <p>14 Q. And when I say the first page, I</p> <p>15 mean the first page of Exhibit 77 GGP001333, is</p> <p>16 that right?</p> <p>17 A. Correct.</p> <p>18 Q. And the balance of it, we're not</p> <p>19 going to look at it in any detail, but if you</p> <p>20 turn one page do you recognize the balance of</p> <p>21 this document as being the Random House binder's</p> <p>22 kit with packing, marking, shipping and</p> <p>23 invoicing instructions?</p> <p>24 A. It appears to be. But if I've seen</p> <p>25 it it's only in passing.</p>	<p>1 Petrillose</p> <p>2 MR. SHERMAN: Object to the form.</p> <p>3 A. I believe it was fall 2009.</p> <p>4 Q. So around now?</p> <p>5 A. Correct.</p> <p>6 Q. This document Plaintiff's Exhibit 78</p> <p>7 at the top says, Do you know, question mark,</p> <p>8 Rizzoli is interested in possibly early</p> <p>9 distribution. You've never seen this document,</p> <p>10 right?</p> <p>11 A. No.</p> <p>12 Q. Do you know though whether you ever</p> <p>13 told anyone at Gagosian Gallery that Rizzoli</p> <p>14 might be interested in early distribution of the</p> <p>15 Canal Zone book?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you recall discussing that with</p> <p>18 your fellow employees at Rizzoli?</p> <p>19 A. I don't recall a specific</p> <p>20 conversation, but I think we talked about, you</p> <p>21 know, is there a way -- is it possible to --</p> <p>22 what the possibility is with early distribution.</p> <p>23 Q. And how early?</p> <p>24 A. The earliest we could have done it</p> <p>25 would have probably been very late spring or</p>



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1 Petrillose  
 2 summer.  
 3 Q. Of what year?  
 4 A. 2009.  
 5 MR. BROOKS: As Plaintiff's  
 6 Exhibit 79 I'd like to mark a multipage  
 7 document Bates stamped GGP001964, 1965,  
 8 and 1967.  
 9 (Plaintiff's Exhibit 79, GGP001964,  
 10 1965, and 1967, was marked for  
 11 identification, as of this date.)  
 12 MS. BART: I would just note for  
 13 the record that these are a compilation  
 14 of e-mails as opposed to one continuous  
 15 e-mail.  
 16 BY MR. BROOKS:  
 17 Q. Let's start on the last page of this  
 18 exhibit. At the bottom, there's an e-mail from  
 19 Darlina Goldak to Alison McDonald saying Anthony  
 20 would like high-res digital files of the cover  
 21 art and five, dash, six spreads for both the  
 22 something and Prince Canal books, do you see  
 23 that?  
 24 A. Yes.  
 25 Q. In January of 2009 do you have any

78

1 Petrillose  
 2 recollection of requesting high-resolution  
 3 digital files of the cover art and five or six  
 4 spreads of the Canal Zone book?  
 5 A. Yes. I don't think it was spreads,  
 6 I think it was particular images.  
 7 Q. And was the reason you made that  
 8 request because you were contemplating including  
 9 the Canal Zone book in your fall catalog for  
 10 2009?  
 11 A. Yes.  
 12 Q. Did you get the high-resolution  
 13 images that you asked for?  
 14 A. I don't recall. I don't recall if  
 15 we did.  
 16 MR. BROOKS: All right. Let's mark  
 17 as Plaintiff's Exhibit 80 a document Bates  
 18 stamped R0010.  
 19 (Plaintiff's Exhibit 80, R0010, was  
 20 marked for identification, as of this  
 21 date.)  
 22 Q. Who is Lynn, L-Y-N-N, Scrabis,  
 23 S-C-R-A-B-I-S?  
 24 A. She's another colleague of mine at  
 25 Rizzoli.

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1 Petrillose  
 2 Q. What functions does she perform, if  
 3 you know?  
 4 A. She's the assistant managing editor  
 5 is her title.  
 6 Q. So she reports to you?  
 7 A. Technically she doesn't really  
 8 report to me, but we work together.  
 9 Q. So the e-mail at the bottom on  
 10 January 14th, she's asking you, Where can I find  
 11 the catalog copy for R. Prince, do you see that?  
 12 A. Yes.  
 13 Q. Do you know what a catalog copy is  
 14 in this context?  
 15 A. Yes.  
 16 Q. What is it?  
 17 A. It is text that we've written that  
 18 will eventually go into our catalog.  
 19 Q. Text and images or just text?  
 20 A. The copy is just the text.  
 21 Q. Who is CM?  
 22 A. It's Charles Miers, M-I-E-R-S.  
 23 Q. Who is he?  
 24 A. He's the publisher at Rizzoli.  
 25 Q. Then above that e-mail you

