

# 11-1197-CV

---

---

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

---

PATRICK CARIOU,

*Plaintiff-Appellee,*

– v. –

RICHARD PRINCE,

*Defendant-Appellant,*

GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN,

*Defendants-Appellants.*

---

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

---

---

### JOINT APPENDIX Volume 6 of 9 (Pages A-1350 to A-1619)

---

---

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

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

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

**TABLE OF CONTENTS**

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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

## APPEARANCES:

SCHNADER, HARRISON, SEGAL and LEWIS, ESQS.,  
140 Broadway, Suite 3100, New York, New York 10005 appearing  
on behalf of the PLAINTIFF (ERIC A. BODEN, ESQ., of Counsel).

WITHERS and BERGMAN, ESQS., 430 Park Avenue,  
10th Floor, New York, New York 10022 appearing on behalf of  
the DEFENDANT, GAGOSIAN GALLERY, INC. and LAWRENCE GAGOSIAN  
(HOLLIS GONERKA BART, ESQ., of Counsel).

HANLY, CONROY, BIERSTEIN, SHERIDAN, FISHER  
and HAYES, ESQS., 112 Madison Avenue, New York, New York  
10016 appearing on behalf of the DEFENDANT, RICHARD PRINCE  
(STEVEN M. HAYES, ESQ., of Counsel).

SONYA DEL PERAL, ESQ., 22 Park Row, Chatham,  
New York 12037 appearing on behalf of NANCYSCANS, CORP. and  
the WITNESS, JOHN OLSON.

## S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED,  
by and between the attorneys for the respective parties  
hereto, that:

All rights, including the right to object to any question, except as to the form thereof, or to strike any testimony at this examination, is hereby reserved; and that, in addition, the failure to object to any question or to move to strike any testimony at this examination shall not be a bar or a waiver to make such motion at, and is reserved to, the trial of this action.

This deposition may be sworn to by the Witness being examined before a Notary Public other than the Notary public before whom this examination was begun, but the failure to do so or the failure to return the original of this deposition to counsel shall not be deemed a waiver of any rights, and shall not be controlled thereby.

The filing of the original of this deposition is hereby waived.

IT IS FURTHER STIPULATED AND AGREED, that a copy of this examination shall be furnished to the attorney of the Witness being examined without cost or charge.

1 PATRICK CARIOU AGAINST RICHARD PRINCE, ET AL

2 JOHN OLSON:

3 having been first duly sworn by the Notary Public,  
4 was examined and testified as follows:

5 EXAMINATION BY MR. BODEN:

6 Q. Good morning. My name is Eric Boden. I represent the  
7 Plaintiff in this action, Patrick Cariou, and the law  
8 firm that I work for is Schnader, Harrison, Segal and  
9 Lewis.

10 We represent Mr. Cariou in this action against  
11 three Defendants; one of whom is not here today, Rizzoli  
12 International Publications.

13 The other Defendants are Mr. Hayes. Mr.  
14 Hayes is representing Richard Prince. And Miss Bart is  
15 here representing Gagosian Gallery and Lawrence Gagosian  
16 in this action.

17 Now, have you ever been deposed before?

18 A. No.

19 Q. Have you ever been a party to a lawsuit?

20 A. No.

21 Q. You have never given sworn testimony before?

22 A. No.

23 Q. All right. Without divulging any conversations and the



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

JOHN OLSON

subject of any conversations that you have had with your attorney or any of the attorneys working for this office, can you tell me what you did to prepare for today's deposition.

A. I met with Counsel briefly. I reviewed the subpoena, and I provided the information, as I understand it, that pertains to the subpoena.

Q. By information, you supplied documents from your company, NancyScans, that you provided to your attorney; yes?

A. Yes.

MR. BODEN: I would like to introduce the subpoena, which you're referring to, for identification purposes. So, we will mark this as an exhibit. Plaintiff's Exhibit 92.

(A subpoena was marked Plaintiff's Exhibit No. 92 for identification this date.)

BY MR. BODEN: (Continued.)

Q. I would like you to look at this subpoena. Please, take your time, and look through it.

A. (The Witness complied.).

Q. Do you recognize that as the subpoena which you were

1 JOHN OLSON

2 served with pursuant to your testifying here today?

3 A. Yes.

4 Q. All right. And you understand that today pursuant to  
5 this subpoena -- which was addressed to NancyScans, Inc.  
6 incorrectly -- it was supposed to be to NancyScans  
7 Corp. -- that you are testifying on behalf of NancyScans  
8 and not for yourself individually?

9 A. Yes.

10 Q. I would like you to turn, please, to the second to the  
11 last page of the subpoena to which an exhibit was  
12 attached.

13 A. (The Witness complied.).

14 Q. Do you understand that these elements and these listed  
15 items on the exhibit, which were referenced on the first  
16 page of the subpoena, as these are the topics which  
17 you're here today to testify about on behalf of  
18 NancyScans?

19 A. Yes.

20 Q. Did you look through these two lists -- the items in  
21 these two lists -- in order to develop and give to your  
22 attorney -- well, not develop -- but in order to look  
23 for documents in NancyScans' possession and to give them

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

JOHN OLSON

to your attorney?

A. Yes.

Q. What is your address, Mr. Olson?

A. 124 Hudson Avenue, Chatham 12037.

Q. And that's your personal address or NancyScans' address?

A. NancyScans.

Q. All right. And I know you said earlier off the record that -- and let's get it on the record -- your position is --

A. I'm CEO.

Q. -- Chief Executive Officer.

A. Yes.

Q. Is NancyScans a public or private corporation?

A. Privately held.

Q. Are there any other officers of the company?

A. Yes.

Q. How many others?

A. Four. Excuse me. How many would you --

Q. Other officers.

A. I misunderstood that question.

Q. Other officers.

1 JOHN OLSON

2 A. One other officer.

3 Q. And what position does that person hold?

4 A. President.

5 Q. That is not you?

6 A. Not me.

7 Q. Who is President?

8 A. Nancy Olson.

9 Q. How long have you been the Chief Executive Officer of  
10 NancyScans?

11 A. About 15 years.

12 Q. How old is NancyScans? Was when was it incorporated?

13 A. 1994.

14 Q. Has NancyScans worked on projects for Richard Prince on  
15 more than one occasion in the past?

16 A. Yes.

17 Q. Do you know how many occasions you have worked for Mr.  
18 Prince?

19 A. No.

20 Q. When was the last time in your role as CEO of NancyScans  
21 you spoke to Mr. Prince?

22 And the reason I say in your role as CEO, if  
23 you had person conversations with Mr. Prince, I'm not

1 JOHN OLSON

2 interested in that.

3 A. 2009.

4 Q. Are you currently working on any project with Mr.  
5 Prince?

6 A. No.

7 Q. Now, the majority of my questions today -- and I hope it  
8 won't be a very long day -- are going to relate to one  
9 distinct project for which NancyScans worked on for Mr.  
10 Prince.

11 And in order to streamline this process, I  
12 would like to define for you -- and you don't have to  
13 adopt my definition of the term, but whenever I use the  
14 term I want you to understand that I'm speaking about  
15 the same project that you are thinking about.

16 So, that term that I'm going to define would  
17 be the Canal Zone project. That be will be NancyScans'  
18 work for Mr. Prince in the development or in the  
19 creation of paintings that included among other things  
20 images of Rastafarian men.

21 Do you understand that?

22 A. Yes.

23 MS. BART: Objection, form.

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

JOHN OLSON

MR. HAYES: Not to continue to make objections, I also take objection to the form.

BY MR. BODEN: (Continued.)

Q. You can answer.

A. Yes.

Q. I want to show you what was previously marked as Exhibit 42 in another deposition related to this action, and this is a catalog entitled Canal Zone.

This is actually not the exact exhibit. The exact exhibit was a copy of this book, but I brought the actual book.

I want you to look at that. Tell me if you have ever seen the Canal Zone book before. And you can look through it, if that will help you answer the question.

A. I have seen the book.

Q. When did you see the book? When was the last time or the first time you saw the book?

A. December 2008.

Q. Are you aware that Gagosian Gallery is the publisher of that catalog?

MS. BART: Objection, form.

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

JOHN OLSON

THE WITNESS: No.

MR. BODEN: I'm sorry?

THE WITNESS: No.

BY MR. BODEN: (Continued.)

Q. Are you aware that there was an exhibition of paintings created by Richard Prince in November and December of 2008, which displayed Canal Zone paintings?

A. Yes.

Q. Are you aware whether any of those paintings displayed during that exhibition are also displayed in this catalog?

A. No.

Q. When NancyScans was retained to work on the Canal Zone project with Mr. Prince, were you the first person at NancyScans who spoke with Mr. Prince?

A. I don't know.

Q. On previous projects that you worked with Mr. Prince on -- that NancyScans worked with Mr. Prince on -- were you the point of contact with Mr. Prince on the projects?

A. On occasion.

Q. Who else would speak regularly with Mr. Prince about

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

JOHN OLSON

these previous projects?

MS. BART: Objection to form.

THE WITNESS: Nancy Olson.

BY MR. BODEN: (Continued.)

Q. And Nancy Olson is President of NancyScans?

A. Yes.

Q. And Nancy Olson is your wife?

A. Yes.

Q. Can you tell me what instructions Mr. Prince gave to NancyScans pursuant to the Canal Zone project? I know it's sort of a general question. But what were you retained to do for Mr. Prince in the Canal Zone project?

A. We would scan and print materials that he sent us.

Q. All the material that you received from Mr. Prince, did it come in hard copy form on this specific Canal Zone project?

A. I don't -- I don't remember.

Q. Would you have receive any electronic material from Mr. Prince?

A. No.

Q. You never received any images that were saved onto a PDF



1 JOHN OLSON

2 file or a TIF file or a JPEG file or any of those?

3 A. No.

4 Q. It was always hard copies that you received?

5 A. I think so.

6 Q. How would you receive those hard copies?

7 A. How would they be transported to us?

8 Q. Yes.

9 A. They would either come by overnight carrier or we would  
10 pick them up.

11 Q. Where would you pick them up from?

12 A. At his studio.

13 Q. Would Mr. Prince ever deliver items to you at  
14 NancyScans' office?

15 A. No.

16 Q. When you went to his studio to pick up items, did you  
17 receive them directly from Mr. Prince?

18 A. I don't remember.

19 Q. Did you ever go to his studio to pick up items for this  
20 specific project, if you recall?

21 A. I don't remember.

22 Q. And when you refer to his studio, are you referring to  
23 his studio in Rennselaerville, New York?

1 JOHN OLSON

2 A. Yes.

3 Q. You have personally been to that studio?

4 A. Yes.

5 Q. And you do not recall whether any of your previous --  
6 strike that.

7 In any of your previous visits to that studio  
8 to pick up material for NancyScans, did you ever meet  
9 directly with Mr. Prince?

10 A. No.

11 Q. Do you recall the names of anyone that you did meet on  
12 those previous visits to the Remselaerville studio?

13 A. No.

14 Q. All right. Now, I want to show you what was previously  
15 marked as Exhibit 41 in this action. I would like you  
16 to feel free to look in the interior of that  
17 publication.

18 A. (The Witness complied.).

19 Q. And do you see that Exhibit 41 is a book entitled Yes  
20 Rasta Photography by Patrick Cariou?

21 A. Yes.

22 Q. Have you ever seen that book before?

23 A. No.

1 JOHN OLSON

2 Q. Have you ever -- strike that.

3 As you're looking through that book, do you  
4 recognize any of the pages within the book? Have you  
5 ever seen any of those?

6 MS. BART: Objection, form.

7 THE WITNESS: You know, I looked at this  
8 briefly. I don't recognize anything.

9 BY MR. BODEN: (Continued.)

10 Q. In connection with NancyScans' work on the Canal Zone  
11 project, did Mr. Prince ever send to NancyScans or  
12 release to NancyScans, whether officers or other  
13 employees, pages from a book, whatever book that might  
14 be, with photographs on it?

15 MS. BART: Objection, form.

16 Q. If you recall.

17 MS. BART: Objection, form.

18 THE WITNESS: I wouldn't know where the  
19 photographs came from.

20 BY MR. BODEN: (Continued.)

21 Q. Did you ever receive -- when you received hard copy  
22 material in connection with the Canal Zone project, were  
23 they photographs?

1 JOHN OLSON

2 A. Yes.

3 Q. Do you recall if -- strike that.

4 Do you recall what paper the photographs were  
5 on?

6 A. Matte paper.

7 Q. Do you recall whether any of the paragraphs on matte  
8 paper that you received had torn edges? Were they  
9 usually -- strike that.

10 Do you recall whether any of the photographs  
11 on matte paper that you received had torn edges?

12 A. No.

13 Q. Earlier you testified your general instructions were to  
14 scan, I believe, photographs for Mr. Prince in  
15 connection with the Canal Zone project.

16 MS. BART: Objection to form as to  
17 mischaracterizing his testimony.

18 Q. You can answer.

19 A. We scanned and printed photographs.

20 Q. Who gave you instructions from Richard Prince -- from  
21 Richard Prince or any -- strike that.

22 Whose instructions were you following to scan  
23 and print photographs?

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

JOHN OLSON

A. I don't remember.

Q. Were you the person from NancyScans who received instructions to work on the Canal Zone project?

A. To the best I recall, I don't remember receiving the Canal Zone project piece-by-piece, as you're describing it.

Q. Let me ask you this: How many employees are there of NancyScans --

A. Eight.

Q. -- who worked on the Canal Zone project?

A. There were eight employee.

Q. All of eight of those employees worked on the Canal Zone project to your understanding?

A. No.

Q. How many worked on the Canal Zone project?

A. Two, possibly three.

Q. And were you one of these two or three?

A. Yes.

Q. Was your wife, Nancy Olson --

A. Yes.

Q. -- the third who would have been --

A. It would have been Mack Bruebaker.

1 JOHN OLSON

2 Q. Does Mr. Bruebaker have an official title at  
3 NancyScans?

4 A. Digital Manager.

5 Q. You earlier testified that you worked previous to the  
6 Canal Zone project with Mr. Prince, you being  
7 NancyScans; correct?

8 MS. BART: Objection.

9 MR. HAYES: Objection to the form.

10 THE WITNESS: Yes.

11 BY MR. BODEN: (Continued.)

12 Q. In these other projects in which NancyScans worked for  
13 Mr. Prince, was the job of NancyScans similar to the  
14 Canal Zone project, to scan and print photographs?

15 MS. BART: Objection to form.

16 THE WITNESS: Yes.

17 BY MR. BODEN: (Continued.)

18 Q. Were you or anyone else at NancyScans, if you know, ever  
19 requested to tear pages out of a book in connection with  
20 the Canal Zone project?

21 A. No.

22 Q. Now, the hard copy items that you earlier testified to  
23 receiving in connection with the Canal Zone project,

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

JOHN OLSON

were you ever told to source any of those photographs on  
matte paper?

A. No.

Q. Did you or anyone else at NancyScans ask what the source  
of those photographs was?

A. No.

Q. As you sit here today, do you know what the source of  
those photographs were?

MS. PERAL: Objection. It calls for  
speculation.

MS. BART: Objection.

MR. HAYES: Objection.

THE WITNESS: No.

BY MR. BODEN: (Continued.)

Q. Did Mr. Prince or anyone else at Mr. Prince's or on of  
behalf of Mr. Prince ever tell you any of the materials  
he or she was sending you in connection with the Canal  
Zone project were copyrighted photographs?

MS. BART: Objection, form.

MR. HAYES: Objection, form.

THE WITNESS: No.

BY MR. BODEN: (Continued.)

1 JOHN OLSON

2 Q. Mr. Olson, are you familiar with ink jet or ink jetted?

3 A. Yes.

4 Q. What is ink jet or ink jetted? What does that term  
5 mean?

6 A. It's a technology.

7 Q. Can you describe what that technology involves?

8 A. It's ink being placed on a substrate to reproduce the  
9 data that resides in a digital file.

10 Q. Did you employ ink jet technology in connection with the  
11 Canal Zone project?

12 A. Yes.

13 Q. Can you explain how one, in layman's terms, if it's  
14 possible, performs ink jetting on, for example, a  
15 photograph that you receive.

16 MR. HAYES: Objection to the form.

17 MS. BART: Objection to the form.

18 MS. PERAL: Objection to the form.

19 BY MR. BODEN: (Continued.)

20 Q. Do you understand the question?

21 A. Can you rephrase?

22 Q. Sure I will. By way of a hypothetical -- it might be  
23 easiest -- if NancyScans received a hard copy



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

JOHN OLSON

Zone project?

A. Yes.

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

MR. HAYES: Objection to the form.

MS. BART: Join.

THE WITNESS: Yes.

BY MR. BODEN: (Continued.)

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

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

Specifically, do you recall seeing images of Rastafarian men?

MS. BART: Objection to the form.

MR. HAYES: Objection to form.

MS. PERAL: Objection to the form.

THE WITNESS: I recall Rastafarians.

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

JOHN OLSON

spoke about together on one image?

MR. HAYES: Objection to the form.

MS. BART: Join.

THE WITNESS: No.

BY MR. BODEN: (Continued.)

Q. Were you ever asked to superimpose one image on top of another image?

A. No.

Q. Were you ever requested to combine landscape images with any of the images that you testified to about?

MS. BART: Objection to the form.

THE WITNESS: No.

Q. Do you know whether anyone at NancyScans was ever asked in connection with the Canal Zone project to combine images in one format?

A. I don't remember. I don't know. I don't know of anyone --

MS. BART: Objection, form.

THE WITNESS: -- who was asked at NancyScans to combine images.

BY MR. BODEN: (Continued.)

Q. Now, how would you know what size to -- strike that.

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

JOHN OLSON

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

A. Yes.

MS. BART: Objection to the form.

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

A. Yes.

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

A. By following the instructions that we received.

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

A. Yes.

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

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

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

A. No, I don't.

Q. Do you know who gave verbal instructions?

A. No, I don't.

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

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

JOHN OLSON

recall?

MS. BART: Objection, form and asked and answered.

THE WITNESS: Previous projects I know we received verbal instructions. With regard to this project, I don't remember specifically how they came to us.

BY MR. BODEN: (Continued.)

Q. And when you reference previous projects, are you referring to projects that involved Mr. Prince?

A. Yes.

Q. In these previous projects where you received -- where you recall receiving -- verbal instructions, were those verbal instructions given to you by Mr. Prince?

A. On indication.

Q. Was that in person or by telephone?

A. In person.

Q. Do you recall what the details were or what any of the details on previous projects of the verbal instructions were?

A. No.

Q. Do you know what the artistic term losenge --



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

JOHN OLSON

assistants in connection with the Canal Zone project?

By dealing with, I mean speaking to or receiving documents from.

A. No.

Q. Are you familiar with someone by the name of Betsy Biscone?

A. Yes.

Q. Have you ever dealt with Miss Biscone in any respect with regard to any project?

A. Yes.

Q. Do you recall specifically working with Miss Biscone cone on the Canal Zone project?

A. No.

Q. On previous projects, what kinds of interaction did you have with Miss Biscone?

MS. BART: Objection.

MS. PERAL: Objection as to form.

THE WITNESS: She would let me know that something would be coming to us via Fed-Ex. She would tell me that there was a project to pick up.

BY MR. BODEN: (Continued.)

Q. That was --

1 JOHN OLSON

2 A. That was sent.

3 Q. How about Eric Brown, do you recall ever working with an  
4 Eric Brown --

5 A. Yes.

6 Q. -- on the Canal Zone project?

7 A. No.

8 Q. On previous projects, do you recall working with Mr.  
9 Brown?

10 A. Yes.

11 Q. What was the extent of your professional relationship  
12 with Mr. Brown with respect to projects between  
13 NancyScans and Mr. Prince?

14 MS. BART: Objection, form.

15 THE WITNESS: He would advise me that a  
16 project was coming via Fed-Ex; that something needed to  
17 be picked up.

18 BY MR. BODEN: (Continued.)

19 Q. Neither Miss Biscone or Mr. Brown on any of these  
20 projects previous to the Canal Zone project ever gave  
21 you instructions on what to do with the documents that  
22 you are about to be receiving; is that correct?

23 A. You're talking about verbal instructions, written

1 JOHN OLSON

2 instructions?

3 Q. Well, did they mention from your description that  
4 instructions were going to be with -- that they would be  
5 provided with the actual documents, which were sent by  
6 Fed-Ex; is that correct?

7 A. When we received written documents it would be a  
8 sentence or two written on the envelope that we would  
9 receive.

10 Q. So, there was never any verbal instructions given to  
11 you --

12 A. Not that I remember.

13 Q. -- from Mr. Brown or Miss Biscione?

14 A. Not that I remember.

15 Q. I should have -- I should have gone over some  
16 preliminary items when I started here. It has gone  
17 fairly well between us. So, I didn't think I needed  
18 to.

19 But one of the things -- one of the  
20 conditions -- of having a deposition interaction is that  
21 the Stenographer has to write everything down that we  
22 are saying, and it's difficult for him when we are  
23 speaking over one another.

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

JOHN OLSON

So, just try to -- so, just try to let me give my entire sentence.

A. Sure.

Q. And if there an objection -- and I will do the same for you with your answer.

A. Sure.

Q. And if at any time you want to take a break --

A. Sure.

Q. -- a bathroom break, we will certainly accommodate you.

A. Sure.

Q. Do you know whether Miss Biscone or Mr. Brown on any of the previous projects to the Canal Zone project took any of the photographs that were provided to NancyScans?

A. I don't know.

Q. Do you know whether any of them took any of the photographs that were provided to NancyScans in connection with the Canal Zone project?

A. I don't know.

Q. Once NancyScans completed their work on any of the projects in which it worked with Mr. Prince -- once NancyScans completed the work for which it was retained to perform -- and I think you earlier described that

- 1 JOHN OLSON
- 2 work as copying and scanning and printing -- who would
- 3 return the finished work product to Mr. Prince?
- 4 A. I would.
- 5 MS. BART: Objection to form.
- 6 Q. And how would you do that?
- 7 A. In person.
- 8 Q. You would deliver it?
- 9 A. In person. I would deliver it to the studio.
- 10 Q. But not necessarily to Mr. Prince?
- 11 A. No.
- 12 Q. On some occasions to Miss Biscone?
- 13 A. There would be occasions on which I would deliver them
- 14 and access the studio on my own, open the door on my
- 15 own, when no one was there.
- 16 Q. You would just leave it --
- 17 A. Yes.
- 18 Q. -- there?
- 19 A. Yes.
- 20 Q. But on other occasions, would you leave it with either
- 21 Miss Biscone or Mr. Brown --
- 22 A. Yes.
- 23 Q. -- or both?

1 JOHN OLSON

2 A. Yes.

3 Q. Did you ever leave it with Mr. Prince that you can  
4 recall?

5 A. Not that I recall.

6 Q. When you dropped off materials with an individual,  
7 whether it be Miss Biscone or Mr. Brown, would you go  
8 over the complete work product with them?

9 Would they give it some sort of quality  
10 assurance to make sure that it was completed as  
11 instructed?

12 A. No.

13 Q. You would just leave it and then leave the  
14 Rensselaerville studio?

15 A. Yes.

16 Q. Have you ever been to Mr. Prince's studio in Long  
17 Island?

18 A. No.

19 Q. Do you recall NancyScans ever receiving back from Mr.  
20 Prince or someone working on behalf of Mr. Prince any  
21 work that NancyScans had completed that required  
22 follow-up work?

23 A. No.

1 JOHN OLSON

2 Q. You don't recall it ever happening or you know it never  
3 did happen?

4 A. It never did happen.

5 Q. Are you familiar with an entity by the name of Gagosian  
6 Gallery?

7 A. I have heard of them --

8 Q. Had you ever heard of Gagosian Gallery?

9 A. -- in regards to this lawsuit.

10 Q. I'm not sure. I know I referenced earlier a Canal Zone  
11 exhibition at Gagosian Gallery.

12 I don't know if I asked you if you were aware  
13 that there was an exhibition at Gagosian Gallery in a  
14 location in Chelsea, Manhattan in November and December  
15 of 2008.

16 Are you aware of that exhibition?

17 A. Yes.

18 Q. Are you aware that the work displayed -- that some of  
19 the work displayed -- you worked on in connection with  
20 the Canal Zone project?

21 MS. BART: Objection, form.

22 MR. HAYES: Objection, form.

23 THE WITNESS: I never thought of it, and I --



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

JOHN OLSON

in light of this lawsuit, I believe I'm aware of it.

BY MR. BODEN: (Continued.)

Q. Did you ever in connection with the Canal Zone project have any communications with anyone who worked for Gagosian Gallery?

A. No.

Q. Did you ever receive any correspondence at all from Gagosian Gallery in connection with the Canal Zone project?

A. No.

Q. Did you ever send them any materials -- to the Gagosian Gallery -- in connection with the Canal Zone project?

A. No.

Q. Do you recall what the payment arrangement was with Mr. Prince for work done by NancyScans on the Canal Zone project?

MS. BART: Objection, form. By who? Work done by NancyScans?

MR. BODEN: Can you read the question back, please.

(The Court Reporter read the pending pertinent question.)

1 JOHN OLSON

2 THE WITNESS: I don't understand the  
3 question.

4 BY MR. BODEN: (Continued.)

5 Q. How did Mr. Prince -- strike that.

6 What was the payment arrangement between  
7 NancyScans and Mr. Prince for work done buy NancyScans  
8 on the Canal Zone project?

9 A. We would bill our standard rate --

10 Q. I'm sorry?

11 A. -- based on the work that we were asked to do.

12 Q. Was it periodic billing? Did you bill one time for all  
13 of the work completed in connection with the Canal Zone  
14 project?

15 A. We billed -- we -- we billed as we completed -- we  
16 billed as we completed a project.

17 Q. So, periodically?

18 A. We billed periodically.

19 Q. When you say "you billed at your standard rate", is that  
20 an hourly standard rate; is that what you are referring  
21 to?

22 A. It would be either per piece. It was based on a service  
23 that we completed.

1 JOHN OLSON

2 Q. As you sit here today, do you know how much Richard  
3 Prince was billed for all of the work completed in  
4 connection with the Canal Zone project?

5 A. I have no idea. Sorry. I have no idea.

6 Q. Are you able to estimate with a degree of reasonable  
7 certainty?

8 A. No.

9 MS. BART: Objection, form.

10 THE WITNESS: No.

11 Q. Do you know whether Mr. Prince has paid NancyScans all  
12 of the amount owed on the Canal Zone project to date?

13 A. Yes.

14 MR. BODEN: I would like to mark for  
15 identification purposes Exhibit 93.

16 (A five-page NancyScans document was marked  
17 Plaintiff's Exhibit No. 93 for identification  
18 this date.)

19 BY MR. BODEN: (Continued.)

20 Q. Now, Exhibit 93 is a compilation of five pages, and I'll  
21 just represent that I am producing these or marking  
22 these for identification during this deposition based on  
23 how they were produced to my office from your attorney.

1 JOHN OLSON

2 So, that will explain why they are in this order.

3 Since these documents were not produced  
4 during discovery -- since you're not a party to this  
5 action -- this document as well as others wasn't  
6 produced in the course of discovery -- usually, we  
7 Bates stamp documents, and we will have an alphanumeric  
8 code on them -- it's easier to reference -- obviously,  
9 there is no Bates stamp on these or on the others that I  
10 will introduce.