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1 Petrillose  
 2 apparently wrote her on January 14th at  
 3 5:50 p.m., do you see that?  
 4 A. Yes.  
 5 Q. And you said Richard Prince -- well,  
 6 you say Indochine and Richard Prince are in  
 7 Universe Publishing?  
 8 A. Yes.  
 9 Q. What is Universe Publishing?  
 10 A. In this particular context?  
 11 Q. Yes.  
 12 A. It's a location on our server or  
 13 database.  
 14 Q. And does it pertain to your  
 15 catalogs?  
 16 A. Yes, it's where files are stored.  
 17 Q. For catalogs?  
 18 A. Correct.  
 19 Q. And then after Universe Publishing  
 20 it says in all capital letters C-A-T copy,  
 21 slash, 2009 fall, all caps, comma, Rizzoli, do  
 22 you know what that refers to?  
 23 A. Yes.  
 24 Q. What does it?  
 25 A. That refers to the location on the



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<p style="text-align: center;">81</p> <p>1 Petrillose</p> <p>2 server where the files are held.</p> <p>3 Q. And then you stated, I believe CM</p> <p>4 reviewed RP, what did you mean by that?</p> <p>5 A. I believe that Charles Miers had</p> <p>6 reviewed the catalog copy for Richard Prince.</p> <p>7 Q. And why did you believe that?</p> <p>8 A. I'm not sure. They were probably</p> <p>9 shown to him, and typically it's part of the</p> <p>10 process.</p> <p>11 Q. And what is it that typically he</p> <p>12 would have reviewed as part of the process?</p> <p>13 A. Just the text.</p> <p>14 MS. BART: Objection, form.</p> <p>15 Q. For the catalog?</p> <p>16 MS. BART: Form.</p> <p>17 A. Correct.</p> <p>18 MR. BROOKS: Please mark as</p> <p>19 Plaintiff's Exhibit 81 a one-page document</p> <p>20 Bates stamped R0013.</p> <p>21 (Plaintiff's Exhibit 81, R0013, was</p> <p>22 marked for identification, as of this</p> <p>23 date.)</p> <p>24 Q. Mr. Petrillose, do you know who</p> <p>25 Brendan at Art Service is?</p>	<p style="text-align: center;">83</p> <p>1 Petrillose</p> <p>2 Q. What is a CS3 InDesign file?</p> <p>3 A. CS3 is software. InDesign -- CS3,</p> <p>4 there's versions one, two, and three. And four</p> <p>5 now. And InDesign is a software that designers</p> <p>6 use to create the books.</p> <p>7 Q. The book blads?</p> <p>8 A. Book blads, regular books.</p> <p>9 Q. I see.</p> <p>10 And then on the next day on</p> <p>11 January 16th you wrote Brendan again saying you</p> <p>12 were sending him down the high-res artwork, do</p> <p>13 you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And you said, This is the only set I</p> <p>16 have, please return back when you're finished?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know why you were sending</p> <p>19 Art Service high-resolution artwork?</p> <p>20 MR. SHERMAN: Objection.</p> <p>21 MS. BART: Objection.</p> <p>22 MR. SHERMAN: Objection to form.</p> <p>23 A. I believe I was sending him down</p> <p>24 high-res artwork for him to create the blad.</p> <p>25 Q. For the Richard Prince Canal Zone</p>
<p style="text-align: center;">82</p> <p>1 Petrillose</p> <p>2 A. I think I talked to this person</p> <p>3 maybe once. I'm not sure exactly.</p> <p>4 Q. What is Art Service?</p> <p>5 A. That I'm not a hundred percent sure</p> <p>6 of.</p> <p>7 Q. At the top it says conversation,</p> <p>8 book blads, B-L-A-D-S, do you see that?</p> <p>9 A. I do.</p> <p>10 Q. Do you know what a book blad is?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. It's a tool used for sales. It's</p> <p>14 typically a four-page -- they call it folder or</p> <p>15 blad. I think blad is an acronym for book</p> <p>16 layout and design. So it kind of gives a short</p> <p>17 version of what the book will be when it</p> <p>18 eventually gets published.</p> <p>19 Q. Now, at the bottom of Exhibit 81</p> <p>20 apparently you wrote this person Brendan and</p> <p>21 said, I realized I have the final CS3 InDesign</p> <p>22 files for each book. Is that referring to a</p> <p>23 book about Warhol and a book about Prince?</p> <p>24 MR. SHERMAN: Object to the form.</p> <p>25 A. I believe so, yes.</p>	<p style="text-align: center;">84</p> <p>1 Petrillose</p> <p>2 book?</p> <p>3 A. Correct.</p> <p>4 Q. Do you know if he returned them back</p> <p>5 to you when he was finished?</p> <p>6 A. That I don't know.</p> <p>7 Q. Do you know where that</p> <p>8 high-resolution artwork is now?</p> <p>9 A. I don't.</p> <p>10 MR. BROOKS: Off the record.</p> <p>11 (Recess taken: 11:48 a.m.)</p> <p>12 (Proceedings resumed: 11:55 a.m.)</p> <p>13 MR. BROOKS: I'd like to mark as</p> <p>14 Plaintiff's Exhibit 82 a one-page document</p> <p>15 Bates stamped GGP001383.</p> <p>16 (Plaintiff's Exhibit 82, GGP001383,</p> <p>17 was marked for identification, as of this</p> <p>18 date.)</p> <p>19 Q. Did you receive this e-mail on or</p> <p>20 about January 21st, 2009?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. From Alison McDonald?</p> <p>23 A. Yes.</p> <p>24 Q. And the subject is Canal Zone slash</p> <p>25 Rizzoli red line agreement, do you see that?</p>



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<p>85</p> <p>1 Petrillose</p> <p>2 A. Yes.</p> <p>3 Q. And it says, Here is the Prince</p> <p>4 contract with our changes. Do you know if the</p> <p>5 first draft of this contract was produced by</p> <p>6 Rizzoli?</p> <p>7 A. I believe --</p> <p>8 MR. SHERMAN: Object to the form.</p> <p>9 Q. You can answer.</p> <p>10 A. I believe so, yes.</p> <p>11 Q. Was it a standard form contract that</p> <p>12 Rizzoli employs?</p> <p>13 MS. BART: Objection to form.</p> <p>14 MR. SHERMAN: Objection to form.</p> <p>15 A. I believe so, yes.</p> <p>16 MR. BROOKS: Let's mark as</p> <p>17 Plaintiff's Exhibit 83 a document Bates</p> <p>18 stamped R0053 through 56.</p> <p>19 (Plaintiff's Exhibit 83, R0053</p> <p>20 through 56, was marked for identification,</p> <p>21 as of this date.)</p> <p>22 Q. Is the document marked as</p> <p>23 Plaintiff's Exhibit 83 the Prince contract with</p> <p>24 Gagosian's changes that Alison McDonald sent you</p> <p>25 on January 21st, 2009?</p>	<p>87</p> <p>1 Petrillose</p> <p>2 MS. BART: Objection, form. The</p> <p>3 document speaks for itself.</p> <p>4 Q. You can answer.</p> <p>5 MR. SHERMAN: I join that objection.</p> <p>6 A. Gagosian.</p> <p>7 Q. Gagosian?</p> <p>8 A. Yes.</p> <p>9 Q. And the distributor?</p> <p>10 A. Rizzoli.</p> <p>11 Q. What understanding, if any, did you</p> <p>12 have of that language publisher will indemnify</p> <p>13 distributor?</p> <p>14 MS. BART: I'm going to object to</p> <p>15 the form. The witness has already</p> <p>16 testified that no agreement was ever</p> <p>17 executed.</p> <p>18 Q. You can answer.</p> <p>19 MR. SHERMAN: I join in that</p> <p>20 objection, but go ahead.</p> <p>21 A. I'm sorry, could you repeat the</p> <p>22 question again?</p> <p>23 Q. Yes. And then he's going to read it</p> <p>24 and they're going to object again. Try to</p> <p>25 listen to the court reporter.</p>
<p>86</p> <p>1 Petrillose</p> <p>2 MR. SHERMAN: Object to the form.</p> <p>3 Q. You can answer.</p> <p>4 MR. SHERMAN: You can answer.</p> <p>5 I don't think it characterizes the</p> <p>6 document correctly, but you can answer.</p> <p>7 A. I believe this is the document, yes.</p> <p>8 Q. And it seems to be dated, at least</p> <p>9 this draft, January 21, 2009, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Who, besides you, was involved in</p> <p>12 the negotiation or discussion of this proposed</p> <p>13 agreement?</p> <p>14 MR. SHERMAN: Object to the form.</p> <p>15 A. Most likely our publisher Charles</p> <p>16 Miers.</p> <p>17 Q. Did you have counsel involved in</p> <p>18 negotiating this contract?</p> <p>19 MR. SHERMAN: Object to the form.</p> <p>20 Q. You can answer.</p> <p>21 A. I don't believe we did.</p> <p>22 Q. Could you look at the second page</p> <p>23 paragraph 4? The second paragraph reads,</p> <p>24 Publisher will indemnify distributor. Do you</p> <p>25 know who the publisher is in this agreement?</p>	<p>88</p> <p>1 Petrillose</p> <p>2 MS. BART: I'll just reserve my same</p> <p>3 objections.</p> <p>4 MR. SHERMAN: Same with mine.</p> <p>5 (Record read.)</p> <p>6 A. That Gagosian would indemnify</p> <p>7 Rizzoli.</p> <p>8 Q. Pay its attorneys fees?</p> <p>9 MS. BART: Objection to form.</p> <p>10 MR. SHERMAN: Objection to the form.</p> <p>11 Q. In the event of a lawsuit?</p> <p>12 MS. BART: Same objections.</p> <p>13 MR. SHERMAN: Same objections.</p> <p>14 Q. You can answer.</p> <p>15 A. I guess in all ways, shapes and</p> <p>16 form.</p> <p>17 Q. And you don't know whether that's</p> <p>18 happening now as we speak?</p> <p>19 MR. SHERMAN: Object to the form.</p> <p>20 A. I don't.</p> <p>21 Q. Is paragraph 4 as originally drafted</p> <p>22 a standard Rizzoli provision in its contracts?</p> <p>23 MS. BART: Objection to form.</p> <p>24 Q. Distribution contracts?</p> <p>25 MR. SHERMAN: Objection to form.</p>