11 So, I have to identify them for the record by  
12 referencing certain writing on the document.

13 So, Exhibit 93. I want to ask you some  
14 questions about the first page, and the first page of  
15 the exhibit in the upper right-hand margin says invoice,  
16 and it's dated 2/21/2008, and it's Invoice Number  
17 0802210056.

18 Do you see that, Mr. Olson?

19 A. I do.

20 Q. Now, incidentally, the picture on the left margin of a  
21 woman's head, is that Nancy in NancyScans?

22 A. It is.

23 Q. Now, who drafts invoices for NancyScans?

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

JOHN OLSON

A. By draft, you mean who prepared this invoice?

Q. Yes.

A. When a job comes in a work order is prepared, and at the end of the job that work order is converted to an invoice. So, the work order I would probably prepare, and then when a job is completed the comptroller would convert it to an invoice.

Q. Do you specifically recall preparing this invoice?

A. No.

Q. I would like to direct your attention to the description portion of this invoice, and the very last line item reads JO to deliver to Rennselaerville. Do you see that?

A. Yes.

Q. Do you know who JO is?

A. JO is my initials.

Q. I know you testified that you don't recall whether you were the one who prepared that invoice.

But by looking at the description of the work invoiced on this document, do you recall this work being done by NancyScans?

A. I don't recall it, no.

1

JOHN OLSON

2 Q. Do you know what you delivered to Rennselaerville?

3 A. I would have a better idea if I looked through the  
4 invoice.

5 Q. Please, take your time.

6 A. Okay.

7 Q. Do you recall what you delivered to Mr. Prince?

8 A. I don't recall what I delivered. I see what's attached  
9 to the invoice.

10 Q. Are you referring to the last page of Exhibit 93?

11 A. Yes.

12 Q. These are 12 separate TIF files; is that correct?

13 A. There are icons on this page that appear to be TIF  
14 files.15 Q. Are these TIF files related to the thumbnails? Would  
16 that be it?

17 A. Yes.

18 Q. Earlier you testified that in connection with the Canal  
19 Zone project you never received electronic files from  
20 Prince or anyone on behalf of Mr. Prince; is that  
21 correct?

22 A. Yes.

23 Q. So, these thumbnails on the last page of Exhibit 93

JOHN OLSON

1  
2 would be scans that NancyScans had scanned of documents  
3 that were sent to them by Mr. Prince?

4 A. Yes.

5 Q. So, this would be in essence the second part of  
6 NancyScans' job in connection with Mr. Prince's Canal  
7 Zone project; specifically, that the first step would be  
8 to scan the documents, and after that you would print  
9 them?

10 A. That's correct.

11 Q. So then, do you recall whether these 12 separate images  
12 were after being scanned, printed and sent to Mr.  
13 Prince?

14 A. I don't recall.

15 Q. If you would just go back to the second page of Exhibit  
16 93, in the upper right corner it's written work order,  
17 and the work order number is 0801190001. Do you see  
18 that?

19 A. I do.

20 Q. And in the description of this work order -- three  
21 lines down -- in the left margin -- it reads as  
22 follows:

23 Stretch, devote system time to each file to

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

JOHN OLSON

match look and feel of print.

Do you see that?

A. I do.

Q. First, what does stretch mean in this context?

A. You're talking about down here, what's redacted?

Q. Yes.

A. Stretch would mean that we would put it on a canvas, but in this case it means we were not to do that.

Q. That's why it's crossed out?

A. I believe so.

Q. And underneath the line that reads devote system time to each file to match the look and feel of print --

A. Right.

Q. -- do you have an understanding what that means?

A. Yes.

Q. And what does that mean?

A. In the scanning process, you do a scan. You capture an original. What comes out is often different than the original, and you make adjustments, so you match the original.

Q. Why would what comes out after scanning, as you term it, be different than the original?



1 JOHN OLSON

2 A. Because the scanning process doesn't exactly match the  
3 original.

4 Q. Can you tell me typically what some of the elements of  
5 the original are not embodied in the scan, whether it's  
6 color or shading or contrast.

7 A. All of the above.

8 Q. All right. And what will NancyScans do to remedy that  
9 problem?

10 MS. BART: Objection, form.

11 THE WITNESS: There are different skills and  
12 different controls in the software that you utilize to  
13 bring back the copy to match the original.

14 BY MR. BODEN: (Continued.)

15 Q. So, this process is a trial and error process in a  
16 sense; would you say that's fair to say?

17 MS. BART: Objection to the form.

18 MR. HAYES: Objection to the form.

19 THE WITNESS: A skilled operator would know  
20 what adjustments to make.

21 BY MR. BODEN: (Continued.)

22 Q. Is it ever the case that on the first scan that it is  
23 good enough or close enough to the original that it

JOHN OLSON

1

2 doesn't need to be rescanned?

3 A. Almost never. It's not rescanned. It's adjusted.

4 Q. But it has to be scanned again?

5 A. No.

6 Q. It doesn't?

7 A. No.

8 Q. Okay. And I fully admit I don't understand the  
9 technical knowledge behind this. Maybe you can describe  
10 how you can make a scan approximate an original better  
11 without rescanning it.

12 A. You modify the aspect of the capture with controls you  
13 have to match the original more closely. It could be  
14 density. It could be contrast. It could be color.

15 Q. I think I am understanding this. Before you print out  
16 the scan, you have an image on the computer screen of  
17 the scan, and you manipulate that image with computer  
18 software before you print it; is that correct?

19 A. Yes.

20 Q. So, in every case, after undergoing whatever  
21 manipulation is required in order to approximate the  
22 original as close as possible, and then thereafter, you  
23 print out the scan, and you look at the scan, and you

1 JOHN OLSON

2 say it still doesn't like good enough, and so, we are  
3 going to do the process over; does that ever occur?

4 MS. BART: Objection, form.

5 THE WITNESS: Occasionally.

6 BY MR. BODEN: (Continued.)

7 Q. Do you recall whether you were given any instructions in  
8 connection with the Canal Zone project from either Mr.  
9 Prince or anyone working on behalf of Mr. Prince that  
10 scans that you were hired to make had to approximate  
11 the original?

12 MS. BART: Objection.

13 MS. PERAL: Objection.

14 THE WITNESS: I don't recall those  
15 instructions.

16 BY MR. BODEN: (Continued.)

17 Q. Do you ever recall anyone at Mr. -- strike that.

18 Do you recall Mr. Prince or anyone working on  
19 Mr. Prince's behalf on the Canal Zone project telling  
20 you something to the effect that the printout, the scan,  
21 has to look as close to the original as possible?

22 MS. BART: Objection.

23 MS. PERAL: Objection.

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

JOHN OLSON

THE WITNESS: No.

BY MR. BODEN: (Continued.)

Q. A few lines beneath there is some handwriting. It says  
test one canvas.

A. Yes.

Q. First of all, whose handwriting is this?

A. It looks like mine.

Q. What does that mean, test one canvas?

A. I don't remember.

Q. And generally, why would you be adding handwriting to a  
work order?

A. To bring something to the attention of the next person  
who is handling the job that wasn't added at the time  
that the order was created.

Q. The next person who would look at this work order and  
perform the work that is therein listed?

A. Yes, yes.

Q. Is there a general policy at NancyScans for an order of  
employees that work on a work order?

A. Yes.

Q. Who typically follows you on a work order?

A. In the scanning process, Nancy Olson follows me, and in

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

JOHN OLSON

the print process, Mack Bruebaker follows an order.

Q. So, as I understand it then -- because you earlier testified that yourself, Mr. Bruebaker and your wife, Miss Olson, you were the only three that worked on Richard Prince's Canal Zone project; correct --

A. I believe so.

Q. -- you would be the first line of fire for this project on both the work order and the invoice?

MS. BART: Objection to form.

MS. PERAL: Objection.

MR. BODEN: I will rephrase the question.

BY MR. BODEN: (Continued.)

Q. You were the first employee who would work on a work order?

A. Yes.

Q. And you were the first employee to work on an invoice?

A. No.

Q. The invoice -- the work -- you would create a work order, and once the job was complete the comptroller would convert that work order to an invoice?

Q. Who is the comptroller?

A. Jim Smith.

1 JOHN OLSON

2 Q. If you would turn to the second to last page of Exhibit  
3 93. I believe it's Page Four.

4 A. (The Witness complied.).

5 Q. I already asked you about stretch and the redacting  
6 from Page Two.

7 You see in this Page Four, which is entitled  
8 Work Order Number 0801190001, and dated January 19th,  
9 2008, stretch is not redacted; correct?

10 A. That's correct.

11 Q. And the intention there on this work order is then to  
12 convey to someone working on this, this project, whether  
13 it be you and Miss Olson, that this image is to be  
14 transferred onto canvas?

15 A. Yes. But I don't think that's correct.

16 Q. What's not correct?

17 A. Well, I don't -- looking at this invoice, we did not  
18 charge for anything stretched. So, I don't know why  
19 it's there. But if this work order was -- were correct,  
20 stretch would indicate that we should stretch it.

21 Q. Underneath stretch it's written devote system time to  
22 each file to match look and feel of print.

23 Do you have an understanding what that means

1 JOHN OLSON

2 and was that is supposed to convey to someone looking at  
3 the work order?

4 MS. BART: Objection to form and asked and  
5 answered.

6 MR. HAYES: Join.

7 THE WITNESS: Yes.

8 BY MR. BODEN: (Continued.)

9 Q. It's similar to what you described previously where this  
10 is the same sentence that appeared on Page Two of this  
11 Exhibit 93?

12 A. Yes.

13 MR. BODEN: I'm going to mark for  
14 identification purposes Exhibit 94.

15 (A five-page NancyScans document was marked  
16 Plaintiff's Exhibit No. 94 for identification  
17 this date.)

18 (A recess was taken.)

19 MR. BODEN: Okay. Back on the record.

20 BY MR. BODEN: (Continued.)

21 Q. Mr. Olson, Exhibit 94 is marked invoice. The date is  
22 May 2nd, 2008. It's Invoice Number 0801090002.

23 Do you see that?

1 JOHN OLSON

2 A. I do.

3 Q. This is also a compilation of documents as produced to  
4 me by your attorney, a compilation of pages, and on the  
5 first page in the description section the first item  
6 listed is job colon Rasta.

7 Do you see that?

8 A. Yes, I do.

9 Q. What does that refer to?

10 A. How we titled the job.

11 Q. Now, in regards to the Canal Zone project, were more  
12 than one job involved -- jobs involved -- in the Canal  
13 Zone project?

14 A. Yes.

15 Q. And this represents just one of the jobs in the Canal  
16 Zone project; correct?

17 A. Yes.

18 Q. All right. Now, beneath job -- well, strike that.

19 Who comes up with names for specific jobs?

20 A. There is -- I don't know who comes up with names, but if  
21 something isn't named, then we cannot reference what the  
22 subject matter is.

23 Q. Okay. If you would turn to the final page of Exhibit



1 JOHN OLSON

2 94, which is entitled Epson 2007, Richard Prince,  
3 Ratas.

4 A. (The Witness complied.).

5 Q. Do you see that?

6 A. I do.

7 Q. Does -- on the first page, line item, job, Ratas, does  
8 that refer to this image on the last page, if you  
9 recall?

10 A. Yes, it does.

11 Q. Do you recall working on this specific job?

12 A. I remember this job.

13 Q. All right. And this image on the last page, where did  
14 that come from?

15 A. I believe this is a compilation of 26 scans that we had  
16 done.

17 Q. Now, earlier you testified that all materials in  
18 connection with the Canal Zone project that you received  
19 from Mr. Prince were on hard copy form; correct?

20 A. Yes.

21 Q. So, you received a hard copy of this image on the last  
22 page of Exhibit 94 and scanned it; is that correct?

23 A. I believe this is 26 separate images we received.

1

JOHN OLSON

2 Q. When you say "26 separate images", what do you mean?

3 A. 26 separate photographs.

4 Q. So, you received 26 photographs. And how did they --  
5 strike that.6 Did you or someone at NancyScans put them in  
7 the order that's represented by the image in the last  
8 page of Exhibit 94?9 A. To facilitate the print process, we put them in this  
10 order.11 Q. Were you given any instructions what order to put the 26  
12 pictures into?

13 A. No.

14 Q. After putting them -- these 26 separate photographs --  
15 in order and printing them, you then returned this  
16 print scan to Mr. Prince or someone at Mr. Prince's  
17 studio?

18 A. No.

19 Q. What did you do with it after you printed it?

20 MS. BART: Objection, form.

21 THE WITNESS: These images were gained onto a  
22 sheet and trimmed apart and then returned.

23 BY MR. BODEN: (Continued.)

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

JOHN OLSON

Q. You are going to have to define some of those terms.

A. Okay.

Q. What do mean when you say "gained"?

A. We scanned 26 photographs.

Q. Straight photographs?

A. Yes.

Q. Okay.

A. We printed 26 photographs, but to facilitate the print process we put one next to the other, one next to the other one. So, instead of printing multiple -- multiple copies, we print one copy. Then they would be torn apart.

Q. Do you mean trimmed apart?

A. Cut apart. Ganged and trimmed.

Q. And this image on the last page of Exhibit 94, is this what you have to trim apart?

A. Yes.

Q. And how would you do that?

A. With a trimmer, with a cutter.

Q. Scissors?

A. A machine designed to make a long -- a long singular cut.

1 JOHN OLSON

2 Q. What was -- with respect to the job Rastas, what were  
3 your instructions? What were you supposed to do -- you  
4 being NancyScans -- with these 26 images?

5 MS. BART: Objection to the form.

6 MR. HAYES: I join.

7 THE WITNESS: Scan them, and we were to print  
8 multiple copies of each.

9 BY MR. BODEN: (Continued.)

10 Q. Then why did they have to be, as you described, ganged  
11 together?

12 A. We did that for our own efficiency.

13 Q. I think maybe we are going to have to -- I think you're  
14 attempting to -- maybe I'm just not understanding, but I  
15 think we might have to bring it up in component parts.

16 Let's begin with the original instruction,  
17 which was to create 26 images; correct?

18 MS. BART: Objection.

19 MR. HAYES: Objection.

20 THE WITNESS: To scan 26 photographs.

21 BY MR. BODEN: (Continued.)

22 Q. Okay. And enlarge them?

23 A. I -- my assumption is that they would be -- that we

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

JOHN OLSON

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

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

MR. HAYES: I join.

BY MR. BODEN: (Continued.)

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

A. Matte paper.

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

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

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

A. I'm sure there was some difference.

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

I don't want you to guess.

A. I don't know.

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

1 JOHN OLSON

2 A. No.

3 MS. BART: Objection.

4 Q. -- that resembled what is being reflected in this  
5 picture?

6 MS. BART: Objection, form.

7 MR. HAYES: Join.

8 THE WITNESS: No.

9 BY MR. BODEN: (Continued.)

10 Q. And again, can you explain why on the final page all of  
11 these separate 26 photographs are reflected in a  
12 thumbnail of a collage?

13 MS. BART: Objection.

14 MS. PERAL: Objection.

15 MR. HAYES: Join.

16 THE WITNESS: For our own internal  
17 efficiencies in the printing process, we print them one  
18 next to the other and then trimmed them apart.

19 We have to print that -- we have to print a  
20 very large sheet. We need to print them not in collage  
21 form, but as individuals.

22 BY MR. BODEN: (Continued.)

23 Q. But what appears on the final page is a thumbnail of a

1 JOHN OLSON

2 collage form?

3 MS. BART: Objection to the form and asked and  
4 answered.

5 MR. HAYES: Join.

6 THE WITNESS: It's a thumbnail version of a  
7 ganged sheet, and again it's only -- in this particular  
8 case, it's only for our own efficiencies.

9 BY MR. BODEN: (Continued.)

10 Q. Can you describe the difference between a ganged sheet  
11 and a collage, if there is a distinction between the  
12 two.

13 MS. BART: Objection.

14 MS. PERAL: Objection.

15 MR. HAYES: Objection.

16 THE WITNESS: A ganged sheet is something  
17 printers do to be -- what's known as page efficient or  
18 sheet efficient. You do it that way so you use less  
19 paper.

20 BY MR. BODEN: (Continued.)

21 Q. If you would go back to the first page of Exhibit 94.

22 A. (The Witness complied.)

23 Q. Under line item, job, Rasta, it reads scan 100 RGB dash

1 JOHN OLSON

2 cleaned. What is RGB? What does that stand for?

3 A. Red, green and blue.

4 Q. And do you have an understanding of what is meant by the  
5 word cleaned on this invoice?

6 A. We offer two types of scans; one in which following the  
7 scan process we quote clean the file, and the one where  
8 we don't clean the file.

9 The scanning process captures artifacts in the  
10 scans. To accurately capture the original, you need to  
11 remove the artifacts that have been captured.

12 Some clients will do it themselves, and others  
13 will have us do it. In this case, we cleaned the files  
14 so none of the artifacts would remain.

15 Q. When you say "some clients will have you do it", does a  
16 client look at the scan and tell you that some artifacts  
17 need to be removed; is that the manner in which it  
18 works?

19 MS. BART: Objection.

20 MS. PERAL: Objection as to form.

21 MR. HAYES: Join.

22 THE WITNESS: It's requested ahead of time.

23 BY MR. BODEN: (Continued.)



1 JOHN OLSON

2 Q. Do you know if in connection with the Canal Zone project  
3 Mr. Prince or anyone working on Mr. Prince's behalf  
4 requested that artifacts be cleaned?

5 A. It's the type of scan we have always delivered to Mr.  
6 Prince, and how we originally established that I don't  
7 recall.

8 Q. You don't recall any instructions ever coming from --

9 A. I do not.

10 Q. -- from anyone to that effect?

11 A. I don't. I do not.

12 Q. For most of the projects that you are working on at  
13 NancyScans, in addition to clients like Mr. Prince, for  
14 all of your clients, do you generally employ this  
15 cleaning practice to remove artifacts?

16 MS. BART: Objection, form.

17 MR. HAYES: Join.

18 THE WITNESS: 90 percent of our customers have  
19 us clean the files.

20 BY MR. BODEN: (Continued.)

21 Q. If you can, turn to the fourth page I believe of  
22 Exhibit 94.

23 A. (The Witness complied.).

1 JOHN OLSON

2 Q. And in the right-hand margin, the work order is dated  
3 January 19th, 2008. It's Work Order Number 0801190002.  
4 In the second line under description it reads maximize  
5 file integrity to match originals.

6 Do you see that?

7 A. I do.

8 Q. I assume the intent to maximize it was --

9 A. Yes.

10 Q. -- or do you have an understanding what that term,  
11 maximize file integrity --

12 A. Yes.

13 Q. -- to match originals --

14 A. Yes.

15 Q. -- means?

16 A. Do the best job we are capable of.

17 Q. Is that an instruction that came from the customer?

18 A. No. It's something we know we need to do.

19 Q. What is file integrity?

20 A. It means deliver the best file we are capable of  
21 delivering. File -- file integrity -- maximize file  
22 integrity is the best file we can deliver.

23 Q. Are there some projects that NancyScans works on where

1 JOHN OLSON

2 the intent is not to maximize file integrity to match  
3 originals?

4 MS. BART: Objection to the form.

5 MR. HAYES: Join.

6 THE WITNESS: No.

7 BY MR. BODEN: (Continued.)

8 Q. So, the inducement is to maximize -- always maximize --  
9 file integrity to match originals on a scan, on a  
10 prescribed job; is that correct?

11 MS. BART: Objection to the form.

12 THE WITNESS: We have some customers who have  
13 a strong skill set in working their own files, and we  
14 have others who don't work their own files.

15 In this case, we know we need to deliver the  
16 best file we are capable of, as the customers isn't  
17 going to do any additional work.

18 BY MR. BODEN: (Continued.)

19 Q. Do you know whether Mr. Prince or anyone working on his  
20 behalf did any additional work?

21 A. I don't.

22 MS. BART: Objection, form.

23 MR. BODEN: I'm sorry?

1 JOHN OLSON

2 THE WITNESS: I don't know.

3 BY MR. BODEN: (Continued.)

4 Q. Do you have any knowledge as to the computer expertise  
5 or the scanning ability of anyone, either Mr. Prince  
6 or -- strike that.

7 Do you have any knowledge as to the computer  
8 expertise or the scanning ability, the scanning and  
9 printing ability of either Mr. Prince or anyone who  
10 worked on his behalf?

11 A. No.

12 MS. BART: Objection to form.

13 MR. BODEN: I'm going to mark as Exhibit 95  
14 for identification purposes another compilation of  
15 documents provided to our office by your attorney.

16 (A compilation of NancyScans documents was  
17 marked Plaintiff's Exhibit No. 95 for  
18 identification this date.)

19 BY MR. BODEN: (Continued.)

20 Q. I ask you to look over this document.

21 A. (The Witness complied.). (Indicating.).

22 Q. The first page of Exhibit 95 in the right upper margin  
23 says Invoice 0806070003. Do you see that?

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

JOHN OLSON

A. I do.

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

A. Yes, I do.

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

A. Yes.

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

A. No.

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

A. I don't.

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

A. I do.

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

A. No.

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

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 A. Yes.

3 Q. And in the description, the first line item reads girls  
4 and Rastas. Is that again the name that was given to  
5 this job?

6 A. Yes.

7 Q. Do you recall who gave this job that name?

8 A. No.

9 Q. Do you recall working on the girls and Rastas job  
10 portion of the Canal Zone project?

11 A. No.

12 Q. Three lines down in the description on the first page it  
13 reads system time dash imaging integrity.

14 A. Yes.

15 Q. What does system time mean?

16 A. It means devote the time to adjust the files to match  
17 the originals.

18 Q. But is there any time indicated there?

19 A. Yes.

20 Q. How much time is indicated?

21 A. Eight point two five hours.

22 Q. And what does imaging integrity mean in that context?

23 A. It's explaining what system time -- what we were

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

JOHN OLSON

asked -- excuse me. It describes what we did during that time.

Q. And what did you do during that time?

A. We made sure that the files matched the originals.

Q. Did this job involve a scanning of originals and then a printing of the scan?

MS. BART: Objection, form.

MR. HAYES: Objection, form.

THE WITNESS: Yes.

BY MR. BODEN: (Continued.)

Q. Turn to the second page of Exhibit 96.

A. (The Witness complied.)

Q. In the upper right margin, it's listed Work Order Number 0805310008. Do you see that?

A. Yes.

Q. On the third line item, under the description block, it reads print canvas to LD indicated. Do you see that?

A. Yes.

Q. What does LD stand for?

A. Long dimension.

Q. Was this image that's being referenced here intended to be scanned onto a canvas and enlarged onto a canvas?



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 that what is being implied here?  
3 MS. BART: Objection.  
4 MS. PERAL: Objection as to form.  
5 THE WITNESS: Yes.  
6 BY MR. BODEN: (Continued.)  
7 Q. When it says "RP will be cutting canvas apart" -- do you  
8 see that --  
9 A. I do.  
10 Q. -- what does that mean?  
11 A. I believe it means that he will be collaging.  
12 Q. Who is he?  
13 A. Richard Prince.  
14 Q. RP stands for Richard Prince?  
15 A. Yes.  
16 Q. Did you prepare this work order, if you recall?  
17 A. I believe I did.  
18 Q. How did you know that Richard Prince was going to be, as  
19 you describe, collaging this work?  
20 MS. BART: Objection to the form.  
21 MR. HAYES: Objection to form.  
22 THE WITNESS: It was communicated to me  
23 somehow.

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 exhibit.

3 A. (The Witness complied.).

4 MR. BODEN: On Page Five, just to identify it  
5 for the record, is written Epson 2007, prints,  
6 underscore, 32 images, canvas, Rastas, one EA.

7 Q. Do you see that?

8 A. I do.

9 Q. And you see nine thumbnails here that appear to be TIF  
10 format; is that correct?

11 A. Yes.

12 Q. Do you recall in your work on the Canal Zone project  
13 ever seeing any of these images?

14 A. Yes.

15 Q. And in what format did you see them?

16 A. They were collages.

17 Q. And you scanned them?

18 A. Yes.

19 Q. Now, on the second line of thumbnails, the first two  
20 from the left, the first one is number it appears 62  
21 times 33, Rastas, long gotee dot TIF. Do you see that  
22 one?

23 A. Yes, I do.

1

JOHN OLSON

2

Q. Do you see that the thumbnail appears to be legs drawn onto a photograph?

3

4

A. I do.

5

Q. The image that you scanned, did it appear like that with legs drawn onto a photograph?

6

7

A. Yes.

8

Q. Did anyone from NancyScans manipulate the photograph in any manner to add those legs?

9

10

A. No.

11

MS. BART: Objection.

12

MS. PERAL: Objection as to form.

13

MR. HAYES: Objection.

14

BY MR. BODEN: (Continued.)

15

Q. The thumbnail to the right that is captioned 60 times 34 Rasta 15 dot hands TIF -- and do you see that --

16

17

A. Yes.

18

Q. -- that appears to have images of arms and legs drawn onto a photograph. Do you see that?

19

20

A. Yes.

21

MR. HAYES: Objection to the form.

22

MS. BART: Join.

23

Q. And the image does appear as the scan appears?

1 JOHN OLSON

2 A. Yes.

3 Q. And neither yourself nor anyone else from NancyScans  
4 manipulated that image in any way --

5 MS. PERAL: Objection.

6 MS. BART: Objection.

7 MR. HAYES: Join.

8 Q. -- is that correct?

9 A. We did not manipulate that.

10 MR. BODEN: I'm going mark as Exhibit 97 for  
11 identification purposes another compilation of documents  
12 produced by your attorney to my office.

13 (A compilation of NancyScans documents was  
14 marked Plaintiff's Exhibit No. 97 for  
15 identification this date.)

16 BY MR. BODEN: (Continued.)

17 Q. Mr. Olson, why don't you take a moment to look at that  
18 document.

19 A. (The Witness complied.). (Indicating.)

20 Q. Have you had a moment to look through it?

21 A. Yes.

22 Q. Exhibit 97, the first page in the upper right margin,  
23 it's listed Invoice Number 0805290024. Do you see

1 JOHN OLSON

2 that?

3 A. Yes.

4 Q. In the first line of the description, it reads cut outs.

5 Is that the job name for this job?

6 A. Yes.

7 Q. Did you name it?

8 A. Yes.

9 Q. Do you have a specific recollection of working on the  
10 cut outs job in connection with the Canal Zone project?

11 A. No.

12 Q. If you would turn to the third page of the four-page  
13 document, please, where it's listed Work Order Number  
14 0805290012.

15 A. (The Witness complied.).

16 Q. Do you see that?

17 A. Yes.

18 Q. And in the third to last line under the description box,  
19 it reads maximize file integrity of 33 files, reduce dot  
20 pattern. Do you see that?

21 A. I do.

22 Q. What kind of work is being performed by that  
23 description, if you know?

1 JOHN OLSON

- 2 A. Trying to make the files as best they can to match the  
3 originals as close as they can be matched.
- 4 Q. What does reduce dot pattern mean?
- 5 A. It may mean to soften the scan, soften the focus  
6 slightly.
- 7 Q. In order to make the scan appear more like the  
8 original?
- 9 A. Yes.
- 10 Q. All right. Now, there is handwriting on this page. Do  
11 you see that?
- 12 A. Yes.
- 13 Q. Is that your handwriting?
- 14 A. No.
- 15 Q. Do you know whose handwriting that is?
- 16 A. I don't.
- 17 Q. Do you know what laser light means?
- 18 A. No.
- 19 Q. Did you see above Nancy a question mark?
- 20 A. Yes.
- 21 Q. Do you know what that means?
- 22 A. I know what Nancy is, but I don't understand what the  
23 question mark indicates.



1 JOHN OLSON

2 Q. Do you have any familiarity with the term laser light?

3 A. All of our -- much of our technology is laser driven.

4 RGB are three different lasers.

5 Q. Would this for scanning technology?

6 A. To -- for scans or printing. It depends on what

7 technology it was printed to.

8 Q. But you don't know in this context what laser light is

9 referring to?

10 A. No.

11 MR. BODEN: I want to mark for identification  
12 purposes Exhibit 98, which is a compilation of pages  
13 produced to my office by your attorney.

14 (A compilation of NancyScans documents was  
15 marked Plaintiff's Exhibit No. 98 for  
16 identification this date.)

17 BY MR. BODEN: (Continued.)

18 Q. Now, on the first page of Exhibit 98, in the upper right  
19 margin, it's written Invoice Number 0806030001. Do you  
20 see that?

21 A. I do.

22 Q. And in the description column, the first line item reads  
23 Rastas. Do you see that?

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

JOHN OLSON

A. I do.

Q. Does that reference the specific job name for this work?

A. It does.

Q. Did you name this specific job?

A. I don't know if I personally named, it but I believe NancyScans gave it that name.

Q. Having looked through Exhibit 98, do you recall working on this specific job in connection with the Canal Zone project?

A. No.

Q. Looking at description of the invoice and the accompanying work order for Exhibit 98, can you decipher what the instructions were for this job for the Rastas job?

A. We were to do four scans. We were to make them match the original photographs as close as our scanning technology allowed. We were to do four prints.

Q. If you would turn to the last page of Exhibit 98.

A. (The Witness complied.).

MR. BODEN: To identify this page for the record, it reads Epson 2007, prints, 32 images, canvas,

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

JOHN OLSON

all capitalized, under 64, one EA. What does that mean,  
one EA? Is that one each?

A. Yes.

Q. What does that reference, one each?

A. I think it means we print one each of those four files.

Q. And the four files are represented by the last page of  
Exhibit 98, by these four thumbnails?

A. Yes.

Q. And these are the scanned images, that last page?

A. Yes.

Q. What did you do after you scanned these images?

A. We -- after the scanning process is complete, you  
scan -- you devote the time necessary to make the raw  
scan look like the original.

Q. Right.

A. Then we print them.

Q. You printed these individual four images separate?

A. Yes.

Q. Then you delivered these print images to Mr. Prince or  
someone working for Mr. Prince?

A. Yes.

Q. Did you ever work with those four images again after

1 JOHN OLSON

2 that?

3 A. I don't remember those.

4 MR. BODEN: I'm going to mark as Exhibit 99  
5 another complication of documents, of pages, produced by  
6 your attorney to our office.

7 (A compilation of NancyScans documents was  
8 marked Plaintiff's Exhibit No. 99 for  
9 identification this date.)

10 BY MR. BODEN: (Continued.)

11 Q. Mr. Olson, have you had an opportunity to look at  
12 Exhibit 99?

13 A. Yes.

14 Q. Exhibit 99, in the upper margin reads Invoice Number  
15 0809030027. Do you see that?

16 A. Yes.

17 Q. Under the description column, the first line item reads  
18 guitar nudes.

19 A. Yes.

20 Q. And that was the job name given to this specific job for  
21 the Canal Zone project?

22 A. Yes.

23 Q. Do you have any recollection of working on the guitar

1 JOHN OLSON

2 nudes job?

3 A. I don't have a specific recollection of working on it.

4 Q. Okay. Under system time, on Page One of this document,  
5 you earlier testified as to what that means, and here it  
6 says system time, size and enhance file.

7 A. (Indicating.).

8 Q. What does size and enhance file mean in this context?

9 A. It's another way of saying what I previously said about  
10 maximizing file integrity.

11 Q. And that was not an instruction given to you from a  
12 client; is that correct?

13 A. No.

14 Q. The second page of this document appears to be a portion  
15 or maybe an entirety of a separate sheet. Do you see  
16 that?

17 A. I do.

18 Q. And in the first column there are eight titles. Do you  
19 know what these titles represent?

20 A. I assume they are file names or just descriptions of  
21 files that we worked on here.

22 Q. Who comes up with those names; do you know?

23 A. We do. NancyScans does.

1 JOHN OLSON

2 Q. And that's just an internal way of identifying work that  
3 you're doing?

4 A. Someone looks at the image and gives it, you know, a  
5 name based on what's in the image.

6 Q. Is that to facilitate work on a project; it's easier to  
7 reference something when it has a name?

8 A. A name than a number.

9 Q. Did you come up with the names, these specific names?

10 A. I don't think so.

11 Q. Do you have any knowledge as to who at NancyScans did?

12 A. Nancy Olson may have.

13 Q. About midway through or towards the end of this  
14 spreadsheet there is a column, canvas. Do you see  
15 that?

16 A. Yes.

17 Q. What do those numbers indicate underneath canvas? They  
18 seem to be associated with each of those titles.

19 A. It's -- I don't know -- conceivable that could be a  
20 cost.

21 Q. What about canvas sub, do you have an understanding what  
22 that term denotes?

23 A. If I may, I don't know what this means. It looks

1 JOHN OLSON

2 like -- give me a moment, please.

3 Q. Take your time.

4 MS. PERAL: If you don't know, that's your  
5 answer.

6 THE WITNESS: I don't know.

7 BY MR. BODEN: (Continued.)

8 Q. All right. Now, how about the last column? It reads  
9 DVD. Do you have an understanding what that acronym  
10 means?

11 MR. HAYES: Objection to the form. It's not  
12 the last column.

13 MR. BODEN: Well, I'm not -- I want to make  
14 sure the record is clear. I don't know if it's offset.  
15 Mr. Hayes could be correct. Maybe it is not the last  
16 column. But one of those last two column headings is  
17 DVD.

18 BY MR. BODEN: (Continued.)

19 Q. Do you see that?

20 A. I do.

21 Q. What is your understanding of what the acronym DVD  
22 stands for?

23 A. A DVD is a form of disk technology.

1

JOHN OLSON

2

Q. Is it your understanding that is an acronym for digital  
3 video disk?

3

4

A. I never knew that.

5

Q. Okay. Well, why would DVD be on this spreadsheet? If  
6 you know, why would there be a column entitled DVD?

6

7

MS. BART: Objection to form.

8

MR. HAYES: Objection to form.

9

THE WITNESS: I'm not sure.

10

BY MR. BODEN: (Continued.)

11

Q. In your -- in connection with the work NancyScans did  
12 for Mr. Prince on the Canal Zone project, would  
13 NancyScans put some images on a DVD format and produce  
14 that to Mr. Prince?

12

13

14

15

A. I don't know.

16

Q. Do you have DVD technology at NancyScans?

17

A. We do.

18

Q. And do you provide some of your customers with DVD  
19 stored images?

19

20

A. Yes.

21

MS. BART: Objection to form.

22

Q. I'm sorry. I'm not quite done with that one. If you  
23 would turn to the third page of document.

23



1 JOHN OLSON

2 A. (The Witness complied.).

3 Q. It appears to reference the same eight titles that are  
4 referenced on the previous spreadsheet.

5 This is an handwritten page. It's entitled  
6 print dash guitar nudes.

7 That's the same guitar nudes and job name  
8 given to this job?

9 A. Yes.

10 Q. Do you know whose handwriting that is?

11 A. Nancy Olson.

12 Q. If you turn to the next page, which is another  
13 handwritten page, it appears to be a photocopy of the  
14 previous page with an additional note.

15 A. (The Witness complied.).

16 Q. Do you see that?

17 A. Yes.

18 Q. Is that a second set of handwriting on this, on this  
19 page, if you can tell?

20 A. Yes.

21 Q. Do you recognize the second set of handwriting on this  
22 page?

23 A. No, I don't.

1

JOHN OLSON

2

Q. Do you know what is meant in the left-hand column when  
3 it's written done? What does done mean?

4

MR. HAYES: Objection to the form.

5

THE WITNESS: I believe it's confirming that  
6 the canvas has been complete.

7

BY MR. BODEN: (Continued.)

8

Q. If you turn to the last page of Exhibit 99, it appears  
9 to be 11 thumbnail images here; is that correct?

10

A. Yes.

11

Q. And these were images that NancyScans scanned?

12

A. Yes.

13

Q. And in connection with the guitar nudes job, NancyScans  
14 printed those scanned images?

15

A. Yes.

16

Q. Do you recall ever seeing any of these images before  
17 looking at them here?

18

A. Yes.

19

Q. And the first three at the top of the last page of  
20 Exhibit 99, do you see these three thumbnails?

21

A. Yes.

22

Q. Is that the same image or is that the same scan  
23 rather?

1 JOHN OLSON

2 MS. BART: Objection to form.

3 THE WITNESS: Yes.

4 BY MR. BODEN: (Continued.)

5 Q. And the scan which appears to reflect a man holding a  
6 guitar, do you see that?

7 A. Yes.

8 Q. Is that a hard copy image that you received from Mr.  
9 Prince or someone working for Mr. Prince, which was a  
10 man holding a guitar?

11 A. Yes.

12 MR. BODEN: I would like to mark for  
13 identification purposes Exhibit 100.

14 (A compilation of NancyScans documents was  
15 marked Plaintiff's Exhibit No. 100 for  
16 identification this date.)

17 BY MR. BODEN: (Continued.)

18 Q. Mr. Olson, have you had an opportunity to look over  
19 Exhibit 100?

20 A. Yes.

21 Q. Exhibit 100 is similar to the previous exhibits. It  
22 represents documents or a compilation of pages produced  
23 by your attorney to my office.

1 JOHN OLSON

2 And the first page of Exhibit 100 reads

3 Invoice Number 0810070012. Do you see that?

4 A. Yes.

5 Q. And under the description -- we have gone over this now  
6 a few times -- the first line item is a general  
7 reference to the job name, and it says various canvas  
8 jobs. Is that the job name for this specific job?

9 A. Yes.

10 Q. Having looked through the exhibit, do you have any  
11 recollection of having worked on the various canvas jobs  
12 portion of the Canal Zone project?

13 A. Yes.

14 Q. Okay. Now, the third page of Exhibit 100, in the upper  
15 right-hand margin, it reads Work Order Number 81007012.  
16 That's dated October 14th, 2008. Do you see that?

17 A. Yes.

18 Q. And in the third line down in the description column, it  
19 reads match proof previously produced. Do you see  
20 that?

21 A. Yes.

22 Q. What does that mean in that context, match proof  
23 previously produced?

1 JOHN OLSON

2 A. I'm not sure.

3 Q. Match proof previously produced is written under the  
4 next seven items on that page.

5 Do you have any understanding of what it means  
6 for any of the subsequent listings?

7 A. No.

8 Q. Is that a term that you have seen and used before on  
9 work orders for NancyScans?

10 A. No.

11 Q. If you turn to the next page.

12 A. (The Witness complied.).

13 Q. I believe that's Page Four of Exhibit 100. It appears  
14 to be a continuation. It bears the same work order  
15 number and date as the previous page.

16 And on the second listing under description,  
17 do you see a handwritten a notation at the top --

18 A. Yes.

19 Q. -- green foliage?

20 A. Yes.

21 Q. Do you know whose handwriting that is?

22 A. I'm not sure.

23 Q. Having looked at Exhibit 100, and recalling working on

1 JOHN OLSON

2 the various canvas jobs, do you have any idea of what  
3 green foliage was referencing?

4 A. No.

5 Q. If you would turn to one more page, again the fifth page  
6 of Exhibit 100.

7 A. (The Witness complied.).

8 Q. It also appears to be a work order. It's Work Order  
9 Number 810070122, and it has a date of October 14th,  
10 2008. Do you see that?

11 A. Yes.

12 Q. Okay. And in the first line under description, print to  
13 light jet, matte, 40 inch LD times fall.

14 A. Yes.

15 Q. What does that mean?

16 A. Light jet is the technology. Matte is the surface. 40  
17 inch LD is a 40 inch long dimension by fall, and by fall  
18 means if you print one dimension to 40 inches, whatever  
19 the second dimension becomes is acceptable.

20 Q. To see this work order, those line items of this work  
21 order is instructions of how to print out a scan and the  
22 dimensions to print out a scan; is that correct?

23 A. The instruction was the device to print on and what

1 JOHN OLSON

2 size.

3 Q. As you sit here today, do you recall whether you were  
4 the person for -- where you were the employee of  
5 NancyScans who prepared this specific work order?

6 A. I don't remember.

7 MR. BODEN: All right. I want to mark for  
8 identification purposes Exhibit 101.

9 (A compilation of NancyScans documents was  
10 marked Plaintiff's Exhibit No. 101 for  
11 identification this date.)

12 BY MR. BODEN: (Continued.)

13 Q. Take a moment to look over this exhibit, Mr. Olson.

14 A. (The Witness complied.).

15 Q. Exhibit 101 on the first page reads Invoice Number  
16 0811110010. It's dated November 11th, 2008. Do you see  
17 that?

18 A. Yes.

19 Q. The first two lines items under the description column  
20 read oversized canvas nude slash Rastas slash plant. Do  
21 you see that?

22 A. Yes.

23 Q. That was the job name for this invoice?

1 JOHN OLSON

2 A. Internally, we referenced it as a job that contained  
3 nude and Rastas and plants.

4 Q. Oversized canvas, where that's written, that's not part  
5 of the job name?

6 A. It is not.

7 Q. What does that mean, oversized canvas, on this specific  
8 invoice?

9 A. I'm not sure.

10 Q. Do you have any recollection of working on the nude  
11 Rastas plant job in connection with the Canal Zone  
12 project?

13 A. Yes.

14 Q. What did NancyScans do for this specific job?

15 A. We scanned, and we printed.

16 Q. If you turn to the third page of the document.

17 A. (The Witness complied.).

18 Q. It appears to be five thumbnails of images. Do you see  
19 that?

20 A. Yes.

21 Q. Is this what you scanned and printed in connection with  
22 the nude Rastas and plant job?

23 A. Yes.



1 JOHN OLSON

2 Q. If you look at the first image on the top left portion  
3 of the page, was that image -- strike that.

4 The scan that appears on Document 100, is that  
5 the same as -- strike that.

6 The scan, the thumbnail scan, at the top left  
7 portion of Page Three of Exhibit 100 --

8 MS. PERAL: 101.

9 Q. -- 101 -- sorry -- was the hard copy -- the hard copy  
10 photograph -- that you received from Mr. Prince in  
11 respect to those four separate images on one document?

12 MR. HAYES: Objection to form.

13 MS. BART: Join.

14 THE WITNESS: I don't remember.

15 BY MR. BODEN: (Continued.)

16 Q. You don't remember?

17 A. No.

18 Q. Do you recall seeing hard copy documents for any of the  
19 thumbnails on this page?

20 A. Yes.

21 Q. Which one?

22 A. One title. Sixty-nine point nine underscore inch  
23 underscore Prince canvas three V two.

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?

6

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.

10

11

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

12

13

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.

15

16

17

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

18

19

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

20

21

MS. BART: Okay. Thank you.

22

23

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

1 JOHN OLSON

2 is written Invoice Number 0811110011.

3 BY MR. BODEN: (Continued.)

4 Q. Do you see that?

5 A. Yes.

6 Q. I want to ask a question about the second page of the  
7 exhibit, which is a work order that's dated about two to  
8 three weeks before the invoice. On the first page of  
9 the exhibit, it's Work Order Number 81007022. Do you  
10 see that?

11 A. Yes.

12 Q. The work order is dated October 22nd, 2008, and the  
13 invoice, the first page, is dated November 11th, 2008.  
14 Do you see that?

15 A. Yes.

16 Q. At the very end of the description column, it reads  
17 Nancy, please, scan, print, that needs scanning comma  
18 size existing scans to same size and gang two up on  
19 eight point eight times 11 page for printing.

20 Do you see that?

21 A. I do.

22 Q. This appears to be an instruction to Nancy Olson, your  
23 wife, and for the work to be completed in connection

1 JOHN OLSON

2 with this work order; is that correct?

3 A. Yes.

4 Q. Who gave that instruction, if you know?

5 A. I give that instruction.

6 Q. And as you sit here today, do you recall giving Nancy  
7 that instruction on this, this work order?

8 A. I don't recall it. I see it.

9 Q. How do you know that you gave her that instruction?

10 A. I recall it, because I believe I'm the one who the wrote  
11 order.

12 Q. Now, a little higher up in the description, it reads new  
13 Rasta one then parenthesis has slight tone closed  
14 parenthesis.

15 A. Yes.

16 Q. After parenthesis it has slight tone close parenthesis.  
17 You see that?

18 A. I do.

19 Q. And the same is written sequentially for new Rasta two,  
20 new Rasta three and new Rasta four; correct?

21 A. Yes.

22 Q. What does that parenthetical mean?

23 A. What?

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

JOHN OLSON

Q. What does that mean? What does that term mean on the work order, has slight tone?

A. That the original has a subtle tone.

Q. Is that instructions to everyone reading the work order and performed work pursuant to that work order to match the tone?

A. Yes.

Q. And do you know why there are no thumbnail images attached to this work order?

A. No.

MR. BODEN: I don't have any further questions.

(The examination of JOHN OLSON in the above-entitled matter was concluded at 4:10 P. M.)

STATE OF NEW YORK) ss:  
COUNTY OF )

I, JOHN OLSON, have read the foregoing record of my testimony taken at the time and place noted in the heading hereof, and I do hereby acknowledge it to be a true and correct transcript of same.

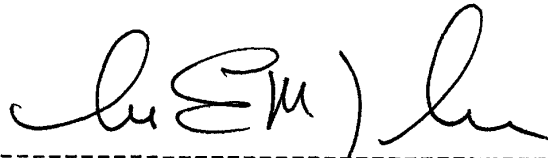
-----  
JOHN OLSON

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2009

STATE OF NEW YORK ) ss:  
COUNTY OF GREENE )

I, CHARLES E. M. JOHNSON, a Court Reporter and Notary Public in the State of New York, certify that the foregoing is a true and correct transcript to the best of my ability of the testimony taken by me on the 16th day of November 2009 at Chatham, New York.

  
-----  
CHARLES E. M. JOHNSON

DATED: 23 November, 2009



## I N D E X T O E X H I B I T S

PLAINTIFF'S  
EXHIBITS  
-----PAGE  
NUMBER  
-----

|         |  |    |
|---------|--|----|
| No. 92  | A compilation of NancyScans documents. | 5  |
| No. 93  | A compilation of NancyScans documents. | 39 |
| No. 94  | A compilation of NancyScans documents. | 51 |
| No. 95  | A compilation of NancyScans documents. | 64 |
| No. 96  | A compilation of NancyScans documents. | 66 |
| No. 97  | A compilation of NancyScans documents. | 74 |
| No. 98  | A compilation of NancyScans documents. | 77 |
| No. 99  | A compilation of NancyScans documents. | 80 |
| No. 100 | A compilation of NancyScans documents. | 87 |
| No. 101 | A compilation of NancyScans documents. | 91 |
| No. 102 | A compilation of NancyScans documents. | 95 |

|  |  |   |  |  |
|--|--|---|--|--|
| <p><b>0</b></p> <p>0801090002 [1] - 51:22<br/> 0801190001 [2] - 43:17, 50:8<br/> 0801190002 [1] - 62:3<br/> 0802210050 [1] - 40:17<br/> 0805290012 [1] - 75:14<br/> 0805290024 [1] - 74:23<br/> 0805310008 [2] - 66:23, 68:15<br/> 0806030001 [1] - 77:19<br/> 0806070003 [1] - 64:23<br/> 0809030027 [1] - 80:15<br/> 0810070012 [1] - 88:3<br/> 0811110010 [1] - 91:16<br/> 0811110011 [1] - 96:2</p>  | <p><b>2</b></p> <p>2/21/2008 [1] - 40:16<br/> 2007 [3] - 53:2, 72:5, 78:23<br/> 2008 [11] - 10:20, 11:8, 36:15, 50:9, 51:22, 62:3, 88:16, 90:10, 91:16, 96:12, 96:13<br/> 2009 [5] - 1:16, 9:3, 99:21, 100:11, 100:23<br/> 22 [2] - 1:17, 2:17<br/> 22nd [1] - 96:12<br/> 26 [15] - 53:15, 53:23, 54:2, 54:3, 54:4, 54:11, 54:14, 55:5, 55:9, 56:4, 56:17, 56:20, 57:8, 57:20, 58:11<br/> 2:05 [1] - 1:16<br/> 2nd [1] - 51:22</p> | <p>77 [1] - 101:15</p> <p><b>8</b></p> <p>80 [1] - 101:16<br/> 81007012 [1] - 88:15<br/> 810070122 [1] - 90:9<br/> 81007022 [1] - 96:9<br/> 845 [1] - 1:23<br/> 87 [1] - 101:18</p>   | <p>99:10<br/> acronym [3] - 83:9, 83:21, 84:2<br/> action [7] - 3:9, 4:7, 4:10, 4:16, 10:8, 14:15, 40:5<br/> actual [2] - 10:12, 32:5<br/> add [1] - 73:9<br/> added [1] - 48:14<br/> adding [1] - 48:11<br/> addition [2] - 3:8, 61:13<br/> additional [3] - 63:17, 63:20, 85:14<br/> address [3] - 7:4, 7:6, 7:7<br/> addressed [1] - 6:5<br/> adjust [1] - 67:16<br/> adjusted [1] - 46:3<br/> adjustments [2] - 44:20, 45:20<br/> admit [1] - 46:8<br/> adopt [1] - 9:13<br/> advise [1] - 31:15<br/> AGREED [2] - 3:4, 3:16<br/> ahead [1] - 60:22<br/> allowed [1] - 78:19<br/> Almost [1] - 46:3<br/> alphanumeric [1] - 40:7<br/> amount [1] - 39:12<br/> AND [2] - 3:4, 3:16<br/> answer [5] - 10:5, 10:15, 16:18, 33:6, 83:5<br/> answered [3] - 28:4, 51:5, 59:4<br/> apart [10] - 54:22, 55:13, 55:14, 55:15, 55:17, 58:18, 65:23, 70:7, 71:5, 71:15<br/> appear [7] - 42:13, 72:9, 73:5, 73:23, 76:7, 94:6, 94:23<br/> APPEARANCES [1] - 2:1<br/> appeared [1] - 51:10<br/> appearing [4] - 2:4, 2:8, 2:14, 2:18<br/> approximate [3] - 46:10, 46:21, 47:10<br/> arms [1] - 73:18<br/> arrangement [2] - 37:15, 38:6<br/> artifacts [6] - 60:9, 60:11, 60:14, 60:16, 61:4, 61:15<br/> artistic [2] - 28:23, 29:21</p> | <p>aspect [1] - 46:12<br/> assistants [1] - 30:2<br/> associated [1] - 82:18<br/> assume [2] - 62:8, 81:20<br/> assumption [1] - 56:23<br/> assurance [1] - 35:10<br/> attached [3] - 6:12, 42:8, 98:10<br/> attempting [1] - 56:14<br/> attention [2] - 41:11, 48:13<br/> attorney [14] - 3:17, 5:3, 5:10, 6:22, 7:2, 39:23, 52:4, 64:15, 66:14, 74:12, 77:13, 80:6, 87:23, 95:15<br/> attorneys [2] - 3:4, 5:3<br/> author [1] - 27:18<br/> Avenue [3] - 2:7, 2:13, 7:5<br/> aware [7] - 10:21, 11:6, 11:10, 36:12, 36:16, 36:18, 37:2</p>   |
| <p><b>1</b></p> <p>100 [14] - 57:2, 59:23, 87:13, 87:15, 87:19, 87:21, 88:2, 88:14, 89:13, 89:23, 90:6, 93:4, 93:7, 101:18<br/> 10005 [1] - 2:4<br/> 10016 [1] - 2:14<br/> 10022 [1] - 2:8<br/> 101 [6] - 91:8, 91:10, 91:15, 93:8, 93:9, 101:19<br/> 102 [3] - 95:12, 95:14, 101:21<br/> 10th [1] - 2:8<br/> 11 [2] - 86:9, 96:19<br/> 112 [1] - 2:13<br/> 115 [1] - 1:22<br/> 11th [2] - 91:16, 96:13<br/> 12 [2] - 42:12, 43:11<br/> 12037 [3] - 1:17, 2:18, 7:5<br/> 124 [1] - 7:5<br/> 12401 [1] - 1:23<br/> 140 [1] - 2:4<br/> 14th [2] - 88:16, 90:9<br/> 15 [2] - 8:11, 73:16<br/> 16th [2] - 1:16, 100:11<br/> 1994 [1] - 8:13<br/> 19th [2] - 50:8, 62:3</p> | <p><b>3</b></p> <p>3100 [1] - 2:4<br/> 32 [2] - 72:6, 78:23<br/> 33 [2] - 72:21, 75:19<br/> 331-4020 [1] - 1:23<br/> 34 [1] - 73:15<br/> 39 [1] - 101:7</p>  | <p><b>9</b></p> <p>90 [1] - 61:18<br/> 91 [1] - 101:19<br/> 92 [3] - 5:16, 5:18, 101:6<br/> 93 [10] - 39:15, 39:17, 39:20, 40:13, 42:10, 42:23, 43:16, 50:3, 51:11, 101:7<br/> 94 [12] - 51:14, 51:16, 51:21, 53:2, 53:22, 54:8, 55:16, 57:20, 57:22, 59:21, 61:22, 101:9<br/> 95 [6] - 64:13, 64:17, 64:22, 65:14, 101:10, 101:21<br/> 96 [7] - 66:12, 66:16, 66:20, 66:22, 68:12, 71:23, 101:12<br/> 97 [4] - 74:10, 74:14, 74:22, 101:13<br/> 98 [8] - 77:12, 77:15, 77:18, 78:9, 78:14, 78:20, 79:8, 101:15<br/> 99 [7] - 80:4, 80:8, 80:12, 80:14, 86:8, 86:20, 101:16</p> | <p><b>A</b></p> <p>ability [4] - 64:5, 64:8, 64:9, 100:10<br/> able [1] - 39:6<br/> above-entitled [1] - 98:16<br/> acceptable [1] - 90:19<br/> access [1] - 34:14<br/> accommodate [1] - 33:10<br/> accompanying [1] - 78:14<br/> accurately [1] - 60:10<br/> achieve [2] - 21:5, 21:16<br/> acknowledge [1] -</p>  | <p><b>B</b></p> <p>background [1] - 95:3<br/> bar [2] - 3:9, 24:13<br/> Bart [1] - 4:14<br/> BART [72] - 2:10, 9:23, 10:23, 12:3, 15:6, 15:15, 15:17, 16:16, 18:8, 18:15, 19:12, 19:20, 20:17, 22:8, 22:19, 23:6, 23:10, 23:21, 24:6, 24:12, 24:20, 25:8, 26:4, 26:12, 26:19, 27:5, 28:3, 29:5, 30:17, 31:14, 34:5, 36:21, 37:18, 39:9, 45:10, 45:17, 47:4, 47:12, 47:22, 49:10, 51:4, 54:20, 56:5, 56:18, 57:4, 58:3, 58:6, 58:13, 59:3, 59:13, 60:19, 61:16, 63:4, 63:11, 63:22, 64:12, 66:5, 68:8, 69:2, 70:3, 70:20, 71:11, 71:18, 73:11, 73:22, 74:6, 84:7, 84:21, 87:2, 93:13, 95:17, 95:21<br/> based [4] - 38:11, 38:22, 39:22, 82:5<br/> Bates [2] - 40:7, 40:9</p> |
|  | <p><b>4</b></p> <p>40 [4] - 90:13, 90:16, 90:17, 90:18<br/> 41 [2] - 14:15, 14:19<br/> 42 [1] - 10:8<br/> 430 [1] - 2:7<br/> 4:10 [1] - 98:16</p>  | <p><b>5</b></p> <p>5 [1] - 101:6<br/> 51 [1] - 101:9</p>  |  |  |
|  | <p><b>6</b></p> <p>60 [1] - 73:15<br/> 62 [1] - 72:20<br/> 64 [2] - 79:2, 101:10<br/> 66 [1] - 101:12</p>  |   |  |  |
|  | <p><b>7</b></p> <p>74 [1] - 101:13</p>   |   |  |  |