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89	91
1 Petrillose	1 Petrillose
2 Q. You can answer.	2 Bates stamped R0025.
3 A. Yes.	3 (Plaintiff's Exhibit 85, R0025, was
4 Q. And then the red line parts are	4 marked for identification, as of this
5 changes Gagosian proposed?	5 date.)
6 A. I believe so, yes.	6 MR. SHERMAN: I would note that on
7 MS. BART: Objection to form and	7 the bottom right part of the page it says
8 also to the witness's response which is	8 page 5 of 5 on this exhibit. Do you have
9 clearly speculative.	9 the other four?
10 MR. SHERMAN: Object to the form of	10 MR. BROOKS: I don't know.
11 the question insofar as it calls for	11 MR. SHERMAN: If you do I'd
12 speculation.	12 appreciate you showing them to the
13 MR. BROOKS: Let's mark as	13 witness.
14 Plaintiff's Exhibit 84 a one-page document	14 BY MR. BROOKS:
15 Bates stamped GGP001384.	15 Q. This came from your production, from
16 (Plaintiff's Exhibit 84, GGP001384,	16 Rizzoli production, that's why it says R.
17 was marked for identification, as of this	17 Do you know what this page is?
18 date.)	18 MS. BART: I'm going to object to
19 Q. Mr. Petrillose, do you remember the	19 this line of questioning. It's obviously
20 contract draft we were looking at was dated	20 page of 5 of 5 of a five-page document and
21 January 21st, 2008, right?	21 I would like to know what pages 1 through
22 A. Nine.	22 4 are.
23 Q. 2009, sorry.	23 Q. Mr. Petrillose, do you know what
24 A. Yes.	24 this page is?
25 Q. This e-mail is dated March 18th,	25 MS. BART: Object to form.
90	92
1 Petrillose	1 Petrillose
2 2009, and by this e-mail I'm referring to	2 Q. Exhibit 85?
3 Plaintiff's Exhibit 84, do you see that?	3 A. It looks like a website. I don't
4 A. Yes.	4 know what it's from, but it looks like it's a
5 Q. Do you know if you received another	5 URL.
6 draft of this proposed agreement in March of	6 MR. BROOKS: During the next break
7 2009?	7 I'll go and see if this was produced with
8 A. I don't believe I did. I don't	8 the preceding four pages or not. I can't
9 recall.	9 remember, but I will look.
10 RQ MR. BROOKS: I would just call on	10 MR. SHERMAN: Okay.
11 counsel for both Rizzoli and Gagosian	11 MS. BART: Thank you.
12 Gallery if there are any drafts subsequent	12 MR. BROOKS: You're welcome.
13 to January 21st, 2009, that haven't been	13 Let's mark as Plaintiff's Exhibit 86
14 produced that they produce the same.	14 a one-page document Bates stamped R0187.
15 MR. SHERMAN: We'll take it under	15 (Plaintiff's Exhibit 86, R0187, was
16 advisement.	16 marked for identification, as of this
17 MS. BART: And I can make a	17 date.)
18 representation that a thorough search has	18 Q. Again, this came from your
19 been made and our production is complete.	19 production, Rizzoli's production. And it is a
20 MR. BROOKS: Well, if you run into	20 version of the colophon page, correct?
21 one please produce it.	21 A. Correct.
22 MS. BART: Of course we understand	22 Q. But it doesn't mention Rizzoli as
23 we're under a continuing obligation.	23 being the distributor, do you see that?
24 MR. BROOKS: As Plaintiff's	24 A. Yes.
25 Exhibit 85 we'll mark a one-page document	25 Q. Do you know why not?