|   |  |  |  |   |
|---|--|--|--|---|
| <p><b>bathroom</b> [1] - 33:10<br/> <b>bearing</b> [2] - 29:8, 29:18<br/> <b>bears</b> [1] - 89:14<br/> <b>becomes</b> [1] - 90:19<br/> <b>begin</b> [1] - 56:16<br/> <b>begun</b> [1] - 3:12<br/> <b>behalf</b> [15] - 2:5, 2:8, 2:14, 2:18, 6:7, 6:17, 19:17, 23:8, 35:20, 42:20, 47:9, 47:19, 61:3, 63:20, 64:10<br/> <b>behind</b> [1] - 46:9<br/> <b>beneath</b> [2] - 48:4, 52:18<br/> <b>BERGMAN</b> [1] - 2:7<br/> <b>best</b> [7] - 17:5, 62:16, 62:20, 62:22, 63:16, 76:2, 100:10<br/> <b>Betsy</b> [1] - 30:6<br/> <b>better</b> [2] - 42:3, 46:10<br/> <b>between</b> [5] - 3:4, 31:12, 32:17, 38:6, 59:10, 59:11<br/> <b>BIERSTEIN</b> [1] - 2:12<br/> <b>bill</b> [2] - 38:9, 38:12<br/> <b>billed</b> [5] - 38:15, 38:16, 38:18, 38:19, 39:3<br/> <b>billing</b> [1] - 38:12<br/> <b>Biscone</b> [10] - 30:7, 30:9, 30:12, 30:16, 31:19, 32:13, 33:12, 34:12, 34:21, 35:7<br/> <b>block</b> [1] - 68:17<br/> <b>blue</b> [1] - 60:3<br/> <b>Boden</b> [1] - 4:6<br/> <b>BODEN</b> [98] - 2:5, 4:5, 5:13, 5:19, 10:4, 11:3, 11:5, 12:5, 15:9, 15:20, 18:11, 18:17, 19:15, 19:23, 20:19, 22:10, 22:23, 23:13, 24:2, 24:7, 24:9, 24:15, 25:11, 26:6, 26:22, 28:9, 29:6, 30:22, 31:18, 37:3, 37:20, 38:4, 39:14, 39:19, 45:14, 45:21, 47:6, 47:16, 48:3, 49:12, 49:13, 51:8, 51:13, 51:19, 51:20, 54:23, 56:9, 56:21, 57:7, 58:9, 58:22, 59:9, 59:20, 60:23, 61:20, 63:7, 63:18, 63:23, 64:3, 64:13, 64:19, 66:8, 66:12, 66:18, 68:11, 69:9, 70:6, 71:2,</p> | <p>71:13, 71:14, 71:21, 72:4, 73:14, 74:10, 74:16, 77:11, 77:17, 78:22, 80:4, 80:10, 83:7, 83:13, 83:18, 84:10, 86:7, 87:4, 87:12, 87:17, 91:7, 91:12, 93:15, 94:10, 95:8, 95:14, 95:19, 95:22, 96:3, 98:12<br/> <b>book</b> [13] - 10:11, 10:12, 10:14, 10:17, 10:18, 10:19, 14:19, 14:22, 15:3, 15:4, 15:13, 18:19<br/> <b>box</b> [1] - 75:18<br/> <b>break</b> [2] - 33:8, 33:10<br/> <b>briefly</b> [2] - 5:6, 15:8<br/> <b>bring</b> [3] - 45:13, 48:13, 56:15<br/> <b>Broadway</b> [1] - 2:4<br/> <b>brought</b> [1] - 10:11<br/> <b>Brown</b> [9] - 31:3, 31:4, 31:9, 31:12, 31:19, 32:13, 33:12, 34:21, 35:7<br/> <b>Bruebaker</b> [4] - 17:23, 18:2, 49:2, 49:4<br/> <b>buy</b> [1] - 38:7<br/> <b>BY</b> [72] - 4:5, 5:19, 10:4, 11:5, 12:5, 15:9, 15:20, 18:11, 18:17, 19:15, 19:23, 20:19, 22:10, 22:23, 23:13, 24:2, 24:9, 24:15, 25:11, 26:6, 26:22, 28:9, 29:6, 30:22, 31:18, 37:3, 38:4, 39:19, 45:14, 45:21, 47:6, 47:16, 48:3, 49:13, 51:8, 51:20, 54:23, 56:9, 56:21, 57:7, 58:9, 58:22, 59:9, 59:20, 60:23, 61:20, 63:7, 63:18, 64:3, 64:19, 66:8, 66:18, 68:11, 69:9, 70:6, 71:2, 71:14, 71:21, 73:14, 74:16, 77:17, 80:10, 83:7, 83:18, 84:10, 86:7, 87:4, 87:17, 91:12, 93:15, 94:10, 96:3</p> | <p>15:10, 15:22, 16:15, 17:4, 17:6, 17:11, 17:13, 17:16, 18:6, 18:14, 18:20, 18:23, 19:18, 20:11, 21:23, 23:3, 24:10, 24:18, 24:22, 26:15, 27:6, 29:7, 29:15, 29:19, 30:2, 30:13, 31:6, 31:20, 33:13, 33:18, 36:10, 36:20, 37:4, 37:9, 37:13, 37:16, 38:8, 38:13, 39:4, 39:12, 42:18, 43:6, 47:8, 47:19, 49:6, 52:11, 52:12, 52:15, 53:18, 61:2, 65:19, 67:10, 72:12, 75:10, 78:10, 80:21, 84:12, 88:12, 92:11<br/> <b>cannot</b> [1] - 52:21<br/> <b>canvas</b> [30] - 21:12, 44:8, 48:5, 48:9, 50:14, 57:14, 68:18, 68:23, 69:8, 69:19, 70:7, 71:5, 71:6, 71:15, 71:16, 72:6, 78:23, 82:14, 82:17, 82:21, 86:6, 88:7, 88:11, 90:2, 91:20, 92:4, 92:7, 93:23, 94:12<br/> <b>capable</b> [3] - 62:16, 62:20, 63:16<br/> <b>capitalized</b> [1] - 79:2<br/> <b>captioned</b> [1] - 73:15<br/> <b>capture</b> [3] - 44:18, 46:12, 60:10<br/> <b>captured</b> [1] - 60:11<br/> <b>captures</b> [1] - 60:9<br/> <b>CARIOU</b> [1] - 1:3<br/> <b>Carlou</b> [3] - 4:7, 4:10, 14:20<br/> <b>carrier</b> [1] - 13:9<br/> <b>case</b> [9] - 44:9, 45:22, 46:20, 59:8, 60:13, 63:15<br/> <b>catalog</b> [3] - 10:9, 10:22, 11:12<br/> <b>CEO</b> [3] - 7:12, 8:20, 8:22<br/> <b>certain</b> [1] - 40:12<br/> <b>certainly</b> [1] - 33:10<br/> <b>certainty</b> [1] - 39:7<br/> <b>certify</b> [1] - 100:9<br/> <b>charge</b> [2] - 3:17, 50:18<br/> <b>CHARLES</b> [3] - 1:18, 100:7, 100:16<br/> <b>Chatham</b> [4] - 1:17,</p> | <p>2:17, 7:5, 100:12<br/> <b>Chelsea</b> [1] - 36:14<br/> <b>Chief</b> [3] - 1:14, 7:13, 8:9<br/> <b>circles</b> [2] - 29:9, 29:12<br/> <b>clean</b> [3] - 60:7, 60:8, 61:19<br/> <b>cleaned</b> [4] - 60:2, 60:5, 60:13, 61:4<br/> <b>cleaning</b> [1] - 61:15<br/> <b>clear</b> [2] - 24:14, 83:14<br/> <b>clearer</b> [1] - 24:8<br/> <b>client</b> [2] - 60:16, 81:12<br/> <b>clients</b> [4] - 60:12, 60:15, 61:13, 61:14<br/> <b>close</b> [3] - 45:23, 46:22, 47:21, 76:3, 78:18, 97:16<br/> <b>closed</b> [1] - 97:13<br/> <b>closely</b> [1] - 46:13<br/> <b>code</b> [1] - 40:8<br/> <b>Collage</b> [1] - 94:5<br/> <b>collage</b> [12] - 23:20, 23:23, 57:21, 57:23, 58:12, 58:20, 59:2, 59:11, 94:7, 94:20, 94:22, 95:6<br/> <b>collaged</b> [1] - 25:17<br/> <b>Collaged</b> [1] - 25:14<br/> <b>collages</b> [1] - 72:16<br/> <b>collaging</b> [2] - 70:11, 70:19<br/> <b>colon</b> [1] - 52:6<br/> <b>color</b> [2] - 45:6, 46:14<br/> <b>colors</b> [1] - 21:11<br/> <b>column</b> [13] - 77:22, 80:17, 81:18, 82:14, 83:8, 83:12, 83:16, 84:6, 86:2, 88:18, 91:19, 96:16<br/> <b>combination</b> [2] - 25:6, 25:15<br/> <b>combine</b> [4] - 25:23, 26:10, 26:15, 26:21<br/> <b>coming</b> [3] - 30:20, 31:16, 61:8<br/> <b>comma</b> [1] - 96:17<br/> <b>communicated</b> [1] - 70:22<br/> <b>communication</b> [1] - 24:13<br/> <b>communications</b> [1] - 37:5<br/> <b>company</b> [2] - 5:10, 7:17<br/> <b>compilation</b> [2] - 39:20, 52:3, 52:4, 53:15, 64:14, 64:16,</p> | <p>66:13, 66:15, 74:11, 74:13, 77:12, 77:14, 80:7, 87:14, 87:22, 91:9, 95:11, 101:6, 101:7, 101:9, 101:10, 101:12, 101:13, 101:15, 101:16, 101:18, 101:19, 101:21<br/> <b>complete</b> [4] - 35:8, 49:20, 79:13, 86:6<br/> <b>completed</b> [1] - 33:20, 33:22, 35:10, 35:21, 38:13, 38:15, 38:16, 38:23, 39:3, 41:7, 96:23<br/> <b>complication</b> [1] - 80:5<br/> <b>complied</b> [1] - 59:22<br/> <b>complied.</b>) [1] - 5:22, 6:13, 14:18, 50:4, 53:4, 61:23, 64:21, 68:13, 72:3, 74:19, 75:15, 78:21, 85:2, 85:15, 89:12, 90:7, 91:14, 92:17<br/> <b>component</b> [1] - 56:15<br/> <b>comptroller</b> [3] - 41:7, 49:20, 49:22<br/> <b>computer</b> [4] - 46:16, 46:17, 64:4, 64:7<br/> <b>conceivable</b> [1] - 82:19<br/> <b>concluded</b> [1] - 98:16<br/> <b>conditions</b> [1] - 32:20<br/> <b>cone</b> [1] - 30:13<br/> <b>confirming</b> [1] - 86:5<br/> <b>connection</b> [3] - 15:10, 15:22, 16:15, 18:19, 18:23, 19:18, 20:10, 21:23, 23:3, 24:10, 24:17, 24:22, 26:15, 27:6, 29:7, 29:14, 29:19, 30:2, 33:18, 36:19, 37:4, 37:9, 37:13, 38:13, 39:4, 42:18, 43:6, 47:8, 53:18, 61:2, 65:19, 75:10, 78:10, 84:11, 86:13, 92:11, 92:21, 96:23<br/> <b>CONROY</b> [1] - 2:12<br/> <b>contact</b> [1] - 11:20<br/> <b>contained</b> [1] - 92:2<br/> <b>context</b> [5] - 44:5, 67:22, 77:8, 81:8, 88:22<br/> <b>continuation</b> [1] - 89:14<br/> <b>continue</b> [1] - 10:2</p> |
|   | <b>C</b>   |  |  |   |
| <p><b>Canal</b> [67] - 9:17, 10:9, 10:14, 11:8, 11:14, 12:11, 12:13, 12:17,</p>   |  |  |  |   |

|  |  |  |  |   |
|--|--|--|--|---|
| <p><b>Continued</b> [71] - 5:19, 10:4, 11:5, 12:5, 15:9, 15:20, 18:11, 18:17, 19:15, 19:23, 20:19, 22:10, 22:23, 23:13, 24:2, 24:9, 24:15, 25:11, 26:6, 26:22, 28:9, 29:6, 30:22, 31:18, 37:3, 38:4, 39:19, 45:14, 45:21, 47:6, 47:16, 48:3, 49:13, 51:8, 51:20, 54:23, 56:9, 56:21, 57:7, 58:9, 58:22, 59:9, 59:20, 60:23, 61:20, 63:7, 63:18, 64:3, 64:19, 66:8, 66:18, 68:11, 69:9, 70:6, 71:2, 71:14, 71:21, 73:14, 74:16, 77:17, 80:10, 83:7, 83:18, 84:10, 86:7, 87:4, 87:17, 91:12, 93:15, 94:10, 96:3</p> <p><b>contrast</b> [2] - 45:6, 46:14</p> <p><b>controlled</b> [1] - 3:13</p> <p><b>controls</b> [2] - 45:12, 46:12</p> <p><b>conversations</b> [3] - 4:23, 5:2, 8:23</p> <p><b>convert</b> [2] - 41:8, 49:21</p> <p><b>converted</b> [1] - 41:5</p> <p><b>convey</b> [2] - 50:12, 51:2</p> <p><b>copies</b> [6] - 13:4, 13:6, 22:4, 55:12, 56:8, 65:23</p> <p><b>copy</b> [28] - 3:16, 10:11, 12:17, 15:21, 18:22, 20:23, 21:3, 21:15, 21:17, 22:16, 24:17, 25:4, 45:13, 53:19, 53:21, 55:12, 87:8, 93:9, 93:18, 94:4, 94:7, 94:15, 94:19, 94:22, 95:6</p> <p><b>copying</b> [1] - 34:2</p> <p><b>copyrighted</b> [1] - 19:19</p> <p><b>corner</b> [1] - 43:16</p> <p><b>CORP</b> [2] - 1:14, 2:18</p> <p><b>Corp</b> [1] - 6:7</p> <p><b>corporation</b> [1] - 7:15</p> <p><b>correct</b> [32] - 18:7, 21:18, 24:4, 24:23, 25:20, 31:22, 32:6, 42:12, 42:21, 43:10,</p> | <p>46:18, 49:6, 50:9, 50:10, 50:15, 50:16, 50:19, 52:16, 53:19, 53:22, 56:17, 63:10, 72:10, 74:8, 81:12, 83:15, 86:9, 90:22, 97:2, 97:20, 99:10, 100:9</p> <p><b>correspondence</b> [1] - 37:8</p> <p><b>cost</b> [2] - 3:17, 82:20</p> <p><b>Counsel</b> [1] - 5:6</p> <p><b>counsel</b> [1] - 3:13</p> <p><b>Counsel</b> [3] - 2:5, 2:10, 2:15</p> <p><b>COUNTY</b> [2] - 99:1, 100:1</p> <p><b>course</b> [1] - 40:6</p> <p><b>COURT</b> [2] - 1:1, 24:5</p> <p><b>Court</b> [3] - 1:18, 37:22, 100:7</p> <p><b>create</b> [3] - 21:17, 49:19, 56:17</p> <p><b>created</b> [2] - 11:7, 48:15</p> <p><b>creation</b> [1] - 9:19</p> <p><b>crossed</b> [1] - 44:10</p> <p><b>customer</b> [1] - 62:17</p> <p><b>customers</b> [4] - 61:18, 63:12, 63:16, 84:18</p> <p><b>Cut</b> [1] - 55:15</p> <p><b>cut</b> [4] - 55:23, 65:23, 75:4, 75:10</p> <p><b>cutter</b> [1] - 55:20</p> <p><b>cutting</b> [3] - 70:7, 71:5, 71:15</p> | <p><b>deemed</b> [1] - 3:13</p> <p><b>DEFENDANT</b> [2] - 2:9, 2:14</p> <p><b>Defendants</b> [3] - 1:11, 4:11, 4:13</p> <p><b>define</b> [3] - 9:12, 9:16, 55:2</p> <p><b>definition</b> [1] - 9:13</p> <p><b>degree</b> [1] - 39:6</p> <p><b>DEL</b> [2] - 1:17, 2:17</p> <p><b>deliver</b> [3] - 13:13, 34:8, 34:9, 34:13, 41:13, 57:23, 62:20, 62:22, 63:15</p> <p><b>delivered</b> [3] - 42:2, 42:7, 42:8, 61:5, 66:9, 79:20</p> <p><b>delivering</b> [1] - 62:21</p> <p><b>denotes</b> [1] - 82:22</p> <p><b>density</b> [1] - 46:14</p> <p><b>deposed</b> [1] - 4:17</p> <p><b>DEPOSITION</b> [1] - 1:13</p> <p><b>deposition</b> [3] - 3:11, 3:13, 3:15, 5:5, 10:8, 32:20, 39:22, 95:15</p> <p><b>describe</b> [4] - 20:7, 46:9, 59:10, 70:19</p> <p><b>described</b> [6] - 21:16, 21:22, 33:23, 51:9, 56:10, 94:19</p> <p><b>describes</b> [1] - 68:2</p> <p><b>describing</b> [1] - 17:6</p> <p><b>description</b> [24] - 32:3, 41:11, 41:20, 43:20, 52:5, 62:4, 65:11, 67:3, 67:12, 68:17, 69:22, 75:4, 75:18, 75:23, 77:22, 78:13, 80:17, 88:5, 88:18, 89:16, 90:12, 91:19, 96:16, 97:12</p> <p><b>descriptions</b> [1] - 81:20</p> <p><b>designed</b> [1] - 55:22</p> <p><b>details</b> [2] - 28:19, 28:20</p> <p><b>develop</b> [2] - 6:21, 6:22</p> <p><b>development</b> [1] - 9:18</p> <p><b>device</b> [1] - 90:23</p> <p><b>devote</b> [5] - 43:23, 44:12, 50:21, 67:16, 79:14</p> <p><b>difference</b> [3] - 57:16, 57:17, 59:10</p> <p><b>different</b> [3] - 21:11, 23:19, 25:17, 44:19, 44:23, 45:11, 45:12,</p> | <p>57:15, 77:4</p> <p><b>difficult</b> [1] - 32:22</p> <p><b>digital</b> [5] - 20:9, 21:8, 21:10, 84:2</p> <p><b>Digital</b> [1] - 18:4</p> <p><b>dimension</b> [4] - 68:21, 90:17, 90:18, 90:19</p> <p><b>dimensions</b> [2] - 27:3, 90:22</p> <p><b>direct</b> [1] - 41:11</p> <p><b>directly</b> [2] - 13:17, 14:9</p> <p><b>discovery</b> [2] - 40:4, 40:6</p> <p><b>disk</b> [2] - 83:23, 84:3</p> <p><b>displayed</b> [5] - 11:8, 11:10, 11:11, 36:18, 36:19</p> <p><b>distinct</b> [1] - 9:9</p> <p><b>distinction</b> [1] - 59:11</p> <p><b>DISTRICT</b> [2] - 1:1, 1:1</p> <p><b>divulging</b> [1] - 4:23</p> <p><b>Document</b> [1] - 93:4</p> <p><b>document</b> [18] - 21:15, 25:7, 25:18, 39:16, 40:5, 40:12, 41:21, 51:15, 64:20, 69:10, 74:18, 75:13, 81:4, 81:14, 84:23, 92:16, 93:11, 94:15</p> <p><b>documents</b> [45] - 5:9, 6:23, 22:11, 22:15, 23:2, 23:7, 25:4, 29:8, 29:13, 29:18, 30:4, 31:21, 32:5, 32:7, 40:3, 40:7, 43:2, 43:8, 52:3, 64:15, 64:16, 66:13, 66:15, 74:11, 74:13, 77:14, 80:5, 80:7, 87:14, 87:22, 91:9, 93:18, 95:9, 95:11, 101:6, 101:7, 101:9, 101:10, 101:12, 101:13, 101:15, 101:16, 101:18, 101:19, 101:21</p> <p><b>done</b> [3] - 37:16, 37:19, 38:7, 41:22, 53:16, 84:22, 86:3, 95:8</p> <p><b>door</b> [1] - 34:14</p> <p><b>dot</b> [4] - 72:21, 73:16, 75:19, 76:4</p> <p><b>down</b> [5] - 32:21, 43:21, 44:6, 67:12, 88:18</p> <p><b>draft</b> [1] - 41:2</p> <p><b>drafts</b> [1] - 40:23</p> <p><b>drawn</b> [3] - 73:2, 73:6,</p> | <p>73:18</p> <p><b>driven</b> [1] - 77:3</p> <p><b>dropped</b> [1] - 35:6</p> <p><b>duly</b> [1] - 4:3</p> <p><b>during</b> [5] - 11:11, 39:22, 40:4, 68:2, 68:4</p> <p><b>DVD</b> [3] - 83:9, 83:17, 83:21, 83:23, 84:5, 84:6, 84:13, 84:16, 84:18</p>   |
| <b>D</b>   |  | <b>E</b>   |  |   |
| <p><b>dash</b> [3] - 59:23, 67:13, 85:6</p> <p><b>data</b> [1] - 20:9</p> <p><b>date</b> [15] - 5:18, 39:12, 39:18, 51:17, 51:21, 64:18, 66:17, 74:15, 77:16, 80:9, 87:16, 89:15, 90:9, 91:11, 95:13</p> <p><b>DATED</b> [1] - 100:23</p> <p><b>dated</b> [3] - 40:16, 50:8, 62:2, 88:16, 91:16, 96:7, 96:12, 96:13</p> <p><b>dealing</b> [2] - 29:23, 30:3</p> <p><b>dealt</b> [1] - 30:9</p> <p><b>December</b> [3] - 10:20, 11:7, 36:14</p> <p><b>decipher</b> [1] - 78:14</p>  |  |  |  | <p><b>EA</b> [3] - 72:6, 79:2, 79:3</p> <p><b>easier</b> [2] - 40:8, 82:6</p> <p><b>easiest</b> [1] - 20:23</p> <p><b>edges</b> [2] - 16:8, 16:11</p> <p><b>effect</b> [2] - 47:20, 61:10</p> <p><b>efficiencies</b> [2] - 58:17, 59:8</p> <p><b>efficiency</b> [2] - 56:12, 69:23</p> <p><b>efficient</b> [3] - 59:17, 59:18, 69:20</p> <p><b>Eight</b> [2] - 17:10, 67:21</p> <p><b>eight</b> [3] - 17:12, 17:13, 81:18, 85:3, 96:19</p> <p><b>either</b> [7] - 13:9, 27:15, 34:20, 38:22, 47:8, 64:5, 64:9</p> <p><b>electronic</b> [3] - 12:20, 21:17, 42:19</p> <p><b>elements</b> [2] - 6:14, 45:4</p> <p><b>embodied</b> [1] - 45:5</p> <p><b>employ</b> [3] - 20:10, 21:4, 61:14</p> <p><b>employee</b> [4] - 17:12, 49:14, 49:17, 91:4</p> <p><b>employees</b> [4] - 15:13, 17:8, 17:13, 48:20</p> <p><b>employing</b> [1] - 22:5</p> <p><b>end</b> [3] - 41:5, 82:13, 96:16</p> <p><b>enhance</b> [2] - 81:6, 81:8</p> <p><b>enlarge</b> [4] - 27:2, 27:8, 56:22, 69:10</p> <p><b>enlarged</b> [1] - 68:23</p> <p><b>entire</b> [1] - 33:3</p> <p><b>entirely</b> [1] - 81:15</p> <p><b>entitled</b> [7] - 10:9, 14:19, 50:7, 53:2, 84:6, 85:5, 98:16</p> |

|  |  |  |   |   |
|--|--|--|---|---|
| <p><b>entity</b> [1] - 36:5<br/> <b>envelope</b> [3] - 27:16, 27:19, 32:8<br/> <b>Epson</b> [3] - 53:2, 72:5, 78:23<br/> <b>ERIC</b> [1] - 2:5<br/> <b>Eric</b> [3] - 4:6, 31:3, 31:4<br/> <b>error</b> [1] - 45:15<br/> <b>ESQ</b> [5] - 1:17, 2:5, 2:10, 2:15, 2:17<br/> <b>ESQS</b> [3] - 2:3, 2:7, 2:13<br/> <b>essence</b> [1] - 43:5<br/> <b>established</b> [1] - 61:6<br/> <b>estimate</b> [1] - 39:6<br/> <b>eventually</b> [1] - 66:4<br/> <b>Ex</b> [3] - 30:20, 31:16, 32:6<br/> <b>exact</b> [3] - 10:10, 10:11, 27:10<br/> <b>exactly</b> [1] - 45:2<br/> <b>examination</b> [5] - 3:7, 3:8, 3:12, 3:17, 98:15<br/> <b>EXAMINATION</b> [2] - 1:13, 4:5<br/> <b>Examination</b> [1] - 1:15<br/> <b>examined</b> [3] - 3:11, 3:17, 4:4<br/> <b>example</b> [1] - 20:14<br/> <b>except</b> [1] - 3:7<br/> <b>Excuse</b> [1] - 7:20<br/> <b>excuse</b> [1] - 68:2<br/> <b>Executive</b> [3] - 1:15, 7:13, 8:9<br/> <b>exhibit</b> [13] - 5:15, 6:11, 6:15, 10:10, 10:11, 40:15, 72:2, 88:10, 91:13, 95:16, 95:22, 96:7, 96:9<br/> <b>Exhibit</b> [65] - 5:16, 5:17, 10:7, 14:15, 14:19, 39:15, 39:17, 39:20, 40:13, 42:10, 42:23, 43:15, 50:2, 51:11, 51:14, 51:16, 51:21, 52:23, 53:22, 54:8, 55:16, 57:20, 57:22, 59:21, 61:22, 64:13, 64:17, 64:22, 65:14, 66:12, 66:16, 66:20, 66:22, 68:12, 71:22, 74:10, 74:14, 74:22, 77:12, 77:15, 77:18, 78:9, 78:14, 78:20, 79:8, 80:4, 80:8, 80:12, 80:14, 86:8, 86:20, 87:13, 87:15, 87:19, 87:21,</p> | <p>88:2, 88:14, 89:13, 89:23, 90:6, 91:8, 91:10, 91:15, 93:7, 95:12, 95:14<br/> <b>exhibition</b> [5] - 11:6, 11:11, 36:11, 36:13, 36:16<br/> <b>exhibits</b> [1] - 87:21<br/> <b>EXHIBITS</b> [1] - 101:3<br/> <b>existing</b> [1] - 96:18<br/> <b>expertise</b> [2] - 64:4, 64:8<br/> <b>explain</b> [3] - 20:13, 40:2, 58:10<br/> <b>explaining</b> [1] - 67:23<br/> <b>extent</b> [1] - 31:11<br/> <b>eyes</b> [2] - 29:9, 29:13</p> | <p><b>First</b> [2] - 44:5, 48:7<br/> <b>first</b> [38] - 4:3, 6:15, 10:19, 11:15, 40:14, 43:7, 45:22, 49:8, 49:14, 49:17, 52:5, 53:7, 59:21, 64:22, 65:3, 66:22, 67:3, 67:12, 72:19, 72:20, 74:22, 75:4, 77:18, 77:22, 80:17, 81:18, 86:19, 88:2, 88:6, 90:12, 91:15, 91:19, 93:2, 95:23, 96:8, 96:13<br/> <b>FISHER</b> [1] - 2:12<br/> <b>five</b> [5] - 39:16, 39:20, 51:15, 67:21, 92:18<br/> <b>Five</b> [2] - 71:23, 72:4<br/> <b>five-page</b> [2] - 39:16, 51:15<br/> <b>Floor</b> [1] - 2:8<br/> <b>focus</b> [1] - 76:5<br/> <b>foliage</b> [2] - 89:19, 90:3<br/> <b>follow</b> [1] - 35:22<br/> <b>follow-up</b> [1] - 35:22<br/> <b>Following</b> [1] - 69:6<br/> <b>following</b> [3] - 16:22, 27:9, 60:6<br/> <b>follows</b> [5] - 4:4, 43:22, 48:22, 48:23, 49:2<br/> <b>foregoing</b> [2] - 99:8, 100:9<br/> <b>form</b> [84] - 3:7, 9:23, 10:3, 10:23, 12:3, 12:17, 15:6, 15:15, 15:17, 16:16, 18:9, 18:15, 19:20, 19:21, 20:16, 20:17, 20:18, 21:17, 22:7, 22:19, 22:20, 22:21, 23:6, 23:10, 23:11, 23:20, 23:22, 23:23, 24:12, 24:20, 25:8, 25:9, 26:3, 26:12, 26:19, 27:5, 28:3, 29:4, 30:18, 31:14, 34:5, 36:21, 36:22, 37:18, 39:9, 45:10, 45:17, 45:18, 47:4, 49:10, 51:4, 53:19, 54:20, 56:5, 58:6, 58:21, 59:2, 59:3, 60:20, 61:16, 63:4, 63:11, 63:22, 64:12, 66:5, 68:8, 68:9, 69:2, 70:4, 70:20, 70:21, 71:18, 73:12, 73:21, 83:11, 83:23, 84:7,</p> | <p>84:8, 84:21, 86:4, 87:2, 93:12, 94:4, 94:8<br/> <b>format</b> [8] - 26:16, 57:21, 57:23, 65:16, 65:21, 72:10, 72:15, 84:13<br/> <b>forms</b> [1] - 25:10<br/> <b>four</b> [10] - 75:12, 78:17, 78:19, 79:6, 79:7, 79:8, 79:18, 79:23, 93:11, 97:20<br/> <b>Four</b> [4] - 7:20, 50:3, 50:7, 89:13<br/> <b>four-page</b> [1] - 75:12<br/> <b>fourth</b> [1] - 61:21<br/> <b>free</b> [1] - 14:16<br/> <b>fully</b> [1] - 46:8<br/> <b>furnished</b> [1] - 3:17<br/> <b>FURTHER</b> [1] - 3:16</p> | <p><b>Green</b> [1] - 1:22<br/> <b>GREENE</b> [1] - 100:1<br/> <b>guess</b> [1] - 57:18<br/> <b>guitar</b> [3] - 65:3, 65:12, 80:18, 80:23, 85:6, 85:7, 86:13, 87:6, 87:10<br/> <b>guitars</b> [5] - 23:4, 23:17, 24:17, 65:15, 65:21</p> |
| <b>F</b>   |  |  |   |   |
| <p><b>facilitate</b> [3] - 54:9, 55:9, 82:6<br/> <b>failure</b> [3] - 3:8, 3:12<br/> <b>fair</b> [1] - 45:16<br/> <b>fairly</b> [1] - 32:17<br/> <b>fall</b> [3] - 90:13, 90:17<br/> <b>familiar</b> [5] - 20:2, 22:14, 29:21, 30:6, 36:5<br/> <b>familiarity</b> [1] - 77:2<br/> <b>Fed</b> [3] - 30:20, 31:16, 32:6<br/> <b>Fed-Ex</b> [3] - 30:20, 31:16, 32:6<br/> <b>feed</b> [1] - 21:8<br/> <b>few</b> [2] - 48:4, 88:6<br/> <b>fifth</b> [1] - 90:5<br/> <b>File</b> [1] - 62:21<br/> <b>file</b> [27] - 13:2, 20:9, 21:8, 21:9, 43:23, 44:13, 50:22, 60:7, 60:8, 62:5, 62:11, 62:19, 62:20, 62:21, 62:22, 63:2, 63:9, 63:16, 69:22, 75:19, 81:6, 81:8, 81:10, 81:20<br/> <b>files</b> [18] - 42:12, 42:14, 42:15, 42:19, 60:13, 61:19, 63:13, 63:14, 67:16, 68:5, 69:20, 75:19, 76:2, 79:6, 79:7, 81:21<br/> <b>filing</b> [1] - 3:15<br/> <b>final</b> [5] - 52:23, 57:20, 57:22, 58:10, 58:23<br/> <b>finished</b> [1] - 34:3<br/> <b>fire</b> [1] - 49:8<br/> <b>firm</b> [1] - 4:8</p>  |  |  |   |   |
| <b>G</b>   |  |  |   |   |
| <p><b>GAGOSIAN</b> [4] - 1:8, 1:9, 2:9<br/> <b>Gagosian</b> [10] - 4:15, 10:21, 36:5, 36:8, 36:11, 36:13, 37:6, 37:9, 37:12<br/> <b>gained</b> [2] - 54:21, 55:4<br/> <b>GALLERY</b> [2] - 1:8, 2:9<br/> <b>Gallery</b> [3] - 4:15, 10:21, 36:6, 36:8, 36:11, 36:13, 37:6, 37:9, 37:13<br/> <b>gang</b> [2] - 69:19, 98:18<br/> <b>Ganged</b> [1] - 55:15<br/> <b>ganged</b> [5] - 56:10, 59:7, 59:10, 59:16, 69:22<br/> <b>general</b> [5] - 12:12, 16:13, 21:22, 48:19, 88:6<br/> <b>generally</b> [2] - 48:11, 61:14<br/> <b>girls</b> [2] - 67:3, 67:9<br/> <b>given</b> [9] - 4:21, 28:15, 32:10, 47:7, 54:11, 67:4, 80:20, 81:11, 85:8<br/> <b>GONERKA</b> [1] - 2:10<br/> <b>gotee</b> [1] - 72:21<br/> <b>gradations</b> [1] - 21:12<br/> <b>gray</b> [1] - 21:12<br/> <b>green</b> [3] - 60:3, 89:19, 90:3</p>  |  |  |   |   |
| <b>H</b>   |  |  |   |   |
| <p><b>hand</b> [4] - 40:15, 62:2, 86:2, 88:15<br/> <b>handing</b> [1] - 48:14<br/> <b>hands</b> [1] - 73:16<br/> <b>handwriting</b> [10] - 48:4, 48:7, 48:11, 76:10, 76:13, 76:15, 85:10, 85:18, 85:21, 89:21<br/> <b>handwritten</b> [3] - 85:5, 85:13, 89:17<br/> <b>HANLY</b> [1] - 2:12<br/> <b>hard</b> [25] - 12:17, 13:4, 13:6, 15:21, 18:22, 20:23, 21:15, 21:17, 22:4, 22:16, 24:17, 25:4, 53:19, 53:21, 65:23, 87:8, 93:9, 93:18, 94:4, 94:7, 94:15, 94:19, 94:22, 95:6<br/> <b>Harrison</b> [1] - 4:8<br/> <b>HARRISON</b> [1] - 2:3<br/> <b>Hayes</b> [3] - 4:13, 4:14, 83:15<br/> <b>HAYES</b> [39] - 2:13, 2:15, 10:2, 18:9, 19:13, 19:21, 20:16, 22:7, 22:20, 25:9, 26:3, 29:4, 36:22, 45:18, 51:6, 56:6, 56:19, 57:6, 58:7, 58:15, 59:5, 59:15, 60:21, 61:17, 63:5, 66:6, 68:9, 69:3, 70:21, 71:19, 73:13, 73:21, 74:7, 83:11, 84:8, 86:4, 93:12, 94:8<br/> <b>head</b> [2] - 21:11, 40:21<br/> <b>heading</b> [1] - 99:9<br/> <b>headings</b> [1] - 83:16<br/> <b>hear</b> [1] - 71:11<br/> <b>heard</b> [2] - 36:7, 36:8<br/> <b>held</b> [2] - 1:15, 7:16<br/> <b>help</b> [1] - 10:15</p>  |  |  |   |   |

|   |   |  |   |  |
|---|---|--|---|--|
| <p><b>HEREBY</b> [1] - 3:4<br/> <b>hereby</b> [3] - 3:7, 3:15, 99:10<br/> <b>hereof</b> [1] - 99:9<br/> <b>hereto</b> [1] - 3:5<br/> <b>higher</b> [1] - 97:12<br/> <b>hired</b> [1] - 47:10<br/> <b>hold</b> [1] - 8:3<br/> <b>holding</b> [2] - 87:5, 87:10<br/> <b>HOLLIS</b> [1] - 2:10<br/> <b>hope</b> [1] - 9:7<br/> <b>hourly</b> [1] - 38:20<br/> <b>hours</b> [1] - 67:21<br/> <b>Hudson</b> [1] - 7:5<br/> <b>hypothetical</b> [2] - 20:22, 21:14</p> <p style="text-align: center;"><b>I</b></p> <p><b>icons</b> [1] - 42:13<br/> <b>idea</b> [5] - 39:5, 42:3, 57:17, 90:2<br/> <b>identification</b> [20] - 5:14, 5:18, 39:15, 39:17, 39:22, 51:14, 51:16, 64:14, 64:18, 68:17, 74:11, 74:15, 77:11, 77:16, 80:9, 87:13, 87:16, 91:8, 91:11, 95:13<br/> <b>identify</b> [4] - 40:11, 72:4, 78:22, 95:22<br/> <b>identifying</b> [1] - 82:2<br/> <b>image</b> [30] - 26:2, 26:7, 26:8, 46:16, 46:17, 50:13, 53:8, 53:13, 53:21, 54:7, 55:16, 68:22, 69:13, 71:7, 71:9, 71:17, 73:5, 73:23, 74:4, 82:4, 82:5, 86:22, 87:8, 93:2, 93:3, 94:4, 94:11, 94:13, 94:14, 95:3<br/> <b>images</b> [1] - 24:10<br/> <b>Images</b> [5] - 9:20, 12:23, 22:17, 23:3, 23:4, 23:9, 23:14, 23:16, 23:19, 24:17, 24:22, 25:3, 25:5, 25:6, 25:18, 25:23, 26:10, 26:11, 26:16, 26:21, 27:3, 27:8, 29:8, 29:13, 29:18, 43:11, 53:23, 54:2, 54:21, 56:4, 56:17, 57:8, 57:20, 65:18, 69:23, 72:6, 72:13,</p> | <p>73:18, 78:23, 79:10, 79:12, 79:18, 79:20, 79:23, 84:13, 84:19, 86:9, 86:11, 86:14, 86:16, 92:18, 93:11, 94:6, 98:9<br/> <b>imaging</b> [2] - 67:13, 67:22<br/> <b>implied</b> [1] - 70:2<br/> <b>INC</b> [3] - 1:8, 1:9, 2:9<br/> <b>inc</b> [2] - 1:22, 6:5<br/> <b>inch</b> [5] - 90:13, 90:17, 93:22, 94:12<br/> <b>inches</b> [1] - 90:18<br/> <b>incidentally</b> [1] - 40:20<br/> <b>included</b> [1] - 9:19<br/> <b>including</b> [1] - 3:6<br/> <b>Incorporated</b> [1] - 8:12<br/> <b>incorrectly</b> [1] - 6:6<br/> <b>indicate</b> [4] - 50:20, 69:12, 69:15, 82:17<br/> <b>indicated</b> [4] - 67:18, 67:20, 68:18, 69:19<br/> <b>indicates</b> [2] - 69:7, 76:23<br/> <b>indicating</b> [1] - 74:19<br/> <b>indicating</b> [2] - 64:21, 81:7<br/> <b>indication</b> [1] - 28:16<br/> <b>individual</b> [2] - 35:6, 79:18<br/> <b>individually</b> [1] - 6:8<br/> <b>individuals</b> [1] - 58:21<br/> <b>inducement</b> [1] - 63:8<br/> <b>information</b> [3] - 5:7, 5:9, 21:10<br/> <b>initials</b> [1] - 41:17<br/> <b>ink</b> [11] - 20:2, 20:4, 20:8, 20:10, 20:14, 21:4, 21:9, 21:11, 22:5<br/> <b>instead</b> [1] - 55:11<br/> <b>instructed</b> [2] - 25:22, 35:11<br/> <b>instruction</b> [12] - 21:5, 27:13, 27:14, 56:16, 62:17, 81:11, 90:23, 96:22, 97:4, 97:5, 97:7, 97:9<br/> <b>instructions</b> [30] - 12:10, 16:13, 16:20, 16:22, 17:4, 21:2, 27:9, 27:10, 27:11, 27:15, 27:18, 27:21, 27:23, 28:6, 28:14, 28:15, 28:20, 31:21, 31:23, 32:2, 32:4, 32:10, 47:7, 47:15,</p> | <p>54:11, 56:3, 61:8, 78:15, 90:21, 98:5<br/> <b>Integrity</b> [11] - 62:5, 62:11, 62:19, 62:21, 62:22, 63:2, 63:9, 67:13, 67:22, 75:19, 81:10<br/> <b>intended</b> [1] - 68:22<br/> <b>intent</b> [2] - 62:8, 63:2<br/> <b>intention</b> [1] - 50:11<br/> <b>interaction</b> [2] - 30:15, 32:20<br/> <b>Interested</b> [1] - 9:2<br/> <b>Interior</b> [1] - 14:16<br/> <b>internal</b> [2] - 58:16, 82:2<br/> <b>Internally</b> [1] - 92:2<br/> <b>INTERNATIONAL</b> [1] - 1:9<br/> <b>International</b> [1] - 4:12<br/> <b>introduce</b> [2] - 5:13, 40:10<br/> <b>invoice</b> [21] - 40:15, 41:2, 41:6, 41:8, 41:9, 41:12, 41:19, 42:4, 42:9, 49:9, 49:17, 49:19, 49:21, 50:17, 51:21, 60:5, 78:13, 91:23, 92:8, 96:8, 96:13<br/> <b>Invoice</b> [10] - 40:16, 51:22, 64:23, 66:23, 74:23, 77:19, 80:14, 88:3, 91:15, 96:2<br/> <b>invoiced</b> [1] - 41:21<br/> <b>invoices</b> [1] - 40:23<br/> <b>involve</b> [1] - 68:6<br/> <b>involved</b> [3] - 28:11, 52:12<br/> <b>involves</b> [1] - 20:7<br/> <b>IS</b> [2] - 3:4, 3:16<br/> <b>Island</b> [1] - 35:17<br/> <b>IT</b> [2] - 3:4, 3:16<br/> <b>item</b> [10] - 41:12, 52:5, 53:7, 59:23, 65:3, 67:3, 68:17, 77:22, 80:17, 88:6<br/> <b>Items</b> [10] - 6:15, 6:20, 13:13, 13:16, 13:19, 18:22, 32:16, 89:4, 90:20, 91:19</p> <p style="text-align: center;"><b>J</b></p> <p><b>January</b> [2] - 50:8, 62:3<br/> <b>jet</b> [8] - 20:2, 20:4, 20:10, 21:4, 21:9,</p> | <p>22:5, 90:13, 90:16<br/> <b>jettied</b> [2] - 20:2, 20:4<br/> <b>jetting</b> [1] - 20:14<br/> <b>Jim</b> [1] - 49:23<br/> <b>JO</b> [3] - 41:13, 41:16, 41:17<br/> <b>job</b> [49] - 18:13, 41:4, 41:5, 41:7, 43:6, 48:14, 49:20, 52:6, 52:10, 52:12, 52:18, 53:7, 53:11, 53:12, 56:2, 59:23, 62:16, 63:10, 65:6, 65:9, 65:12, 67:5, 67:7, 67:9, 68:6, 75:5, 75:10, 78:3, 78:6, 78:10, 78:15, 78:16, 80:20, 81:2, 85:7, 85:8, 88:13, 88:7, 88:8, 91:23, 92:2, 92:5, 92:11, 92:14, 92:22<br/> <b>Jobs</b> [5] - 52:12, 52:15, 52:19, 88:8, 88:11, 90:2<br/> <b>JOHN</b> [6] - 1:14, 2:19, 4:2, 98:15, 99:7, 99:14<br/> <b>JOHNSON</b> [3] - 1:18, 100:7, 100:16<br/> <b>Join</b> [15] - 22:8, 26:4, 51:6, 58:7, 58:15, 59:5, 60:21, 61:17, 63:5, 66:6, 69:3, 71:19, 73:22, 74:7, 93:13<br/> <b>join</b> [2] - 56:6, 57:6<br/> <b>JPEG</b> [1] - 13:2</p> <p style="text-align: center;"><b>K</b></p> <p><b>kind</b> [1] - 75:22<br/> <b>kinds</b> [1] - 30:15<br/> <b>Kingston</b> [1] - 1:23<br/> <b>knowledge</b> [4] - 46:9, 64:4, 64:7, 82:11<br/> <b>known</b> [1] - 59:17</p> <p style="text-align: center;"><b>L</b></p> <p><b>landscape</b> [2] - 26:10, 95:3<br/> <b>landscapes</b> [2] - 23:9<br/> <b>large</b> [1] - 58:20<br/> <b>larger</b> [1] - 69:16<br/> <b>laser</b> [4] - 76:17, 77:2, 77:3, 77:8<br/> <b>lasers</b> [1] - 77:4<br/> <b>last</b> [24] - 6:11, 8:20,</p> | <p>10:18, 41:12, 42:10, 42:23, 50:2, 53:8, 53:13, 53:21, 54:7, 55:16, 65:14, 71:22, 75:18, 78:20, 79:7, 79:10, 83:8, 83:12, 83:15, 83:16, 86:8, 86:19<br/> <b>lavender</b> [2] - 65:3, 65:11<br/> <b>law</b> [1] - 4:7<br/> <b>LAWRENCE</b> [2] - 1:9, 2:9<br/> <b>Lawrence</b> [1] - 4:15<br/> <b>lawsuit</b> [3] - 4:19, 36:9, 37:2<br/> <b>layman's</b> [1] - 20:13<br/> <b>LD</b> [5] - 68:18, 68:20, 69:19, 90:13, 90:17<br/> <b>leave</b> [5] - 34:16, 34:20, 35:3, 35:13<br/> <b>left</b> [6] - 40:20, 43:21, 72:20, 86:2, 93:2, 93:6<br/> <b>left-hand</b> [1] - 86:2<br/> <b>legs</b> [4] - 73:2, 73:6, 73:9, 73:18<br/> <b>less</b> [1] - 59:18<br/> <b>LEWIS</b> [1] - 2:3<br/> <b>Lewis</b> [1] - 4:9<br/> <b>light</b> [5] - 37:2, 76:17, 77:2, 77:8, 90:13<br/> <b>Light</b> [1] - 90:16<br/> <b>line</b> [18] - 41:12, 44:12, 49:8, 53:7, 59:23, 62:4, 65:3, 67:3, 68:17, 72:19, 75:4, 75:18, 77:22, 80:17, 88:6, 88:18, 90:12, 90:20<br/> <b>lines</b> [4] - 43:21, 48:4, 67:12, 91:19<br/> <b>listed</b> [6] - 6:14, 48:17, 52:6, 68:14, 74:23, 75:13<br/> <b>listing</b> [1] - 89:16<br/> <b>listings</b> [1] - 89:6<br/> <b>lists</b> [2] - 6:20, 6:21<br/> <b>location</b> [1] - 36:14<br/> <b>look</b> [24] - 5:20, 5:21, 6:20, 6:22, 10:13, 10:15, 14:16, 44:2, 44:13, 46:23, 47:21, 48:16, 50:22, 60:16, 64:20, 66:19, 74:17, 74:20, 79:15, 80:11, 87:18, 91:13, 93:2, 95:9<br/> <b>looked</b> [5] - 15:7, 42:3, 78:9, 88:10,</p> |
|---|---|--|---|--|