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<p>1 Petrillose</p> <p>2 MS. BART: Objection to form.</p> <p>3 MR. SHERMAN: Objection to form.</p> <p>4 A. It's probably an earlier version</p> <p>5 before we got further along into the process.</p> <p>6 MR. SHERMAN: I object to the form</p> <p>7 of the question insofar as it asks for</p> <p>8 speculation, and that's the answer you</p> <p>9 got.</p> <p>10 MO MS. BART: So on that basis I'll</p> <p>11 move to strike the witness's response as</p> <p>12 speculation.</p> <p>13 MR. BROOKS: On what basis?</p> <p>14 MS. BART: He either said I probably</p> <p>15 or maybe it is, that's the basis I'm</p> <p>16 objecting. It's pure speculation.</p> <p>17 MR. BROOKS: Mark as Plaintiff's</p> <p>18 Exhibit 87 a two-page document Bates</p> <p>19 stamped R0059 and 60.</p> <p>20 (Plaintiff's Exhibit 87, R0059 and</p> <p>21 60, was marked for identification, as of</p> <p>22 this date.)</p> <p>23 Q. Could you look at the first page of</p> <p>24 Exhibit 87 R0059? Is this the text you were</p> <p>25 referring to previously that would have been</p>	<p>1 Petrillose</p> <p>2 sales team?</p> <p>3 A. Correct.</p> <p>4 Q. What does your sales team do?</p> <p>5 A. It's part of the process of the book</p> <p>6 going out into the public. It goes through a</p> <p>7 long chain of events before it actually hits the</p> <p>8 bookstores.</p> <p>9 Q. What are the events that the sales</p> <p>10 team is typically involved in in selling your</p> <p>11 books?</p> <p>12 A. One, being informed about what the</p> <p>13 book coming out is about to some degree; two,</p> <p>14 comparing what other titles might be similar in</p> <p>15 the public; going out and meeting with buyers,</p> <p>16 not consumers, but book buyers, people at like</p> <p>17 Barnes and Noble who are actual buyers for the</p> <p>18 store or mom-and-pop book shops, so they're in</p> <p>19 charge of making sales to book buyers, not</p> <p>20 end-consumers, but the book buyers, the</p> <p>21 mom-and-pop book stores, the big chain book</p> <p>22 stores.</p> <p>23 Q. Such as Barnes and Noble?</p> <p>24 A. Correct.</p> <p>25 Q. The sales team, do they receive</p>
94	96
<p>1 Petrillose</p> <p>2 sent to Charles Miers?</p> <p>3 MR. SHERMAN: Object to the form.</p> <p>4 A. Yes, this is catalog copy.</p> <p>5 Q. And the second page of Exhibit 87,</p> <p>6 can you tell us what that is?</p> <p>7 A. We refer to it as a tip sheet.</p> <p>8 Q. T-I-P?</p> <p>9 A. Correct.</p> <p>10 Q. What does that mean?</p> <p>11 A. A tip sheet is, again, to help our</p> <p>12 sales team to understand what the book is. It</p> <p>13 summarizes what the book is in a textual way,</p> <p>14 not via images.</p> <p>15 Q. Do you know where the text on page</p> <p>16 R0060 came from?</p> <p>17 A. The first draft would have been from</p> <p>18 me based upon what I knew about the book.</p> <p>19 Q. This doesn't seem to be dated. Do</p> <p>20 you have any recollection of when this page was</p> <p>21 prepared, on or about?</p> <p>22 A. I don't. I can speculate --</p> <p>23 Q. No, don't speculate. Your lawyer</p> <p>24 will be angry.</p> <p>25 You said this tip sheet is for your</p>	<p>1 Petrillose</p> <p>2 commissions for doing that?</p> <p>3 A. I'm not sure how the pay structure</p> <p>4 is.</p> <p>5 Q. Do you know if that process of going</p> <p>6 out and trying to get bookstores interested in</p> <p>7 the Canal Zone book commenced?</p> <p>8 A. I don't believe it did.</p> <p>9 Q. And what's your basis for that?</p> <p>10 A. It wasn't in our catalog. The tip</p> <p>11 sheet is not finished.</p> <p>12 It's missing information, there's</p> <p>13 not enough information to think that would even</p> <p>14 go to the next stage.</p> <p>15 Q. Have you seen a more-finished</p> <p>16 version of this tip sheet for Canal Zone?</p> <p>17 A. I haven't.</p> <p>18 Q. And you mentioned the Canal Zone</p> <p>19 book is not in your fall catalog, fall 2009</p> <p>20 catalog, is that right?</p> <p>21 A. That's right.</p> <p>22 MR. BROOKS: Let's mark as</p> <p>23 Plaintiff's Exhibit 88 a document that --</p> <p>24 let's just say it's oversized, and it's</p> <p>25 Bates stamped R0123.</p>