|   |   |  |   |   |
|---|---|--|---|---|
| <p>89:23<br/> <b>Looking</b> [1] - 78:13<br/> <b>looking</b> [5] - 15:3,<br/> 41:20, 50:17, 51:2,<br/> 86:17<br/> <b>looks</b> [3] - 48:8, 82:4,<br/> 82:23<br/> <b>losenge</b> [1] - 28:23<br/> <b>LOSENGE</b> [1] - 29:2</p>  | <p><b>Matte</b> [4] - 16:6, 57:10,<br/> 57:11, 90:16<br/> <b>matte</b> [5] - 16:7,<br/> 16:11, 19:3, 57:15,<br/> 90:13<br/> <b>matter</b> [2] - 52:22,<br/> 98:16<br/> <b>maximize</b> [3] - 62:4,<br/> 62:8, 62:11, 62:21,<br/> 63:2, 63:8, 75:19<br/> <b>maximizing</b> [1] -<br/> 81:10<br/> <b>mean</b> [25] - 20:5,<br/> 25:17, 30:3, 41:2,<br/> 44:5, 44:8, 44:17,<br/> 48:9, 54:2, 55:4,<br/> 55:14, 67:15, 67:22,<br/> 70:10, 76:4, 76:5,<br/> 79:2, 81:8, 86:3,<br/> 88:22, 90:15, 92:7,<br/> 97:22, 98:2<br/> <b>means</b> [15] - 44:9,<br/> 44:15, 50:23, 62:15,<br/> 62:20, 67:16, 70:11,<br/> 76:17, 76:21, 79:6,<br/> 81:5, 82:23, 83:10,<br/> 89:5, 90:18<br/> <b>meant</b> [2] - 60:4, 86:2<br/> <b>meet</b> [2] - 14:8, 14:11<br/> <b>men</b> [7] - 9:20, 22:18,<br/> 23:16, 24:4, 24:5,<br/> 24:10, 29:9<br/> <b>mention</b> [1] - 32:3<br/> <b>met</b> [1] - 5:6<br/> <b>midway</b> [1] - 82:13<br/> <b>might</b> [3] - 15:13,<br/> 20:22, 56:15<br/> <b>mine</b> [1] - 48:8<br/> <b>mischaracterizing</b> [1]<br/> - 16:17<br/> <b>Miss</b> [12] - 4:14, 30:9,<br/> 30:12, 30:16, 31:19,<br/> 32:13, 33:12, 34:12,<br/> 34:21, 35:7, 49:5,<br/> 50:13<br/> <b>misunderstood</b> [1] -<br/> 7:22<br/> <b>modify</b> [1] - 46:12<br/> <b>moment</b> [4] - 74:17,<br/> 74:20, 83:2, 91:13<br/> <b>morning</b> [1] - 4:6<br/> <b>most</b> [1] - 61:12<br/> <b>motion</b> [1] - 3:9<br/> <b>Move</b> [1] - 57:4<br/> <b>move</b> [1] - 3:8<br/> <b>MR</b> [133] - 4:5, 5:13,<br/> 5:19, 10:2, 10:4,<br/> 11:3, 11:5, 12:5,<br/> 15:9, 15:20, 18:9,<br/> 18:11, 18:17, 19:13,</p> | <p>19:15, 19:21, 19:23,<br/> 20:16, 20:19, 22:7,<br/> 22:10, 22:20, 22:23,<br/> 23:13, 24:2, 24:7,<br/> 24:9, 24:15, 25:9,<br/> 25:11, 26:3, 26:6,<br/> 26:22, 28:9, 29:4,<br/> 29:6, 30:22, 31:18,<br/> 36:22, 37:3, 37:20,<br/> 38:4, 39:14, 39:19,<br/> 45:14, 45:18, 45:21,<br/> 47:6, 47:16, 48:3,<br/> 49:12, 49:13, 51:6,<br/> 51:8, 51:13, 51:19,<br/> 51:20, 54:23, 56:6,<br/> 56:9, 56:19, 56:21,<br/> 57:6, 57:7, 58:7,<br/> 58:9, 58:15, 58:22,<br/> 59:5, 59:9, 59:15,<br/> 59:20, 60:21, 60:23,<br/> 61:17, 61:20, 63:5,<br/> 63:7, 63:18, 63:23,<br/> 64:3, 64:13, 64:19,<br/> 66:6, 66:8, 66:12,<br/> 66:18, 68:9, 68:11,<br/> 69:3, 69:9, 70:6,<br/> 70:21, 71:2, 71:13,<br/> 71:14, 71:19, 71:21,<br/> 72:4, 73:13, 73:14,<br/> 73:21, 74:7, 74:10,<br/> 74:16, 77:11, 77:17,<br/> 78:22, 80:4, 80:10,<br/> 83:7, 83:11, 83:13,<br/> 83:18, 84:8, 84:10,<br/> 86:4, 86:7, 87:4,<br/> 87:12, 87:17, 91:7,<br/> 91:12, 93:12, 93:15,<br/> 94:8, 94:10, 95:8,<br/> 95:14, 95:19, 95:22,<br/> 96:3, 98:12<br/> <b>MS</b> [89] - 9:23, 10:23,<br/> 12:3, 15:6, 15:15,<br/> 15:17, 16:16, 18:8,<br/> 18:15, 19:10, 19:12,<br/> 19:20, 20:17, 20:18,<br/> 22:8, 22:19, 22:21,<br/> 23:6, 23:10, 23:11,<br/> 23:21, 23:22, 24:6,<br/> 24:12, 24:20, 25:8,<br/> 26:4, 26:12, 26:19,<br/> 27:5, 28:3, 29:5,<br/> 30:17, 30:18, 31:14,<br/> 34:5, 36:21, 37:18,<br/> 39:9, 45:10, 45:17,<br/> 47:4, 47:12, 47:13,<br/> 47:22, 47:23, 49:10,<br/> 49:11, 51:4, 54:20,<br/> 56:5, 56:18, 57:4,<br/> 58:3, 58:6, 58:13,<br/> 58:14, 59:3, 59:13,<br/> 59:14, 60:19, 60:20,</p> | <p>61:16, 63:4, 63:11,<br/> 63:22, 64:12, 66:5,<br/> 68:8, 69:2, 69:4,<br/> 70:3, 70:4, 70:20,<br/> 71:11, 71:18, 73:11,<br/> 73:12, 73:22, 74:5,<br/> 74:6, 83:4, 84:7,<br/> 84:21, 87:2, 93:8,<br/> 93:13, 95:17, 95:21<br/> <b>multiple</b> [3] - 55:11,<br/> 56:8</p> | <p>92:14, 95:11, 101:6,<br/> 101:7, 101:9,<br/> 101:10, 101:12,<br/> 101:13, 101:15,<br/> 101:16, 101:18,<br/> 101:19, 101:21<br/> <b>NancyScans</b> [5] -<br/> 6:23, 7:6, 9:17,<br/> 13:14, 15:10, 43:6<br/> <b>necessarity</b> [1] - 34:10<br/> <b>necessary</b> [1] - 79:14<br/> <b>need</b> [5] - 46:2, 58:20,<br/> 60:10, 60:17, 62:18,<br/> 63:15<br/> <b>needed</b> [2] - 31:16,<br/> 32:17<br/> <b>needs</b> [1] - 96:17<br/> <b>never</b> [5] - 4:21, 12:23,<br/> 32:10, 36:2, 36:4,<br/> 36:23, 42:19, 46:3,<br/> 84:4<br/> <b>NEW</b> [3] - 1:1, 99:1,<br/> 100:1<br/> <b>new</b> [4] - 97:12, 97:19,<br/> 97:20<br/> <b>New</b> [13] - 1:17, 1:19,<br/> 1:23, 2:4, 2:8, 2:13,<br/> 2:18, 13:23, 100:8,<br/> 100:12<br/> <b>next</b> [5] - 48:13, 48:16,<br/> 55:10, 58:18, 85:12,<br/> 89:4, 89:11<br/> <b>nine</b> [5] - 72:9, 93:22,<br/> 94:11, 94:12<br/> <b>Non</b> [1] - 1:14<br/> <b>Non-Party</b> [1] - 1:14<br/> <b>none</b> [1] - 60:14<br/> <b>Notary</b> [5] - 1:18, 3:11,<br/> 4:3, 100:8<br/> <b>notation</b> [1] - 89:17<br/> <b>note</b> [1] - 85:14<br/> <b>noted</b> [1] - 99:9<br/> <b>Notice</b> [1] - 1:15<br/> <b>November</b> [5] - 1:16,<br/> 11:7, 36:14, 91:16,<br/> 96:13, 100:11<br/> <b>nude</b> [7] - 23:14,<br/> 23:17, 24:22, 91:20,<br/> 92:3, 92:10, 92:22<br/> <b>nudes</b> [5] - 80:18,<br/> 81:2, 85:6, 85:7,<br/> 86:13<br/> <b>Number</b> [16] - 40:16,<br/> 50:8, 51:22, 62:3,<br/> 66:23, 68:15, 74:23,<br/> 75:13, 77:19, 80:14,<br/> 88:3, 88:15, 90:9,<br/> 91:15, 96:2, 96:9<br/> <b>number</b> [4] - 43:17,<br/> 72:20, 82:8, 89:15</p> |
| <b>M</b>  |   | <b>N</b>   |   |   |
| <p><b>machine</b> [1] - 55:22<br/> <b>Mack</b> [2] - 17:23, 49:2<br/> <b>Madison</b> [1] - 2:13<br/> <b>majority</b> [1] - 9:7<br/> <b>man</b> [2] - 87:5, 87:10<br/> <b>Manager</b> [1] - 18:4<br/> <b>Manhattan</b> [1] - 36:14<br/> <b>manipulate</b> [3] -<br/> 46:17, 73:8, 74:9<br/> <b>manipulated</b> [1] - 74:4<br/> <b>manipulation</b> [1] -<br/> 46:21<br/> <b>manner</b> [2] - 60:17,<br/> 73:9<br/> <b>margin</b> [12] - 40:15,<br/> 40:20, 43:21, 62:2,<br/> 64:22, 66:22, 68:14,<br/> 74:22, 77:19, 80:14,<br/> 88:15, 95:23<br/> <b>mark</b> [12] - 5:15,<br/> 39:14, 51:13, 64:13,<br/> 66:12, 74:10, 76:19,<br/> 76:23, 77:11, 80:4,<br/> 87:12, 91:7<br/> <b>marked</b> [14] - 5:17,<br/> 10:7, 14:15, 39:16,<br/> 51:15, 51:21, 64:17,<br/> 66:16, 74:14, 77:15,<br/> 80:8, 87:15, 91:10,<br/> 95:12<br/> <b>marking</b> [1] - 39:21<br/> <b>marks</b> [1] - 29:17<br/> <b>Match</b> [1] - 89:3<br/> <b>match</b> [17] - 44:2,<br/> 44:13, 44:20, 45:2,<br/> 45:13, 46:13, 50:22,<br/> 62:5, 62:13, 63:2,<br/> 63:9, 67:16, 76:2,<br/> 78:17, 88:19, 88:22,<br/> 98:6<br/> <b>matched</b> [2] - 68:5,<br/> 76:3<br/> <b>material</b> [4] - 12:16,<br/> 12:20, 14:8, 15:22<br/> <b>materials</b> [5] - 12:15,<br/> 19:17, 35:6, 37:12,<br/> 53:17</p> | <p><b>MS</b> [89] - 9:23, 10:23,<br/> 12:3, 15:6, 15:15,<br/> 15:17, 16:16, 18:8,<br/> 18:15, 19:10, 19:12,<br/> 19:20, 20:17, 20:18,<br/> 22:8, 22:19, 22:21,<br/> 23:6, 23:10, 23:11,<br/> 23:21, 23:22, 24:6,<br/> 24:12, 24:20, 25:8,<br/> 26:4, 26:12, 26:19,<br/> 27:5, 28:3, 29:5,<br/> 30:17, 30:18, 31:14,<br/> 34:5, 36:21, 37:18,<br/> 39:9, 45:10, 45:17,<br/> 47:4, 47:12, 47:13,<br/> 47:22, 47:23, 49:10,<br/> 49:11, 51:4, 54:20,<br/> 56:5, 56:18, 57:4,<br/> 58:3, 58:6, 58:13,<br/> 58:14, 59:3, 59:13,<br/> 59:14, 60:19, 60:20,</p>  | <p><b>name</b> [20] - 4:6, 30:6,<br/> 36:5, 65:6, 67:4,<br/> 67:7, 75:5, 75:7,<br/> 78:3, 78:6, 78:8,<br/> 80:20, 82:5, 82:7,<br/> 82:8, 85:7, 88:7,<br/> 88:8, 91:23, 92:5<br/> <b>named</b> [2] - 52:21,<br/> 78:7<br/> <b>names</b> [7] - 14:11,<br/> 52:19, 52:20, 81:20,<br/> 81:22, 82:9<br/> <b>Nancy</b> [14] - 8:8, 12:4,<br/> 12:6, 12:8, 17:20,<br/> 40:21, 48:23, 76:19,<br/> 76:22, 82:12, 85:11,<br/> 96:17, 96:22, 97:6<br/> <b>NANCYSCANS</b> [2] -<br/> 1:14, 2:18<br/> <b>NancyScans</b> [95] -<br/> 5:10, 6:5, 6:6, 6:7,<br/> 6:18, 7:8, 7:15, 8:10,<br/> 8:12, 8:14, 8:20, 9:9,<br/> 11:14, 11:16, 11:19,<br/> 12:6, 12:11, 14:8,<br/> 15:11, 15:12, 17:3,<br/> 17:9, 18:3, 18:7,<br/> 18:12, 18:13, 18:18,<br/> 19:5, 20:23, 22:4,<br/> 25:22, 26:14, 26:20,<br/> 29:12, 29:17, 31:13,<br/> 33:14, 33:17, 33:20,<br/> 33:22, 35:19, 35:21,<br/> 37:16, 37:19, 38:7,<br/> 39:11, 39:16, 40:21,<br/> 40:23, 41:22, 43:2,<br/> 45:8, 48:19, 51:15,<br/> 54:6, 56:4, 61:13,<br/> 62:23, 64:16, 65:22,<br/> 66:15, 69:23, 71:6,<br/> 71:17, 73:8, 74:3,<br/> 74:13, 77:14, 78:8,<br/> 80:7, 81:23, 82:11,<br/> 84:11, 84:13, 84:16,<br/> 86:11, 86:13, 87:14,<br/> 89:9, 91:5, 91:9,</p>   |   |   |

|  |   |  |   |   |
|--|---|--|---|---|
| <p><b>NUMBER</b> [1] - 101:3<br/><b>numbers</b> [1] - 82:17</p> <p><b>O</b></p> <p><b>object</b> [2] - 3:6, 3:8<br/><b>objection</b> [2] - 10:3, 33:5<br/><b>Objection</b> [102] - 9:23, 10:23, 12:3, 15:6, 15:15, 15:17, 16:16, 18:8, 18:9, 18:15, 19:10, 19:12, 19:13, 19:20, 19:21, 20:16, 20:17, 20:18, 22:7, 22:19, 22:20, 22:21, 23:6, 23:10, 23:11, 23:21, 23:22, 24:6, 24:12, 24:20, 25:8, 25:9, 26:3, 26:12, 26:19, 27:5, 28:3, 29:4, 29:5, 30:17, 30:18, 31:14, 34:5, 36:21, 36:22, 37:18, 39:9, 45:10, 45:17, 45:18, 47:4, 47:12, 47:13, 47:22, 47:23, 49:10, 49:11, 51:4, 54:20, 56:5, 56:18, 56:19, 57:4, 58:3, 58:6, 58:13, 58:14, 59:3, 59:13, 59:14, 59:15, 60:19, 60:20, 61:16, 63:4, 63:11, 63:22, 64:12, 66:5, 68:8, 68:9, 69:2, 69:4, 70:3, 70:4, 70:20, 70:21, 71:18, 73:11, 73:12, 73:13, 73:21, 74:5, 74:6, 83:11, 84:7, 84:8, 84:21, 86:4, 87:2, 93:12, 94:8<br/><b>objections</b> [1] - 10:3<br/><b>obscured</b> [1] - 29:9<br/><b>obviously</b> [1] - 40:8<br/><b>occasion</b> [5] - 8:15, 11:22, 25:5, 25:22, 27:16<br/><b>Occasionally</b> [1] - 47:5<br/><b>occasions</b> [4] - 8:17, 34:12, 34:13, 34:20<br/><b>occur</b> [1] - 47:3<br/><b>October</b> [3] - 88:16, 90:9, 96:12<br/><b>OF</b> [5] - 1:1, 99:1, 99:1, 100:1, 100:1<br/><b>offer</b> [1] - 60:6<br/><b>office</b> [9] - 5:4, 13:14,</p> | <p>39:23, 64:15, 66:14, 74:12, 77:13, 80:6, 87:23<br/><b>officer</b> [1] - 8:2<br/><b>Officer</b> [3] - 1:15, 7:13, 8:9<br/><b>officers</b> [4] - 7:17, 7:21, 7:23, 15:12<br/><b>offices</b> [1] - 1:16<br/><b>official</b> [1] - 18:2<br/><b>offset</b> [1] - 83:14<br/><b>often</b> [1] - 44:19<br/><b>old</b> [1] - 8:12<br/><b>OLSON</b> [5] - 1:14, 2:19, 4:2, 98:15, 99:7, 99:14<br/><b>Olson</b> [20] - 7:4, 8:8, 12:4, 12:6, 12:8, 17:20, 20:2, 40:18, 48:23, 49:5, 50:13, 51:21, 66:19, 74:17, 80:11, 82:12, 85:11, 87:18, 91:13, 96:22<br/><b>Once</b> [1] - 33:20<br/><b>once</b> [2] - 33:21, 49:20<br/><b>One</b> [4] - 8:2, 71:23, 81:4, 93:22<br/><b>one</b> [45] - 4:11, 8:15, 9:8, 17:18, 20:13, 21:7, 25:7, 25:18, 26:2, 26:7, 26:16, 32:19, 32:23, 34:15, 38:12, 41:19, 48:5, 48:9, 52:12, 52:15, 55:10, 55:11, 55:12, 58:17, 60:6, 60:7, 72:6, 72:20, 72:22, 79:2, 79:3, 79:5, 79:6, 83:16, 84:22, 90:5, 90:18, 93:11, 93:21, 95:20, 97:10, 97:13<br/><b>open</b> [1] - 34:14<br/><b>operator</b> [1] - 45:19<br/><b>opportunity</b> [3] - 66:19, 80:11, 87:18<br/><b>ORAL</b> [1] - 1:13<br/><b>Order</b> [7] - 50:8, 62:3, 68:14, 75:13, 88:15, 90:8, 96:9<br/><b>order</b> [51] - 6:21, 6:22, 9:11, 21:4, 21:15, 40:2, 41:4, 41:5, 41:6, 43:16, 43:17, 43:20, 46:21, 48:12, 48:15, 48:16, 48:19, 48:20, 48:22, 49:2, 49:9, 49:15, 49:20, 49:21, 50:11, 50:19, 51:3, 54:7, 54:10,</p> | <p>54:11, 54:15, 62:2, 69:7, 69:23, 70:16, 76:7, 78:14, 89:14, 90:8, 90:20, 90:21, 91:5, 96:7, 96:12, 97:2, 97:7, 97:11, 98:3, 98:5, 98:6, 98:10<br/><b>orders</b> [1] - 89:9<br/><b>original</b> [25] - 3:12, 3:15, 21:13, 21:15, 44:19, 44:20, 44:21, 44:23, 45:3, 45:5, 45:13, 45:23, 46:10, 46:13, 46:22, 47:11, 47:21, 56:16, 60:10, 69:10, 69:16, 76:8, 78:18, 79:15, 98:4<br/><b>originally</b> [1] - 61:6<br/><b>originals</b> [9] - 62:5, 62:13, 63:3, 63:9, 67:17, 68:5, 68:6, 76:3<br/><b>outs</b> [2] - 75:4, 75:10<br/><b>overnight</b> [1] - 13:9<br/><b>oversized</b> [2] - 91:20, 92:7<br/><b>Oversized</b> [1] - 92:4<br/><b>owed</b> [1] - 39:12<br/><b>own</b> [7] - 34:14, 34:15, 56:12, 58:16, 59:8, 63:13, 63:14</p> <p><b>P</b></p> <p><b>page</b> [71] - 6:11, 6:16, 39:16, 40:14, 42:10, 42:13, 42:23, 43:15, 50:2, 51:15, 52:5, 52:23, 53:7, 53:8, 53:13, 53:22, 54:8, 55:16, 57:20, 57:22, 58:10, 58:23, 59:17, 59:21, 61:21, 64:22, 65:14, 66:22, 67:12, 68:12, 69:13, 69:18, 69:20, 71:22, 74:22, 75:12, 76:10, 77:18, 78:20, 78:22, 79:7, 79:10, 81:14, 84:23, 85:5, 85:12, 85:13, 85:14, 85:19, 85:22, 86:8, 86:19, 88:2, 88:14, 89:4, 89:11, 89:15, 90:5, 91:15, 92:16, 93:3, 93:19, 95:16, 95:23, 96:6, 96:8, 96:13, 96:19<br/><b>PAGE</b> [1] - 101:3<br/><b>Page</b> [10] - 50:3, 50:6,</p> | <p>50:7, 51:10, 71:23, 72:4, 81:4, 89:13, 93:7<br/><b>pages</b> [8] - 15:4, 15:13, 18:19, 39:20, 52:4, 77:12, 80:5, 87:22<br/><b>paid</b> [1] - 39:11<br/><b>paintings</b> [4] - 9:19, 11:6, 11:8, 11:10<br/><b>paper</b> [15] - 16:4, 16:6, 16:8, 16:11, 19:3, 21:12, 57:9, 57:10, 57:11, 57:12, 57:13, 57:14, 57:15, 59:19<br/><b>paragraphs</b> [1] - 16:7<br/><b>parenthesis</b> [4] - 97:13, 97:14, 97:16<br/><b>parenthetical</b> [1] - 97:22<br/><b>Park</b> [3] - 1:17, 2:7, 2:17<br/><b>part</b> [2] - 43:5, 92:4<br/><b>particular</b> [1] - 59:7<br/><b>parties</b> [1] - 3:4<br/><b>parts</b> [2] - 56:15, 65:8<br/><b>party</b> [2] - 4:19, 40:4<br/><b>Party</b> [1] - 1:14<br/><b>past</b> [1] - 8:15<br/><b>Patrick</b> [2] - 4:7, 14:20<br/><b>PATRICK</b> [1] - 1:3<br/><b>pattern</b> [2] - 75:20, 76:4<br/><b>payment</b> [2] - 37:15, 38:6<br/><b>PDF</b> [1] - 12:23<br/><b>pending</b> [1] - 37:22<br/><b>per</b> [1] - 38:22<br/><b>PERAL</b> [20] - 1:17, 2:17, 19:10, 20:18, 22:21, 23:11, 23:22, 30:18, 47:13, 47:23, 49:11, 58:14, 59:14, 60:20, 69:4, 70:4, 73:12, 74:5, 83:4, 93:8<br/><b>percent</b> [2] - 57:2, 61:18<br/><b>perform</b> [2] - 33:23, 48:17<br/><b>performed</b> [2] - 75:22, 98:6<br/><b>performs</b> [1] - 20:14<br/><b>periodic</b> [1] - 38:12<br/><b>periodically</b> [2] - 38:17, 38:18<br/><b>person</b> [11] - 8:3, 8:23, 11:15, 17:3, 28:17, 28:18, 34:7, 34:9, 48:13, 48:16, 91:4</p> | <p><b>personal</b> [1] - 7:6<br/><b>personally</b> [2] - 14:3, 78:7<br/><b>pertains</b> [1] - 5:8<br/><b>pertinent</b> [1] - 37:22<br/><b>photocopied</b> [1] - 22:12<br/><b>photocopy</b> [1] - 85:13<br/><b>photograph</b> [9] - 20:15, 21:2, 21:3, 73:3, 73:6, 73:8, 73:19, 93:10, 94:17<br/><b>photographer</b> [1] - 21:2<br/><b>photographs</b> [24] - 15:14, 15:19, 15:23, 16:4, 16:10, 16:14, 16:19, 16:23, 18:14, 19:2, 19:6, 19:9, 19:19, 33:14, 33:17, 54:3, 54:4, 54:14, 55:5, 55:6, 55:9, 56:20, 58:11, 78:18<br/><b>Photography</b> [1] - 14:20<br/><b>pick</b> [8] - 13:10, 13:11, 13:16, 13:19, 14:8, 30:21<br/><b>picked</b> [1] - 31:17<br/><b>picture</b> [2] - 40:20, 58:5<br/><b>pictures</b> [1] - 54:12<br/><b>piece</b> [3] - 17:6, 38:22<br/><b>piece-by-piece</b> [1] - 17:6<br/><b>place</b> [1] - 99:9<br/><b>placed</b> [1] - 20:8<br/><b>Plaintiff</b> [2] - 1:4, 4:7<br/><b>PLAINTIFF</b> [1] - 2:5<br/><b>Plaintiff's</b> [12] - 5:16, 5:17, 39:17, 51:16, 64:17, 66:16, 74:14, 77:15, 80:8, 87:15, 91:10, 95:12<br/><b>PLAINTIFFS</b> [1] - 101:3<br/><b>plant</b> [3] - 91:20, 92:11, 92:22<br/><b>plants</b> [1] - 92:3<br/><b>point</b> [5] - 11:20, 67:21, 93:22, 94:12, 96:19<br/><b>policy</b> [1] - 48:19<br/><b>portion</b> [7] - 41:12, 67:10, 81:14, 88:12, 93:2, 93:7, 95:5<br/><b>portrayed</b> [1] - 25:6<br/><b>position</b> [2] - 7:10, 8:3<br/><b>possession</b> [1] - 6:23<br/><b>possible</b> [4] - 20:14,</p> |
|--|---|--|---|---|



|  |  |   |  |  |
|--|--|---|--|--|
| <p>21:4, 46:22, 47:21<br/> <b>possibly</b> [1] - 17:17<br/> <b>practice</b> [2] - 29:21, 61:15<br/> <b>preliminary</b> [1] - 32:16<br/> <b>prepare</b> [3] - 5:4, 41:6, 70:16<br/> <b>prepared</b> [4] - 41:2, 41:4, 41:19, 91:5<br/> <b>preparing</b> [1] - 41:9<br/> <b>prescribed</b> [1] - 63:10<br/> <b>President</b> [3] - 8:4, 8:7, 12:6<br/> <b>Previous</b> [1] - 28:5<br/> <b>previous</b> [17] - 11:18, 12:2, 14:5, 14:7, 14:12, 18:5, 28:10, 28:13, 28:20, 30:15, 31:8, 31:20, 33:13, 85:4, 85:14, 87:21, 89:15<br/> <b>previously</b> [7] - 10:7, 14:14, 51:9, 81:9, 88:19, 88:23, 89:3<br/> <b>Prince</b> [85] - 4:14, 8:14, 8:18, 8:21, 8:23, 9:5, 9:10, 9:18, 11:7, 11:15, 11:16, 11:18, 11:19, 11:20, 11:23, 12:10, 12:13, 12:16, 12:21, 13:13, 13:17, 14:9, 15:11, 16:14, 16:20, 16:21, 18:6, 18:13, 19:16, 19:17, 21:23, 22:16, 23:3, 23:8, 23:9, 25:23, 28:11, 28:15, 29:14, 31:13, 33:21, 34:3, 34:10, 35:3, 35:20, 37:16, 38:5, 38:7, 39:3, 39:11, 42:7, 42:20, 43:3, 43:13, 47:9, 47:18, 53:2, 53:19, 54:16, 57:23, 61:3, 61:6, 61:13, 63:19, 64:5, 64:9, 65:22, 66:9, 66:10, 70:13, 70:14, 70:18, 79:20, 79:21, 84:12, 84:14, 87:9, 93:10, 93:23, 94:12, 94:17<br/> <b>PRINCE</b> [2] - 1:8, 2:14<br/> <b>Prince's</b> [8] - 19:16, 29:23, 35:16, 43:6, 47:19, 49:6, 54:16, 61:3<br/> <b>print</b> [39] - 12:15, 16:23, 18:14, 21:3, 22:5, 43:8, 44:2,</p> | <p>44:13, 46:15, 46:18, 46:23, 49:2, 50:22, 54:9, 54:16, 55:9, 55:12, 56:7, 57:2, 57:13, 58:17, 58:19, 58:20, 68:18, 69:7, 69:14, 69:19, 79:6, 79:17, 79:20, 85:6, 90:12, 90:18, 90:21, 90:22, 90:23, 96:17<br/> <b>printed</b> [15] - 16:19, 43:12, 54:19, 55:9, 57:11, 57:14, 66:4, 66:7, 69:15, 71:17, 77:7, 79:18, 86:14, 92:15, 92:21<br/> <b>printer</b> [1] - 21:9<br/> <b>printers</b> [1] - 59:17<br/> <b>Printing</b> [1] - 71:9<br/> <b>printing</b> [9] - 34:2, 54:15, 55:11, 58:17, 64:9, 68:7, 69:6, 77:6, 96:19<br/> <b>printout</b> [1] - 47:20<br/> <b>prints</b> [3] - 72:5, 78:19, 78:23<br/> <b>private</b> [1] - 7:15<br/> <b>Privately</b> [1] - 7:16<br/> <b>problem</b> [1] - 45:9<br/> <b>process</b> [19] - 9:11, 21:22, 22:5, 44:18, 45:2, 45:15, 47:3, 48:23, 49:2, 54:9, 55:10, 58:17, 60:7, 60:9, 69:5, 69:6, 69:7, 79:13<br/> <b>produce</b> [1] - 84:13<br/> <b>produced</b> [14] - 22:12, 39:23, 40:3, 40:6, 52:3, 66:13, 74:12, 77:13, 80:5, 87:22, 88:19, 88:23, 89:3, 95:14<br/> <b>producing</b> [1] - 39:21<br/> <b>product</b> [2] - 34:3, 35:8<br/> <b>professional</b> [1] - 31:11<br/> <b>project</b> [75] - 9:4, 9:9, 9:15, 9:17, 11:15, 12:11, 12:14, 12:18, 13:20, 15:11, 15:22, 16:15, 17:4, 17:6, 17:11, 17:14, 17:16, 18:6, 18:14, 18:20, 18:23, 19:19, 20:11, 22:2, 23:3, 24:11, 24:18, 24:22, 26:15, 27:6, 28:7, 29:7, 29:15, 29:19, 30:2,</p> | <p>30:10, 30:13, 30:21, 31:6, 31:16, 31:20, 33:13, 33:18, 36:20, 37:4, 37:10, 37:13, 37:17, 38:8, 38:14, 38:16, 39:4, 39:12, 42:19, 43:7, 47:8, 47:19, 49:6, 49:8, 50:12, 52:11, 52:13, 52:16, 53:18, 61:2, 65:19, 67:10, 72:12, 75:10, 78:11, 80:21, 82:6, 84:12, 88:12, 92:12<br/> <b>projects</b> [18] - 8:14, 11:18, 11:21, 12:2, 18:12, 28:5, 28:10, 28:11, 28:13, 28:20, 30:15, 31:8, 31:12, 31:20, 33:13, 33:21, 61:12, 62:23<br/> <b>proof</b> [3] - 88:19, 88:22, 89:3<br/> <b>provide</b> [1] - 84:18<br/> <b>provided</b> [8] - 5:7, 5:10, 32:5, 33:14, 33:17, 64:15<br/> <b>public</b> [2] - 3:12, 7:15<br/> <b>Public</b> [4] - 1:19, 3:11, 4:3, 100:8<br/> <b>publication</b> [1] - 14:17<br/> <b>PUBLICATIONS</b> [1] - 1:9<br/> <b>Publications</b> [1] - 4:12<br/> <b>publisher</b> [1] - 10:21<br/> <b>purposes</b> [8] - 5:15, 39:15, 51:14, 64:14, 74:11, 77:12, 87:13, 91:8<br/> <b>pursuant</b> [5] - 1:15, 6:2, 6:4, 12:11, 98:6<br/> <b>put</b> [8] - 29:12, 29:17, 44:8, 54:6, 54:9, 54:11, 55:10, 84:13<br/> <b>putting</b> [1] - 54:14</p> | <p>97:13, 97:19, 97:20<br/> <b>Rastafarian</b> [7] - 9:20, 22:18, 23:16, 24:4, 24:5, 24:10, 29:9<br/> <b>Rastafarians</b> [1] - 22:22<br/> <b>Rastas</b> [11] - 56:2, 67:4, 67:9, 72:6, 72:21, 77:23, 78:15, 91:20, 92:3, 92:11, 92:22<br/> <b>Ratas</b> [2] - 53:3, 53:7<br/> <b>rate</b> [3] - 38:9, 38:19, 38:20<br/> <b>rather</b> [2] - 21:3, 86:23<br/> <b>raw</b> [1] - 79:14<br/> <b>read</b> [5] - 37:20, 37:22, 65:3, 91:20, 99:7<br/> <b>reading</b> [1] - 98:5<br/> <b>reads</b> [2] - 41:13, 43:21, 44:12, 59:23, 62:4, 66:22, 67:3, 67:13, 68:18, 75:4, 75:19, 77:22, 78:23, 80:14, 80:17, 83:8, 88:2, 88:15, 88:19, 91:15, 96:16, 97:12<br/> <b>reason</b> [1] - 8:22<br/> <b>reasonable</b> [1] - 39:6<br/> <b>recalling</b> [1] - 89:23<br/> <b>receive</b> [13] - 12:20, 13:6, 13:17, 15:21, 20:15, 21:8, 21:13, 21:14, 27:16, 27:23, 29:8, 32:9, 37:8<br/> <b>received</b> [34] - 12:16, 12:23, 13:4, 15:21, 16:8, 16:11, 17:3, 20:23, 23:7, 23:16, 23:17, 23:20, 23:23, 24:3, 25:4, 25:10, 25:12, 25:13, 27:9, 27:15, 28:6, 28:13, 29:14, 29:18, 32:7, 42:19, 53:18, 53:21, 53:23, 54:4, 57:8, 65:22, 87:8, 93:10<br/> <b>receiving</b> [12] - 17:5, 18:23, 23:2, 23:7, 23:14, 24:4, 24:17, 24:21, 28:14, 30:3, 31:22, 35:19<br/> <b>recess</b> [1] - 51:18<br/> <b>recognize</b> [4] - 5:23, 15:4, 15:8, 85:21<br/> <b>recollection</b> [5] - 75:9, 80:23, 81:3, 88:11, 92:10<br/> <b>record</b> [9] - 7:9, 7:10,</p> | <p>40:11, 51:19, 72:5, 78:23, 83:14, 95:23, 99:8<br/> <b>Red</b> [1] - 60:3<br/> <b>redacted</b> [2] - 44:6, 50:9<br/> <b>redacting</b> [1] - 50:5<br/> <b>reduce</b> [2] - 75:19, 76:4<br/> <b>refer</b> [5] - 13:22, 52:9, 53:8<br/> <b>reference</b> [8] - 28:10, 40:8, 52:21, 78:3, 79:5, 82:7, 85:3, 88:7<br/> <b>referenced</b> [5] - 6:15, 36:10, 68:22, 85:4, 92:2<br/> <b>referencing</b> [2] - 40:12, 90:3<br/> <b>referring</b> [7] - 5:14, 13:22, 28:11, 38:20, 42:10, 71:6, 77:9<br/> <b>refers</b> [1] - 71:16<br/> <b>reflect</b> [1] - 87:5<br/> <b>reflected</b> [3] - 56:4, 58:11, 95:5<br/> <b>regard</b> [2] - 28:6, 30:10<br/> <b>regards</b> [2] - 36:9, 52:11<br/> <b>regularly</b> [1] - 11:23<br/> <b>relate</b> [1] - 9:8<br/> <b>related</b> [2] - 10:8, 42:15<br/> <b>relationship</b> [1] - 31:11<br/> <b>release</b> [1] - 15:12<br/> <b>remain</b> [1] - 60:14<br/> <b>remedy</b> [1] - 45:8<br/> <b>remember</b> [18] - 12:19, 13:18, 13:21, 17:2, 17:5, 26:17, 27:10, 28:7, 32:12, 32:14, 48:10, 53:12, 80:3, 91:6, 93:14, 93:16<br/> <b>remove</b> [2] - 60:11, 61:15<br/> <b>removed</b> [1] - 60:17<br/> <b>Rennselaerville</b> [5] - 13:23, 14:12, 35:14, 41:13, 42:2<br/> <b>rephrase</b> [2] - 20:21, 49:12<br/> <b>Reporter</b> [3] - 1:18, 37:22, 100:8<br/> <b>REPORTER</b> [1] - 24:5<br/> <b>Reporting</b> [1] - 1:22<br/> <b>represent</b> [4] - 4:6,</p> |
| <b>Q</b>   |  |   |  |  |
| <p><b>quality</b> [1] - 35:9<br/> <b>questions</b> [9] - 9:7, 40:14, 98:13<br/> <b>quickly</b> [1] - 95:18<br/> <b>quite</b> [1] - 84:22<br/> <b>quote</b> [1] - 60:7</p>  |  |   |  |  |
| <b>R</b>   |  |   |  |  |
| <p><b>Rasta</b> [8] - 14:20, 52:6, 59:23, 73:16,</p>   |  |   |  |  |

|   |  |   |  |  |
|---|--|---|--|--|
| <p>4:10, 39:21, 81:19<br/> <b>represented</b> [3] - 54:7, 57:21, 79:7<br/> <b>representing</b> [2] - 4:14, 4:15<br/> <b>represents</b> [2] - 52:15, 87:22<br/> <b>reproduce</b> [1] - 20:8<br/> <b>requested</b> [4] - 18:19, 26:10, 60:22, 61:4<br/> <b>required</b> [2] - 35:21, 46:21<br/> <b>rescanned</b> [2] - 46:2, 46:3<br/> <b>rescanning</b> [1] - 46:11<br/> <b>resembled</b> [1] - 58:4<br/> <b>reserved</b> [2] - 3:7, 3:9<br/> <b>resides</b> [1] - 20:9<br/> <b>respect</b> [4] - 30:9, 31:12, 56:2, 93:11<br/> <b>respective</b> [1] - 3:4<br/> <b>response</b> [2] - 22:12, 57:5<br/> <b>retained</b> [3] - 11:14, 12:13, 33:22<br/> <b>return</b> [2] - 3:12, 34:3<br/> <b>returned</b> [2] - 54:15, 54:22<br/> <b>reviewed</b> [1] - 5:6<br/> <b>RGB</b> [3] - 59:23, 60:2, 77:4<br/> <b>RICHARD</b> [2] - 1:8, 2:14<br/> <b>Richard</b> [1] - 4:14, 8:14, 11:7, 16:20, 16:21, 39:2, 49:6, 53:2, 70:13, 70:14, 70:18<br/> <b>right-hand</b> [3] - 40:15, 62:2, 88:15<br/> <b>rights</b> [2] - 3:6, 3:13<br/> <b>RIZZOLI</b> [1] - 1:9<br/> <b>Rizzoli</b> [1] - 4:11<br/> <b>role</b> [2] - 8:20, 8:22<br/> <b>Row</b> [2] - 1:17, 2:17<br/> <b>RP</b> [4] - 70:7, 70:14, 71:5, 71:15</p> <p style="text-align: center;"><b>S</b></p> <p><b>saved</b> [1] - 12:23<br/> <b>saw</b> [1] - 10:19<br/> <b>Scan</b> [1] - 56:7<br/> <b>scan</b> [37] - 12:15, 16:14, 16:22, 18:14, 21:21, 22:4, 43:8, 44:18, 45:5, 45:22, 46:10, 46:16, 46:17, 46:23, 47:20, 54:16,</p> | <p>56:20, 59:23, 60:7, 60:16, 61:5, 63:9, 68:7, 73:23, 76:5, 76:7, 79:14, 79:15, 86:22, 87:5, 90:21, 90:22, 93:4, 93:6, 96:17<br/> <b>scanned</b> [22] - 16:19, 43:2, 43:12, 46:4, 53:22, 55:5, 57:11, 66:2, 68:23, 69:11, 71:17, 72:17, 73:5, 79:10, 79:12, 86:11, 86:14, 92:15, 92:21, 94:4, 94:7, 94:11<br/> <b>scanning</b> [17] - 34:2, 44:18, 44:22, 45:2, 48:23, 60:9, 64:5, 64:8, 68:6, 69:5, 69:6, 71:6, 77:5, 78:18, 79:13, 96:17<br/> <b>scans</b> [8] - 43:2, 47:10, 53:15, 60:6, 60:10, 77:6, 78:17, 96:18<br/> <b>SCHNADER</b> [1] - 2:3<br/> <b>Schnader</b> [1] - 4:8<br/> <b>Scissors</b> [1] - 55:21<br/> <b>screen</b> [1] - 46:16<br/> <b>second</b> [15] - 6:10, 43:5, 43:15, 50:2, 62:4, 68:12, 69:18, 72:19, 81:14, 85:18, 85:21, 89:16, 90:19, 95:9, 96:6<br/> <b>section</b> [1] - 52:5<br/> <b>see</b> [58] - 10:18, 14:19, 23:19, 40:18, 41:13, 42:8, 43:17, 44:3, 50:7, 51:23, 52:7, 53:5, 62:6, 64:23, 65:4, 65:14, 65:16, 66:23, 68:15, 68:18, 70:8, 72:7, 72:9, 72:15, 72:21, 73:2, 73:16, 73:19, 74:23, 75:16, 75:20, 76:11, 76:19, 77:20, 77:23, 80:15, 81:15, 82:14, 83:19, 85:16, 86:20, 87:6, 88:3, 88:16, 88:19, 89:17, 90:10, 90:20, 91:16, 91:21, 92:18, 95:17, 96:4, 96:10, 96:14, 96:20, 97:8, 97:17<br/> <b>seeing</b> [5] - 22:17, 72:13, 86:16, 93:18, 94:2<br/> <b>seem</b> [1] - 82:18</p> | <p><b>Segal</b> [1] - 4:8<br/> <b>SEGAL</b> [1] - 2:3<br/> <b>send</b> [3] - 15:11, 22:4, 37:12<br/> <b>sending</b> [1] - 19:18<br/> <b>sense</b> [1] - 45:16<br/> <b>sent</b> [8] - 12:15, 22:16, 31:2, 32:5, 43:3, 43:12<br/> <b>sentence</b> [3] - 32:8, 33:3, 51:10<br/> <b>separate</b> [12] - 23:18, 25:3, 42:12, 43:11, 53:23, 54:2, 54:3, 54:14, 58:11, 79:18, 81:15, 93:11<br/> <b>separately</b> [3] - 23:19, 25:4, 25:12<br/> <b>sequentially</b> [1] - 97:19<br/> <b>served</b> [1] - 6:2<br/> <b>service</b> [1] - 38:22<br/> <b>Service</b> [1] - 1:22<br/> <b>set</b> [3] - 63:13, 85:18, 85:21<br/> <b>seven</b> [1] - 89:4<br/> <b>several</b> [1] - 23:4<br/> <b>shading</b> [1] - 45:6<br/> <b>shall</b> [4] - 3:8, 3:13, 3:13, 3:17<br/> <b>sheet</b> [7] - 54:22, 58:20, 59:7, 59:10, 59:16, 59:18, 81:15<br/> <b>SHERIDAN</b> [1] - 2:12<br/> <b>show</b> [2] - 10:7, 14:14<br/> <b>side</b> [3] - 24:13, 69:20<br/> <b>side-by-side</b> [1] - 69:20<br/> <b>similar</b> [3] - 18:13, 51:9, 87:21<br/> <b>singular</b> [1] - 55:22<br/> <b>sit</b> [5] - 19:8, 22:15, 39:2, 91:3, 97:6<br/> <b>six</b> [1] - 65:15<br/> <b>Sixty</b> [1] - 93:22<br/> <b>sixty</b> [1] - 94:11<br/> <b>Sixty-nine</b> [1] - 93:22<br/> <b>sixty-nine</b> [1] - 94:11<br/> <b>size</b> [13] - 26:23, 27:3, 27:8, 57:2, 57:3, 57:12, 69:13, 69:16, 81:6, 81:8, 91:2, 96:18<br/> <b>skewing</b> [1] - 29:21<br/> <b>skill</b> [1] - 63:13<br/> <b>skilled</b> [1] - 45:19<br/> <b>skills</b> [1] - 45:11<br/> <b>slash</b> [2] - 91:20<br/> <b>slight</b> [3] - 97:13, 97:16, 98:3</p> | <p><b>slightly</b> [1] - 76:6<br/> <b>Smith</b> [1] - 49:23<br/> <b>soften</b> [2] - 76:5<br/> <b>software</b> [2] - 45:12, 46:18<br/> <b>someone</b> [10] - 23:8, 30:6, 35:20, 50:12, 51:2, 54:6, 54:16, 66:9, 79:21, 87:9<br/> <b>Someone</b> [1] - 82:4<br/> <b>SONYA</b> [2] - 1:17, 2:17<br/> <b>sorry</b> [5] - 11:3, 38:10, 63:23, 84:22, 93:9<br/> <b>Sorry</b> [2] - 39:5, 71:9<br/> <b>sort</b> [4] - 12:12, 29:10, 29:13, 35:9<br/> <b>source</b> [3] - 19:2, 19:5, 19:8<br/> <b>SOUTHERN</b> [1] - 1:1<br/> <b>speaking</b> [3] - 9:14, 30:3, 32:23<br/> <b>specific</b> [18] - 12:17, 13:20, 27:3, 52:19, 53:11, 65:6, 65:9, 75:9, 78:3, 78:6, 78:10, 80:20, 81:3, 82:9, 88:8, 91:5, 92:7, 92:14<br/> <b>Specifically</b> [1] - 22:17<br/> <b>specifically</b> [5] - 24:16, 28:7, 30:12, 41:9, 43:7<br/> <b>speculation</b> [1] - 19:11<br/> <b>speculative</b> [1] - 57:5<br/> <b>spreadsheet</b> [3] - 82:14, 84:5, 85:4<br/> <b>squirts</b> [1] - 21:11<br/> <b>ss</b> [2] - 99:1, 100:1<br/> <b>stamp</b> [2] - 40:7, 40:9<br/> <b>stand</b> [2] - 60:2, 68:20<br/> <b>standard</b> [3] - 38:9, 38:19, 38:20<br/> <b>stands</b> [2] - 70:14, 83:22<br/> <b>started</b> [1] - 32:16<br/> <b>STATE</b> [3] - 1:1, 99:1, 100:1<br/> <b>State</b> [2] - 1:19, 100:8<br/> <b>Stenographer</b> [1] - 32:21<br/> <b>step</b> [1] - 43:7<br/> <b>STEVEN</b> [1] - 2:15<br/> <b>still</b> [1] - 47:2<br/> <b>STIPULATED</b> [2] - 3:4, 3:16<br/> <b>stored</b> [1] - 84:19<br/> <b>Straight</b> [1] - 55:6</p> | <p><b>streamline</b> [1] - 9:11<br/> <b>Street</b> [1] - 1:22<br/> <b>Stretch</b> [2] - 43:23, 44:8<br/> <b>stretch</b> [8] - 44:5, 50:5, 50:9, 50:20, 50:21<br/> <b>stretched</b> [1] - 50:18<br/> <b>strike</b> [18] - 3:7, 3:8, 14:6, 15:2, 16:3, 16:9, 16:21, 23:18, 26:23, 38:5, 47:17, 52:18, 54:5, 57:4, 64:6, 69:21, 93:3, 93:5<br/> <b>strong</b> [1] - 63:13<br/> <b>studio</b> [13] - 13:12, 13:16, 13:19, 13:22, 13:23, 14:3, 14:7, 14:12, 34:9, 34:14, 35:14, 35:16, 54:17<br/> <b>sub</b> [1] - 82:21<br/> <b>subject</b> [2] - 5:2, 52:22<br/> <b>subpoena</b> [10] - 5:6, 5:8, 5:14, 5:17, 5:20, 5:23, 6:5, 6:11, 6:16, 22:13<br/> <b>subsequent</b> [2] - 69:12, 89:6<br/> <b>substrate</b> [2] - 20:8, 21:10<br/> <b>subtle</b> [1] - 98:4<br/> <b>Suite</b> [1] - 2:4<br/> <b>superimpose</b> [1] - 26:7<br/> <b>supplied</b> [1] - 5:9<br/> <b>supposed</b> [3] - 6:6, 51:2, 56:3<br/> <b>surface</b> [1] - 90:16<br/> <b>Sworn</b> [1] - 99:20<br/> <b>sworn</b> [3] - 3:11, 4:3, 4:21<br/> <b>symbol</b> [1] - 29:10<br/> <b>system</b> [8] - 43:23, 44:12, 50:21, 67:13, 67:15, 67:23, 81:4, 81:8</p> <p style="text-align: center;"><b>T</b></p> <p><b>tear</b> [1] - 18:19<br/> <b>technical</b> [1] - 46:9<br/> <b>technology</b> [12] - 20:6, 20:7, 20:10, 21:4, 21:9, 77:3, 77:5, 77:7, 78:19, 83:23, 84:16, 90:16<br/> <b>telephone</b> [1] - 28:17</p> |
|---|--|---|--|--|

|  |   |  |   |   |
|--|---|--|---|---|
| <p><b>term</b> [12] - 9:13, 9:14, 9:16, 20:4, 25:17, 28:23, 44:22, 62:10, 77:2, 82:22, 89:8, 98:2</p> <p><b>terms</b> [3] - 20:13, 21:22, 55:2</p> <p><b>test</b> [2] - 48:5, 48:9</p> <p><b>testified</b> [14] - 4:4, 16:13, 18:5, 18:22, 24:3, 24:16, 24:21, 26:11, 41:18, 42:18, 49:4, 53:17, 57:12, 81:5</p> <p><b>testify</b> [1] - 6:17</p> <p><b>testifying</b> [2] - 6:2, 6:7</p> <p><b>testimony</b> [6] - 3:7, 3:8, 4:21, 16:17, 99:8, 100:10</p> <p><b>THE</b> [54] - 11:2, 11:4, 12:4, 15:7, 15:18, 18:10, 18:16, 19:14, 19:22, 22:9, 22:22, 23:12, 23:23, 24:5, 25:10, 26:5, 26:13, 26:20, 28:5, 30:19, 31:15, 36:23, 38:2, 39:10, 45:11, 45:19, 47:5, 47:14, 48:2, 51:7, 54:21, 56:7, 56:20, 58:8, 58:16, 59:6, 59:16, 60:22, 61:18, 63:6, 63:12, 64:2, 66:7, 68:10, 69:5, 70:5, 70:22, 71:20, 83:6, 84:9, 86:5, 87:3, 93:14, 94:9</p> <p><b>themselves</b> [1] - 60:12</p> <p><b>thereafter</b> [1] - 46:22</p> <p><b>thereby</b> [1] - 3:13</p> <p><b>therein</b> [1] - 48:17</p> <p><b>thereof</b> [1] - 3:7</p> <p><b>thinking</b> [1] - 9:15</p> <p><b>third</b> [9] - 17:22, 68:17, 71:22, 75:12, 75:18, 84:23, 88:14, 88:18, 92:16</p> <p><b>Three</b> [2] - 67:12, 93:7</p> <p><b>three</b> [15] - 4:11, 17:17, 17:18, 25:3, 25:5, 25:6, 25:23, 43:20, 49:5, 77:4, 86:19, 86:20, 93:23, 96:8, 97:20</p> <p><b>thumbnail</b> [13] - 57:22, 58:12, 58:23, 59:6, 73:2, 73:15, 86:9, 93:6, 94:6, 94:11, 94:23, 95:5,</p> | <p>98:9</p> <p><b>thumbnails</b> [9] - 42:15, 42:23, 65:15, 72:9, 72:19, 79:8, 86:20, 92:18, 93:19</p> <p><b>TIF</b> [6] - 13:2, 42:12, 42:13, 42:15, 65:15, 72:9, 72:21, 73:16</p> <p><b>title</b> [2] - 18:2, 93:22</p> <p><b>titled</b> [1] - 52:10</p> <p><b>titles</b> [4] - 81:18, 81:19, 82:18, 85:3</p> <p><b>today</b> [11] - 4:11, 6:2, 6:4, 6:17, 9:7, 19:8, 22:15, 39:2, 91:3, 95:15, 97:6</p> <p><b>today's</b> [1] - 5:5</p> <p><b>together</b> [5] - 23:20, 25:6, 26:2, 56:11, 57:21</p> <p><b>tone</b> [5] - 97:13, 97:16, 98:3, 98:4, 98:7</p> <p><b>took</b> [2] - 33:13, 33:16</p> <p><b>top</b> [5] - 26:7, 86:19, 89:17, 93:2, 93:6</p> <p><b>topics</b> [1] - 6:16</p> <p><b>torn</b> [3] - 16:8, 16:11, 55:12</p> <p><b>towards</b> [1] - 82:13</p> <p><b>transcript</b> [2] - 99:11, 100:10</p> <p><b>transferred</b> [1] - 50:14</p> <p><b>transforms</b> [1] - 21:10</p> <p><b>transported</b> [1] - 13:7</p> <p><b>trial</b> [2] - 3:9, 45:15</p> <p><b>trim</b> [1] - 55:17</p> <p><b>trimmed</b> [4] - 54:22, 55:14, 55:15, 58:18</p> <p><b>trimmer</b> [1] - 55:20</p> <p><b>tropical</b> [1] - 23:9</p> <p><b>true</b> [2] - 99:10, 100:9</p> <p><b>try</b> [2] - 33:2</p> <p><b>Trying</b> [1] - 76:2</p> <p><b>turn</b> [14] - 6:10, 50:2, 52:23, 61:21, 65:14, 71:22, 75:12, 78:20, 84:23, 85:12, 86:8, 89:11, 90:5, 92:16</p> <p><b>Turn</b> [1] - 68:12</p> <p><b>Two</b> [4] - 17:17, 50:6, 51:10, 71:23</p> <p><b>two</b> [16] - 6:20, 6:21, 17:18, 32:8, 59:12, 60:6, 67:21, 72:19, 83:16, 91:19, 93:23, 94:22, 95:16, 96:7, 96:18, 97:19</p> <p><b>two-page</b> [1] - 95:16</p> <p><b>type</b> [3] - 57:9, 57:13,</p> | <p>61:5</p> <p><b>types</b> [1] - 60:6</p> <p><b>typically</b> [2] - 45:4, 48:22</p> <p style="text-align: center;"><b>U</b></p> <p><b>under</b> [9] - 62:4, 68:17, 75:18, 79:2, 88:5, 89:3, 89:16, 90:12, 91:19</p> <p><b>Under</b> [3] - 59:23, 80:17, 81:4</p> <p><b>undergoing</b> [1] - 46:20</p> <p><b>Underneath</b> [1] - 50:21</p> <p><b>underneath</b> [2] - 44:12, 82:17</p> <p><b>underscore</b> [3] - 72:6, 93:22, 93:23</p> <p><b>UNITED</b> [1] - 1:1</p> <p><b>up</b> [16] - 13:10, 13:11, 13:16, 13:19, 14:8, 30:21, 31:17, 35:22, 52:19, 52:20, 56:15, 65:11, 81:22, 82:9, 96:18, 97:12</p> <p><b>UPON</b> [1] - 1:13</p> <p><b>upper</b> [9] - 40:15, 43:16, 64:22, 66:22, 68:14, 74:22, 77:18, 80:14, 88:14</p> <p><b>utilize</b> [1] - 45:12</p> <p style="text-align: center;"><b>V</b></p> <p><b>Valley</b> [1] - 1:22</p> <p><b>various</b> [3] - 88:7, 88:11, 90:2</p> <p><b>verbal</b> [10] - 27:13, 27:15, 27:21, 27:23, 28:6, 28:14, 28:15, 28:20, 31:23, 32:10</p> <p><b>version</b> [1] - 59:6</p> <p><b>via</b> [2] - 30:20, 31:16</p> <p><b>video</b> [1] - 84:3</p> <p><b>visits</b> [2] - 14:7, 14:12</p> <p style="text-align: center;"><b>W</b></p> <p><b>waived</b> [1] - 3:15</p> <p><b>waiver</b> [2] - 3:9, 3:13</p> <p><b>weeks</b> [1] - 96:8</p> <p><b>wife</b> [4] - 12:8, 17:20, 49:4, 96:23</p> <p><b>withdraw</b> [1] - 71:13</p> <p><b>WITHERS</b> [1] - 2:7</p> | <p><b>Witness</b> [22] - 1:14, 3:11, 3:17, 5:22, 6:13, 14:18, 50:4, 53:4, 59:22, 61:23, 64:21, 68:13, 72:3, 74:19, 75:15, 78:21, 85:2, 85:15, 89:12, 90:7, 91:14, 92:17</p> <p><b>WITNESS</b> [54] - 2:19, 11:2, 11:4, 12:4, 15:7, 15:18, 18:10, 18:16, 19:14, 19:22, 22:9, 22:22, 23:12, 23:23, 25:10, 26:5, 26:13, 26:20, 28:5, 30:19, 31:15, 36:23, 38:2, 39:10, 45:11, 45:19, 47:5, 47:14, 48:2, 51:7, 54:21, 56:7, 56:20, 58:8, 58:16, 59:6, 59:16, 60:22, 61:18, 63:6, 63:12, 64:2, 66:7, 68:10, 69:5, 70:5, 70:22, 71:20, 83:6, 84:9, 86:5, 87:3, 93:14, 94:9</p> <p><b>Witness'</b> [1] - 57:5</p> <p><b>woman's</b> [1] - 40:21</p> <p><b>women</b> [4] - 23:14, 23:17, 24:23, 94:22</p> <p><b>word</b> [1] - 60:5</p> <p><b>works</b> [2] - 60:18, 62:23</p> <p><b>write</b> [1] - 32:21</p> <p><b>writing</b> [1] - 40:12</p> <p><b>written</b> [17] - 27:14, 27:16, 27:18, 31:23, 32:7, 32:8, 43:16, 50:21, 69:19, 71:15, 72:5, 77:19, 86:3, 89:3, 92:4, 96:2, 97:19</p> <p><b>wrote</b> [1] - 97:10</p> <p style="text-align: center;"><b>Y</b></p> <p><b>years</b> [1] - 8:11</p> <p><b>YORK</b> [3] - 1:1, 99:1, 100:1</p> <p><b>York</b> [13] - 1:17, 1:19, 1:23, 2:4, 2:8, 2:13, 2:18, 13:23, 100:8, 100:12</p> <p><b>yourself</b> [3] - 6:8, 49:4, 74:3</p> | <p style="text-align: center;"><b>Z</b></p> <p><b>Zone</b> [67] - 9:17, 10:9, 10:14, 11:8, 11:14, 12:11, 12:13, 12:17, 15:10, 15:22, 16:15, 17:4, 17:6, 17:11, 17:13, 17:16, 18:6, 18:14, 18:20, 18:23, 19:19, 20:11, 22:2, 23:3, 24:11, 24:18, 24:22, 26:15, 27:6, 29:7, 29:15, 29:19, 30:2, 30:13, 31:6, 31:20, 33:13, 33:18, 36:10, 36:20, 37:4, 37:9, 37:13, 37:16, 38:8, 38:13, 39:4, 39:12, 42:19, 43:7, 47:8, 47:19, 49:6, 52:11, 52:13, 52:16, 53:18, 61:2, 65:19, 67:10, 72:12, 75:10, 78:10, 80:21, 84:12, 88:12, 92:11</p> |
|--|---|--|---|---|

|  |  |
|--|--|
| <p style="text-align: center;">1</p> <p style="text-align: center;">McDonald<br/>UNITED STATES DISTRICT COURT<br/>SOUTHERN DISTRICT OF NEW YORK<br/>-----x<br/>PATRICK CARIOU,<br/>Plaintiff, Index No.:<br/>vs. RICHARD PRINCE, GAGOSIAN 08 CIV 11327 (DAB)<br/>GALLERY, INC., LAWRENCE<br/>GAGOSIAN, and RIZZOLI<br/>INTERNATIONAL PUBLICATIONS,<br/>INC.,<br/>Defendants.<br/>-----x</p> <p style="text-align: center;">DEPOSITION OF ALISON MCDONALD<br/>New York, New York<br/>Thursday, December 17, 2009</p> <p>Reported by:<br/>Bryan Nilsen, RPR<br/>JOB NO. 305996-A</p> | <p style="text-align: center;">3</p> <p>1 McDonald<br/>2 A P P E A R A N C E S:<br/>3<br/>4 SCHNADER HARRISON SEGAL &amp; LEWIS LLP<br/>5 Attorneys for Plaintiff<br/>6 140 Broadway, Suite 3100<br/>7 New York, New York 10005-1101<br/>8 BY: DANIEL J. BROOKS, ESQ.<br/>9 PHONE: (212)973-8000<br/>10 EMAIL: dbrooks@schnader.com<br/>11<br/>12 WITHERS BERGMAN LLP<br/>13 Attorneys for Defendants Gagosian Gallery, Inc.,<br/>14 and Lawrence Gagosian<br/>15 430 Park Avenue, 10th Floor<br/>16 New York, New York 10022-3505<br/>17 BY: HOLLIS GONERKA BART, ESQ.<br/>18 PHONE: (212)848-9800<br/>19 EMAIL: hollis.bart@withers.us.com<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>                       |
| <p style="text-align: center;">2</p> <p>1 McDonald<br/>2<br/>3<br/>4<br/>5<br/>6 December 17, 2009<br/>7 1:00 p.m.<br/>8<br/>9<br/>10 Deposition of ALISON MCDONALD,<br/>11 held at the offices of Withers Bergman,<br/>12 LLP, 430 Park Avenue, New York, New York,<br/>13 pursuant to Notice, before Bryan Nilsen,<br/>14 RPR, a Notary Public of the State of<br/>15 New York.<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>  | <p style="text-align: center;">4</p> <p>1 McDonald<br/>2 APPEARANCES (Cont'd.)<br/>3<br/>4 HANLY CONROY BIERSTEIN SHERIDAN FISHER &amp; HAYES LLP<br/>5 Attorneys for Defendant Richard Prince<br/>6 112 Madison Avenue<br/>7 New York, New York 10016-7416<br/>8 BY: STEVEN M. HAYES, ESQ.<br/>9 PHONE: (212)784-6400<br/>10 EMAIL: shayes@hanlyconroy.com<br/>11<br/>12 WEISMANN CELLER SPETT &amp; MODLIN P.C.<br/>13 Attorneys for Defendant Rizzoli International<br/>14 Publications, Inc.<br/>15 445 Park Avenue, No. 1500<br/>16 New York, New York 10022<br/>17 BY: JOHN B. SHERMAN, ESQ.<br/>18 PHONE: (212)371-5400<br/>19 EMAIL: jsherman@wscsm445.com<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p> |