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<p style="text-align: center;">97</p> <p>1 Petrillose 2 (Plaintiff's Exhibit 88, R0123, was 3 marked for identification, as of this 4 date.) 5 Q. Do you know what Exhibit 88 is? 6 A. It appears to be a draft version of 7 the colophon page. 8 Q. It's missing the Library of Congress 9 number, is that right? 10 A. That's correct. 11 Q. Is it missing anything else that you 12 can notice quickly by looking at it? 13 MS. BART: Objection, form. 14 A. It looks -- 15 Q. You can answer. 16 A. The ISBN number looks -- it's not a 17 Rizzoli ISBN number. 18 Q. Is it different than the ISBN number 19 in the book? Can you just take a look and just 20 confirm that? 21 A. Yes, it is. 22 Q. The one in Exhibit 88 is ISBN number 23 1932598820, correct? 24 A. Correct. 25 Q. And that's different than the one in</p>	<p style="text-align: center;">99</p> <p>1 Petrillose 2 You can answer. 3 A. It appears to be. 4 Q. And was it taken on January 21st, 5 2009? 6 A. It appears to be. 7 Q. And what does it indicate, this 8 printout? 9 A. It looks like it's a search result. 10 Q. For what? 11 A. That's sorted by author for the book 12 Canal Zone, Richard Prince. 13 Q. Do you know who did this search? 14 A. No. 15 Q. Do you know if the Richard Prince 16 Canal Zone book is currently on the Rizzoli 17 website? 18 A. I don't believe it is. 19 Q. Do you know why not? 20 MS. BART: Objection to form. 21 MR. SHERMAN: Objection to form. 22 And to the extent that that calls 23 for any attorney/client communication I 24 instruct the witness to avoid -- not to 25 respond with regard to attorney/client</p>
<p style="text-align: center;">98</p> <p>1 Petrillose 2 the book? 3 A. Correct. 4 Q. Thank you. 5 MR. BROOKS: As Exhibit 89 I'm going 6 to mark a document Bates stamped in 7 handwriting R1000. 8 (Plaintiff's Exhibit 89, R1000, was 9 marked for identification, as of this 10 date.) 11 Q. Do you have any knowledge of why the 12 ISBN number was changed from what we saw in 13 Exhibit 88 to what we saw in the book? 14 A. We were -- 15 MR. SHERMAN: Object to the form. 16 Q. You can answer. 17 A. We were using the Rizzoli ISBN 18 number. 19 Q. As opposed to what? 20 A. Some number generated from -- not by 21 Rizzoli. 22 Q. Okay. Plaintiff's Exhibit 89, is 23 this taken from the Rizzoli website, if you 24 know? 25 MR. SHERMAN: Object to the form.</p>	<p style="text-align: center;">100</p> <p>1 Petrillose 2 communications. 3 Aside from that, you can answer. 4 Q. Do you know why not? 5 A. We took it off the web page. 6 Q. Do you know why? 7 MR. SHERMAN: Same objection. 8 A. We just -- this was coming down -- 9 something was going on and we wanted to, you 10 know, avoid causing any problems. 11 Q. Do you know when it was taken down 12 from the website? 13 A. I would be speculating. I don't 14 know. 15 MR. BROOKS: All right. Let's mark 16 as Plaintiff's Exhibit 90 another printout 17 from the Rizzoli website dated 18 February 12th, 2009. 19 (Plaintiff's Exhibit 90, printout 20 from Rizzoli website, was marked for 21 identification, as of this date.) 22 Q. Can you tell us if you know what 23 Plaintiff's Exhibit 90 is? 24 A. It looks like the same -- a similar 25 document to the one you just showed me.</p>



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<p>1 Petrillose</p> <p>2 Q. It's the result of a search for</p> <p>3 Canal Zone by Richard Prince on the Rizzoli</p> <p>4 website?</p> <p>5 A. Most likely.</p> <p>6 Q. By the way, up at the top there it</p> <p>7 says Rizzoli New York and then to the right of</p> <p>8 it it says Universe with some sort of logo, do</p> <p>9 you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Can you tell us what that means?</p> <p>12 A. Universe is an imprint or</p> <p>13 subdivision of Rizzoli. They both publish</p> <p>14 books, but it's a division of Rizzoli.</p> <p>15 Q. Was the Canal Zone book going to be</p> <p>16 distributed under the University imprint?</p> <p>17 A. No.</p> <p>18 Q. In the book business are there bulk</p> <p>19 sellers of unsold books, bulk, B-U-L-K?</p> <p>20 MR. SHERMAN: Object to the form.</p> <p>21 A. Do you mean like at Amazon or?</p> <p>22 Q. Well, that sell in bulk and at a</p> <p>23 discount?</p> <p>24 A. If we're talking about Amazon, yes,</p> <p>25 there's -- I think that's what you mean by bulk</p>	<p>1 Petrillose</p> <p>2 Q. Do you have any knowledge of how</p> <p>3 BookPal may have gotten unsold copies of the</p> <p>4 Canal Zone book?</p> <p>5 MR. SHERMAN: Object to the form.</p> <p>6 MS. BART: Join.</p> <p>7 A. I don't believe they have copies of</p> <p>8 it. I think they're just offering -- offering</p> <p>9 the book, although they don't have copies of the</p> <p>10 book is my guess.</p> <p>11 Q. Well, there would be one way to find</p> <p>12 out, right?</p> <p>13 A. Yep.</p> <p>14 MR. BROOKS: I have nothing further,</p> <p>15 except I'm going to look to see where</p> <p>16 those other four pages are, whether they</p> <p>17 were produced, and if they are I'll add</p> <p>18 them to the exhibit.</p> <p>19 It wasn't a trick question.</p> <p>20 MS. BART: Thank you.</p> <p>21 MR. SHERMAN: Thank you.</p> <p>22 I appreciate it.</p> <p>23 MR. BROOKS: And I'll come back in</p> <p>24 five minutes and we'll either mark them or</p> <p>25 we won't.</p>
102	104
<p>1 Petrillose</p> <p>2 book seller.</p> <p>3 Q. Have you ever heard of an entity</p> <p>4 called BookPal?</p> <p>5 A. No.</p> <p>6 MR. BROOKS: Let's mark as</p> <p>7 Plaintiff's Exhibit 91 a printout from a</p> <p>8 website belonging to BookPal.</p> <p>9 (Plaintiff's Exhibit 91, printout</p> <p>10 from BookPal website, was marked for</p> <p>11 identification, as of this date.)</p> <p>12 Q. Do you see that apparently this</p> <p>13 company is offering Canal Zone books at a</p> <p>14 discounted price of \$57.60 instead of \$80, do</p> <p>15 you see that?</p> <p>16 MR. SHERMAN: Object to the form of</p> <p>17 the question.</p> <p>18 MS. BART: Object to the form.</p> <p>19 Q. You can answer.</p> <p>20 A. Yes.</p> <p>21 Q. And I know you said you didn't think</p> <p>22 you've ever heard of this entity, looking at</p> <p>23 this page does that refresh your recollection</p> <p>24 about the existence of this company?</p> <p>25 A. No.</p>	<p>1 Petrillose</p> <p>2 MR. SHERMAN: Great. Thank you.</p> <p>3 (Recess taken: 12:21 p.m.)</p> <p>4 (Proceedings resumed: 12:29 p.m.)</p> <p>5 MR. BROOKS: Just for the record,</p> <p>6 with respect to that exhibit --</p> <p>7 MR. SHERMAN: It's Exhibit 85.</p> <p>8 MR. BROOKS: 85. Okay.</p> <p>9 We've located Bates stamped pages</p> <p>10 22, 23, and 24 -- R22, 23, and 24, which</p> <p>11 appear to go with the page R25 that we</p> <p>12 marked as Exhibit 85. But we can't find</p> <p>13 page R21. I don't know where it is.</p> <p>14 But in any event -- I'm not sure</p> <p>15 this adds anything to the mystery.</p> <p>16 But I guess what we should do is</p> <p>17 re-mark these four pages as -- let's mark</p> <p>18 these three pages R22, 23, and 24 as</p> <p>19 Exhibit 85A.</p> <p>20 MR. SHERMAN: Okay.</p> <p>21 MR. BROOKS: And then you all have</p> <p>22 copies now, right?</p> <p>23 MR. HAYES: Yes.</p> <p>24 MR. BROOKS: And I'll just ask the</p> <p>25 witness if he knows what they are.</p>



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Anthony Petrillose

October 23, 2009

<p style="text-align: center;">105</p> <p>1 Petrillose</p> <p>2 And I don't know where R21 is. It's</p> <p>3 somewhere. We can't find it.</p> <p>4 MS. BART: Maybe we can all agree on</p> <p>5 the record that if somebody finds it we</p> <p>6 can supplement --</p> <p>7 MR. BROOKS: Oh, I'm sure it's</p> <p>8 around, and it probably looks like the</p> <p>9 three other pages. It's not going to be</p> <p>10 the smoking gun in the case.</p> <p>11 MR. HAYES: Yes, we so stipulate.</p> <p>12 MR. BROOKS: When we find it we can.</p> <p>13 (Plaintiff's Exhibit 85A, R22, 23</p> <p>14 and 24, was marked for identification, as</p> <p>15 of this date.)</p> <p>16 BY MR. BROOKS:</p> <p>17 Q. Do you know what those pages are?</p> <p>18 A. I believe I know what it is. I</p> <p>19 think it's from the portal.</p> <p>20 Q. From the what?</p> <p>21 A. Portal.</p> <p>22 Q. And is Exhibit 85 also from the</p> <p>23 portal, the page Bates stamped R25?</p> <p>24 Are those all from the portal?</p> <p>25 A. It looks like it, yes.</p>	<p style="text-align: center;">107</p> <p>1 Petrillose</p> <p>2</p> <p>3</p> <p>4</p> <p>5 <u>ANTHONY PETRILLOSE</u></p> <p>6</p> <p>7 Subscribed and sworn to</p> <p>8 before me this ____ day</p> <p>9 of _____, 2009.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: center;">106</p> <p>1 Petrillose</p> <p>2 Q. 85 and 85A?</p> <p>3 A. Correct.</p> <p>4 Q. And what is the portal?</p> <p>5 A. The portal is an internal database</p> <p>6 I believe.</p> <p>7 Q. For what though?</p> <p>8 A. That contains information about the</p> <p>9 various books that are published.</p> <p>10 Q. By Rizzoli?</p> <p>11 A. Either published by Rizzoli or</p> <p>12 distributed by Rizzoli.</p> <p>13 Q. All right. And does this part of</p> <p>14 the portal have to do with the Richard Prince</p> <p>15 Canal Zone book?</p> <p>16 A. It appears to be, yes.</p> <p>17 MR. BROOKS: Okay. I don't have any</p> <p>18 further questions.</p> <p>19 MR. SHERMAN: Do you have any</p> <p>20 questions?</p> <p>21 MS. BART: We'll reserve.</p> <p>22 (Time noted: 12:33 p.m.)</p> <p>23 (Jurat on next page.)</p> <p>24</p> <p>25</p>	<p style="text-align: center;">108</p> <p>1 Petrillose</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 STATE OF NEW YORK )</p> <p>5 )ss:</p> <p>6 COUNTY OF NEW YORK)</p> <p>7</p> <p>8 I, BRYAN NILSEN, a Notary Public</p> <p>9 within and for the State of New York, do</p> <p>10 hereby certify:</p> <p>11 That ANTHONY PETRILLOSE, the witness</p> <p>12 whose deposition is hereinbefore set</p> <p>13 forth, was duly sworn by me and that such</p> <p>14 deposition is a true record of the</p> <p>15 testimony given by such witness.</p> <p>16 I further certify that I am not</p> <p>17 related to any of the parties to this</p> <p>18 action by blood or marriage and that I am</p> <p>19 in no way interested in the outcome of</p> <p>20 this matter.</p> <p>21 IN WITNESS WHEREOF, I have hereunto</p> <p>22 set my hand this ____ day of _____, 2009.</p> <p>23</p> <p>24</p> <p>25 <u>BRYAN NILSEN, RPR</u></p>



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Anthony Petrillose

October 23, 2009

<p style="text-align: center;">113</p> <p>1 Deposition of ANTHONY PETRILLOSE</p> <p>2</p> <p>3 Page No. _____ Line No. _____ Change to: _____</p> <p>4 _____</p> <p>5 Reason for change: _____</p> <p>6 Page No. _____ Line No. _____ Change to: _____</p> <p>7 _____</p> <p>8 Reason for change: _____</p> <p>9 Page No. _____ Line No. _____ Change to: _____</p> <p>10 _____</p> <p>11 Reason for change: _____</p> <p>12 Page No. _____ Line No. _____ Change to: _____</p> <p>13 _____</p> <p>14 Reason for change: _____</p> <p>15 Page No. _____ Line No. _____ Change to: _____</p> <p>16 _____</p> <p>17 Reason for change: _____</p> <p>18 Page No. _____ Line No. _____ Change to: _____</p> <p>19 _____</p> <p>20 Reason for change: _____</p> <p>21</p> <p>22</p> <p>23 SIGNATURE: _____ DATE: _____</p> <p>24 ANTHONY PETRILLOSE</p> <p>25</p>	



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