|   |  |
|---|--|
| <p style="text-align: center;">5</p> <p>1 McDonald</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 McDonald</p> <p>2 background, please?</p> <p>3 A. I went to college at Rutgers, Mason</p> <p>4 Gross.</p> <p>5 Q. I'm sorry?</p> <p>6 A. Mason Gross, which is the art school</p> <p>7 at Rutgers.</p> <p>8 Q. Do you have a degree?</p> <p>9 A. I do.</p> <p>10 Q. In fine arts?</p> <p>11 A. Yes.</p> <p>12 Q. And have you studied art history?</p> <p>13 A. A bit, yes.</p> <p>14 Q. By whom are you employed?</p> <p>15 A. Gagosian Gallery.</p> <p>16 Q. When did you first begin working for</p> <p>17 Gagosian Gallery?</p> <p>18 A. April of 2002.</p> <p>19 Q. Had you been employed before that?</p> <p>20 A. Yes.</p> <p>21 Q. Doing what?</p> <p>22 A. I was working for photographers as a</p> <p>23 studio assistant.</p> <p>24 Q. In?</p> <p>25 A. In New York.</p>  |
| <p style="text-align: center;">6</p> <p>1 McDonald</p> <p>2 ALISON MCDONALD, called as a</p> <p>3 witness, having been duly sworn by a</p> <p>4 Notary Public, was examined and testified</p> <p>5 as follows:</p> <p>6 THE COURT REPORTER: Please state</p> <p>7 your name and address for the record.</p> <p>8 THE WITNESS: Alison McDonald,</p> <p>9 582 Vanderbilt Avenue, Apartment 4,</p> <p>10 Brooklyn, New York 11238.</p> <p>11 EXAMINATION BY</p> <p>12 MR. BROOKS:</p> <p>13 Q. Ms. McDonald, I represent the</p> <p>14 plaintiff in this lawsuit.</p> <p>15 I'm going to ask you some questions</p> <p>16 primarily about an exhibition that the Gagosian</p> <p>17 Gallery held for some paintings by Richard</p> <p>18 Prince, the Canal Zone exhibition, and a catalog</p> <p>19 I think it's called, that was made of some of</p> <p>20 the paintings in that exhibition. And I may ask</p> <p>21 you some other questions, but that's going to be</p> <p>22 primarily what I'm going to ask you about.</p> <p>23 If you don't understand my question,</p> <p>24 just tell me and I'll rephrase it.</p> <p>25 Can you tell us your educational</p> | <p style="text-align: center;">8</p> <p>1 McDonald</p> <p>2 Q. What was his name or her name?</p> <p>3 A. Andrea Robbins and Max Becher.</p> <p>4 Q. And before that?</p> <p>5 A. Before that, I was in college.</p> <p>6 Q. When did you graduate from college?</p> <p>7 A. 2001.</p> <p>8 Q. In 2008 where were you employed at</p> <p>9 Gagosian, in other words, at which location?</p> <p>10 A. 980 Madison Avenue.</p> <p>11 Q. And you began at Gagosian did you</p> <p>12 say in April of 2002?</p> <p>13 A. Yes.</p> <p>14 Q. And have you been employed at</p> <p>15 980 Madison for that entire period of time?</p> <p>16 A. Yes.</p> <p>17 Q. In 2008 did you have a title?</p> <p>18 A. I do not have a formal title at the</p> <p>19 gallery.</p> <p>20 Q. And last year you didn't have a</p> <p>21 formal title either?</p> <p>22 A. No.</p> <p>23 Q. In 2008, which is what the focus of</p> <p>24 my questions are going to be about, was there</p> <p>25 someone that you reported to, did you have a</p> |

Alison McDonald

December 17, 2009

|  |  |
|--|--|
| <p style="text-align: center;">9</p> <p>1 McDonald</p> <p>2 boss?</p> <p>3 A. Yes.</p> <p>4 Q. And who was that?</p> <p>5 A. Melissa Lazarov and Larry Gagosian.</p> <p>6 Q. Do you know if Melissa Lazarov had a</p> <p>7 title last year at Gagosian Gallery?</p> <p>8 A. No, I don't think there are formal</p> <p>9 titles.</p> <p>10 Q. Was she also at 980 Madison?</p> <p>11 A. Yes.</p> <p>12 Q. Did you work on the Canal Zone</p> <p>13 exhibition in 2008?</p> <p>14 A. I worked on the publication.</p> <p>15 Q. Of the catalog?</p> <p>16 A. Yes.</p> <p>17 Q. I just want to make sure I'm using</p> <p>18 the right terminology. I'm going to show you a</p> <p>19 book, which I think has been marked previously</p> <p>20 as Exhibit 42, Plaintiff's 42.</p> <p>21 Is that the publication you're</p> <p>22 referring to?</p> <p>23 A. Yes.</p> <p>24 Q. So you worked on that book?</p> <p>25 A. Yes.</p>  | <p style="text-align: center;">11</p> <p>1 McDonald</p> <p>2 A. Yes.</p> <p>3 Q. Were those taken by somebody named</p> <p>4 Rob McKeever, if you know?</p> <p>5 MS. BART: Objection to form.</p> <p>6 Q. You can answer.</p> <p>7 A. Yes.</p> <p>8 Q. Do you know Rob McKeever?</p> <p>9 A. Yes.</p> <p>10 Q. And he's a photographer employed by</p> <p>11 Gagosian Gallery?</p> <p>12 A. Yes.</p> <p>13 Q. Freelance or he's an employee, if</p> <p>14 you know?</p> <p>15 A. He's an employee.</p> <p>16 Q. If you look towards the back of that</p> <p>17 book you'll find a page which has your name on</p> <p>18 it and gives you credit as the managing editor.</p> <p>19 Have you found that?</p> <p>20 A. Yes.</p> <p>21 Q. And for the record, we had Bates</p> <p>22 stamped a copy of this book, so just for the</p> <p>23 record that would be Bates stamp C00213. And I</p> <p>24 think the book has some Bates stamps but not all</p> <p>25 of them.</p> |
| <p style="text-align: center;">10</p> <p>1 McDonald</p> <p>2 Q. In what capacity?</p> <p>3 MS. BART: Objection, form.</p> <p>4 Q. Okay, what were you doing with</p> <p>5 respect to the book?</p> <p>6 A. I'm just not sure -- could you be</p> <p>7 more specific?</p> <p>8 Q. Well, were you the managing editor</p> <p>9 of the publication of the book?</p> <p>10 A. Yes.</p> <p>11 Q. What did that entail doing?</p> <p>12 A. I managed the production with the</p> <p>13 printer, paper selection, binding, delivery.</p> <p>14 I work to make sure there are no</p> <p>15 copy editing mistakes with regards to the text</p> <p>16 and captioning and -- of that material.</p> <p>17 I work to make sure the paintings</p> <p>18 reproduce as beautifully as possible.</p> <p>19 Q. I'm sorry, I didn't hear the end of</p> <p>20 that?</p> <p>21 A. As beautifully as possible, as</p> <p>22 accurately as possible.</p> <p>23 Q. Okay. Does the book contain</p> <p>24 photographs of some of the paintings that were</p> <p>25 exhibited at the Canal Zone show?</p> | <p style="text-align: center;">12</p> <p>1 McDonald</p> <p>2 So this indicates that Melissa</p> <p>3 Lazarov was the editor of this book?</p> <p>4 A. Yes.</p> <p>5 Q. And did she supervise you in any way</p> <p>6 in connection with the publication of this book?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever go to the Canal Zone</p> <p>9 exhibition, I think it was between November 8th</p> <p>10 and December 20th, 2008?</p> <p>11 A. Yes.</p> <p>12 Q. And can you tell us how frequently</p> <p>13 you went? Approximately. No one's going to</p> <p>14 hold you to it.</p> <p>15 A. Twice.</p> <p>16 Q. Did you go there before the</p> <p>17 exhibition opened?</p> <p>18 A. I don't remember.</p> <p>19 Q. Did you discuss the exhibition with</p> <p>20 Melissa Lazarov?</p> <p>21 MS. BART: Objection, form.</p> <p>22 Q. You can answer.</p> <p>23 A. Yes.</p> <p>24 Q. Did you discuss the exhibition with</p> <p>25 Richard Prince?</p>                |

|   |  |
|---|--|
| 13  | 15   |
| <p>1 McDonald</p> <p>2 MS. BART: Objection, form.</p> <p>3 A. No.</p> <p>4 Q. Did you discuss the book, the</p> <p>5 catalog with Richard Prince?</p> <p>6 MS. BART: Objection, form.</p> <p>7 A. No.</p> <p>8 Q. Did you discuss the exhibition with</p> <p>9 Mr. Gagosian?</p> <p>10 MS. BART: Objection, form.</p> <p>11 A. No.</p> <p>12 Q. How about the catalog?</p> <p>13 MS. BART: Objection, form.</p> <p>14 A. The finished catalog?</p> <p>15 Q. No, as it was being prepared?</p> <p>16 MS. BART: Objection, form.</p> <p>17 Q. You can answer.</p> <p>18 A. Yes.</p> <p>19 Q. Yes? What did you discuss with him?</p> <p>20 A. How we would represent the paintings</p> <p>21 within the publication.</p> <p>22 Q. Did you have conversations with</p> <p>23 Betsy Biscone about the book?</p> <p>24 MS. BART: Objection, form.</p> <p>25 A. Yes.</p>  | <p>1 McDonald</p> <p>2 role was, if any -- well, what your role was?</p> <p>3 A. Proofreading.</p> <p>4 Q. Did you make any editorial</p> <p>5 suggestions or comments or suggest changes?</p> <p>6 MS. BART: Objection, form.</p> <p>7 Q. You can answer.</p> <p>8 A. Because it was a fictional text we</p> <p>9 didn't make any changes. It's possible that we</p> <p>10 made a recommendation or two for spelling</p> <p>11 mistakes.</p> <p>12 Q. Recommendation to who?</p> <p>13 A. James Frey.</p> <p>14 Q. Did you talk to him personally?</p> <p>15 A. No.</p> <p>16 Q. Did you have e-mail correspondence</p> <p>17 with him?</p> <p>18 A. Not that I recall.</p> <p>19 Q. If you go to the back of the book</p> <p>20 again where your name was listed, page 213, it</p> <p>21 lists some Gagosian Gallery coordinators, do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 Q. Are those people who assisted you in</p> <p>25 the preparation of the book?</p> |
| 14  | 16   |
| <p>1 McDonald</p> <p>2 Q. And who is Betsy Biscone?</p> <p>3 A. She works at Richard Prince's</p> <p>4 studio.</p> <p>5 Q. What did you discuss with her, if</p> <p>6 you remember?</p> <p>7 MS. BART: Objection, form.</p> <p>8 A. I believe we discussed the studio</p> <p>9 photography, the photographs in the inserts of</p> <p>10 the book.</p> <p>11 Q. The inserts?</p> <p>12 We'll get to this later, but is it</p> <p>13 correct there are three inserts in this book?</p> <p>14 A. Yes.</p> <p>15 Q. The first one is -- would you call</p> <p>16 it an essay by Richard Frey?</p> <p>17 A. James Frey.</p> <p>18 Q. I'm sorry, James Frey?</p> <p>19 A. A fictional text by James Frey.</p> <p>20 Q. And does it have a title?</p> <p>21 A. Ding Dong the Witch is Dead.</p> <p>22 Q. Did you have any role at all in</p> <p>23 reviewing the fictional text by James Frey?</p> <p>24 A. Yes.</p> <p>25 Q. Can you tell us in general what your</p> | <p>1 McDonald</p> <p>2 A. Yes.</p> <p>3 Q. And do you know if any of them</p> <p>4 assisted in putting on the exhibition of the</p> <p>5 Canal Zone show?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know which ones?</p> <p>8 A. For the exhibition?</p> <p>9 Q. Yes.</p> <p>10 A. Justin.</p> <p>11 Q. Justin Adian?</p> <p>12 A. Yes.</p> <p>13 Andisheh Avini.</p> <p>14 Q. I'm sorry?</p> <p>15 A. Andisheh Avini.</p> <p>16 Q. Yes, okay.</p> <p>17 A. Thomas Duncan, Anita Foden, Richie</p> <p>18 Lasansky, Yayoi Sakurai, and Allison Smith.</p> <p>19 Q. Did any of those people assist you</p> <p>20 with the preparation of the book?</p> <p>21 A. Yes.</p> <p>22 Q. Which ones?</p> <p>23 A. Darlina Goldak, Nicole Heck,</p> <p>24 Kim Higby.</p> <p>25 Q. Kim?</p>   |

Alison McDonald

December 17, 2009

|   |  |
|---|--|
| <p style="text-align: center;">17</p> <p>1 McDonald</p> <p>2 A. Higby.</p> <p>3 Q. And were you supervising them?</p> <p>4 A. Yes.</p> <p>5 (Discussion off the record.)</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. On that same page, C213, it says</p> <p>8 distributed by Rizzoli International</p> <p>9 Publications, do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Are you aware of any role Rizzoli</p> <p>12 played in the publication or distribution of the</p> <p>13 book that's in front of you, the Canal Zone</p> <p>14 book?</p> <p>15 MS. BART: Objection, form.</p> <p>16 MR. SHERMAN: Objection, form.</p> <p>17 Q. You can answer.</p> <p>18 A. Role in producing the book?</p> <p>19 Q. Yes.</p> <p>20 MS. BART: Objection, form.</p> <p>21 Q. You can answer.</p> <p>22 MR. SHERMAN: Same.</p> <p>23 A. They gave us an ISBN number and</p> <p>24 registered it with the Library of Congress.</p> <p>25 And we discussed the, you know, potential of</p>                   | <p style="text-align: center;">19</p> <p>1 McDonald</p> <p>2 has been marked as Exhibit 61, consists of a</p> <p>3 number of different e-mails.</p> <p>4 If you could look at the first page</p> <p>5 of Exhibit 61, and just for the record, that's</p> <p>6 Bates stamped GGP000800.</p> <p>7 It looks like you received an e-mail</p> <p>8 from somebody named Ivor Williams at the bottom</p> <p>9 of that page?</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember what essay that</p> <p>12 pertained to?</p> <p>13 MS. BART: Objection, form.</p> <p>14 A. The James Frey text.</p> <p>15 Q. And what was the role of Graphic</p> <p>16 Thought Facility or Mr. Ivor Williams in</p> <p>17 connection with the Canal Zone book?</p> <p>18 A. He was the designer.</p> <p>19 Q. Can you be a little more specific,</p> <p>20 what part of the book was he designing?</p> <p>21 A. He designed the entire book.</p> <p>22 Q. And they were located in London,</p> <p>23 Graphic Thought Facility?</p> <p>24 A. Yes.</p> <p>25 Q. In response to this e-mail from</p>  |
| <p style="text-align: center;">18</p> <p>1 McDonald</p> <p>2 distributing the title in book stores through</p> <p>3 Rizzoli.</p> <p>4 Q. You say we. Who is we?</p> <p>5 A. Anthony Petrillose and I.</p> <p>6 Q. And he was an employee or a</p> <p>7 representative of Rizzoli?</p> <p>8 A. Yes.</p> <p>9 Q. You said ISBN?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know what a best edition is</p> <p>12 in the publishing business?</p> <p>13 MS. BART: Objection, form.</p> <p>14 A. A best?</p> <p>15 Q. Best, B-E-S-T, edition?</p> <p>16 A. No.</p> <p>17 Q. Do me a favor, give me back that</p> <p>18 book, and I'll give it back to you again later</p> <p>19 I'm sure. Thank you.</p> <p>20 I'm going to show you a document</p> <p>21 which has previously been marked as Exhibit 61</p> <p>22 in one of the depositions in this case. So I'm</p> <p>23 not going to mark it again.</p> <p>24 And I have copies for everyone.</p> <p>25 Ms. McDonald, this document, which</p> | <p style="text-align: center;">20</p> <p>1 McDonald</p> <p>2 Mr. Williams it appears that you wrote, "Great,</p> <p>3 Everything looks good to send Transcontinental,</p> <p>4 Can I have the spine to show Rizzoli?"</p> <p>5 Did you send that e-mail?</p> <p>6 A. Yes.</p> <p>7 Q. What is Transcontinental?</p> <p>8 A. They were the printer.</p> <p>9 Q. Where were they located?</p> <p>10 A. Montreal.</p> <p>11 Q. And what is the spine?</p> <p>12 I can show you the book again.</p> <p>13 A. It's the spine of the book.</p> <p>14 MS. BART: Well, may the record</p> <p>15 reflect that the witness is pointing to</p> <p>16 that portion that's about an inch thick,</p> <p>17 it says Canal Zone, Richard Prince, and it</p> <p>18 has an R on it.</p> <p>19 Q. And that's between the front cover</p> <p>20 and the back cover, right?</p> <p>21 A. Yes.</p> <p>22 Q. And if you turn to the fourth page</p> <p>23 of Exhibit 61, Bates stamp GGP001517, can you</p> <p>24 tell us what that is?</p> <p>25 A. A printout of the spine of the book.</p> |



Alison McDonald

December 17, 2009

|   |  |
|---|--|
| <p style="text-align: center;">21</p> <p>1 McDonald</p> <p>2 Q. Why did you want to show the spine</p> <p>3 to Rizzoli?</p> <p>4 A. It has their logo on it, so I wanted</p> <p>5 to show them how their logo would appear on the</p> <p>6 spine of the book.</p> <p>7 Q. And did you?</p> <p>8 A. Yes.</p> <p>9 Q. And what, if anything, did -- was it</p> <p>10 Mr. Petrillose?</p> <p>11 MR. SHERMAN: Petrillose.</p> <p>12 MR. BROOKS: Petrillose.</p> <p>13 Let's call him Anthony.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. Was he the person you were talking</p> <p>16 to at Rizzoli?</p> <p>17 A. Yes.</p> <p>18 Q. And when you showed him the spine,</p> <p>19 what, if anything, did he say?</p> <p>20 A. He approved it.</p> <p>21 Q. Can you turn to the second page of</p> <p>22 Exhibit 61, so you're on the fourth I think now.</p> <p>23 This is GGP001040.</p> <p>24 Is this an e-mail, a copy of an</p> <p>25 e-mail that you sent on October 10th, 2008, to</p>            | <p style="text-align: center;">23</p> <p>1 McDonald</p> <p>2 When you said we you were talking</p> <p>3 about Gagosian Gallery, is that right?</p> <p>4 A. Yes.</p> <p>5 Q. How did you reach that calculation,</p> <p>6 if you know?</p> <p>7 A. Based on a percentage in a contract</p> <p>8 we were discussing at the time.</p> <p>9 Q. A contract with whom?</p> <p>10 A. Rizzoli.</p> <p>11 Q. Do you know if that book, the Canal</p> <p>12 Zone book catalog, was being offered for sale</p> <p>13 during the Canal Zone exhibition between</p> <p>14 November 8th and December 20th, 2008?</p> <p>15 MS. BART: Objection, form.</p> <p>16 Q. You can answer.</p> <p>17 A. I don't know.</p> <p>18 Q. Do you know if any copies were sold</p> <p>19 at the gallery?</p> <p>20 A. Yes.</p> <p>21 Q. How do you know that?</p> <p>22 A. I think there were a hundred copies</p> <p>23 sold.</p> <p>24 Q. But what's your basis for saying</p> <p>25 that?</p> |
| <p style="text-align: center;">22</p> <p>1 McDonald</p> <p>2 Melissa Lazarov?</p> <p>3 A. Yes.</p> <p>4 Q. There's a calculation after the</p> <p>5 first paragraph, it says 3,000 total equals</p> <p>6 \$115,000, parenthesis, \$38 per book, closed</p> <p>7 parenthesis, what does that refer to?</p> <p>8 A. The printing price.</p> <p>9 Q. That's what you would be paying to</p> <p>10 Transcontinental?</p> <p>11 A. Yes.</p> <p>12 Q. And do you know if you ordered 3,000</p> <p>13 books in fact?</p> <p>14 A. Yes.</p> <p>15 Q. And were 1,000 of those books for</p> <p>16 Rizzoli?</p> <p>17 A. Yes.</p> <p>18 Q. And the gallery was going to get the</p> <p>19 other 2,000 copies of the book?</p> <p>20 A. Yes.</p> <p>21 Q. How did you calculate that Gagosian</p> <p>22 Gallery -- well, you said we should be able to</p> <p>23 make about 30 to \$40,000 back from the Rizzoli</p> <p>24 copies that sell in addition to any gallery</p> <p>25 sales of the books.</p> | <p style="text-align: center;">24</p> <p>1 McDonald</p> <p>2 MS. BART: He doesn't want you to</p> <p>3 guess.</p> <p>4 Q. I'm not doubting you.</p> <p>5 What makes you think that?</p> <p>6 A. I don't know. I think -- I just</p> <p>7 think it. I don't know.</p> <p>8 Q. Somebody told you?</p> <p>9 A. No.</p> <p>10 Q. Why do you think a hundred were</p> <p>11 sold?</p> <p>12 A. I was guessing really.</p> <p>13 Q. Well, how do you know?</p> <p>14 Do you know whether any were sold?</p> <p>15 A. No.</p> <p>16 Q. Do you know where the unsold copies</p> <p>17 of the Canal Zone book are now?</p> <p>18 A. In storage. I don't know.</p> <p>19 Q. Do you know if there are any unsold</p> <p>20 copies of the Canal Zone book?</p> <p>21 A. I don't know.</p> <p>22 Q. Who would know how many were sold,</p> <p>23 if any?</p> <p>24 MS. BART: I believe, Mr. Brooks,</p> <p>25 that we're doing a stipulation to that</p>                        |

Alison McDonald

December 17, 2009

|  |   |
|--|---|
| 25   | 27  |
| <p>1 McDonald</p> <p>2 effect, so rather than take this witness's</p> <p>3 time, you know, since Gagosian is going to</p> <p>4 give you a stipulation, that should be</p> <p>5 sufficient.</p> <p>6 MR. BROOKS: Okay. For present</p> <p>7 purposes I'll move on.</p> <p>8 MS. BART: Thank you.</p> <p>9 BY MR. BROOKS:</p> <p>10 Q. You said you were at the exhibition</p> <p>11 I think you said twice?</p> <p>12 A. Yes.</p> <p>13 Q. Did you notice whether these books</p> <p>14 were on display and being offered for sale when</p> <p>15 you were there?</p> <p>16 MS. BART: Objection, form.</p> <p>17 Q. You can answer.</p> <p>18 A. I don't remember.</p> <p>19 Q. Was there a desk when you walked</p> <p>20 into the gallery?</p> <p>21 A. Yes.</p> <p>22 Q. Was there somebody sitting there?</p> <p>23 A. Yes.</p> <p>24 Q. And you didn't notice whether there</p> <p>25 were any books there on the desk or a sign that</p>                | <p>1 McDonald</p> <p>2 MS. BART: I think the witness wants</p> <p>3 to correct the record.</p> <p>4 Your question as posed was somewhat</p> <p>5 vague in that you said did you play any</p> <p>6 role in the inviting of people, and I</p> <p>7 think she answered no.</p> <p>8 But I think so that the record</p> <p>9 stands corrected I think she was going to</p> <p>10 correct her answer.</p> <p>11 A. We printed the invitation.</p> <p>12 Q. Right. Okay.</p> <p>13 When you say we, I mean I think</p> <p>14 I asked you if you personally played a role?</p> <p>15 A. I printed the card that was sent out</p> <p>16 for the invitation.</p> <p>17 Q. Printed it on what?</p> <p>18 A. Paper with ink.</p> <p>19 Q. But did you do it in your office on</p> <p>20 a copying machine?</p> <p>21 A. No.</p> <p>22 Q. How did you print the invitations?</p> <p>23 A. We put the text in an InDesign</p> <p>24 document and sent that document to a printer.</p> <p>25 MR. BROOKS: Let's mark as</p>                      |
| 26   | 28  |
| <p>1 McDonald</p> <p>2 said \$80 for a copy of that book?</p> <p>3 A. No.</p> <p>4 Q. When the exhibition commenced on</p> <p>5 Saturday, November 8th, was there a dinner that</p> <p>6 night at the Gramercy Park Hotel?</p> <p>7 A. There was a dinner. I don't</p> <p>8 remember if it was at the Gramercy Park Hotel.</p> <p>9 Q. Did you go?</p> <p>10 A. No.</p> <p>11 Q. Do you know how many people went?</p> <p>12 A. No.</p> <p>13 Q. Do you know what the purpose of the</p> <p>14 dinner was, if any?</p> <p>15 A. To celebrate the opening of an</p> <p>16 exhibition.</p> <p>17 Q. Did you have anything to do with</p> <p>18 planning the dinner?</p> <p>19 A. We printed a card for the dinner but</p> <p>20 not for planning the dinner.</p> <p>21 Q. Did you play any role at all in</p> <p>22 inviting people to come to the dinner?</p> <p>23 A. No.</p> <p>24 MS. BART: One moment, please.</p> <p>25 (Discussion off the record.)</p> | <p>1 McDonald</p> <p>2 Plaintiff's Exhibit 103 a card stamped</p> <p>3 GGP001696A.</p> <p>4 (Plaintiff's Exhibit 103, invitation</p> <p>5 GGP001696A, was marked for identification,</p> <p>6 as of this date.)</p> <p>7 Q. Ms. McDonald, you've been handed a</p> <p>8 document that's been marked as Plaintiff's</p> <p>9 Exhibit 103. Is that the invitation you were</p> <p>10 just testifying about a few minutes ago?</p> <p>11 A. Yes.</p> <p>12 Q. There seems to be a blank line there</p> <p>13 to put in somebody's name, is that right?</p> <p>14 A. Yes.</p> <p>15 Q. Were these invitations mailed out?</p> <p>16 A. I don't know. I imagine, yeah.</p> <p>17 MS. BART: No, he doesn't want you</p> <p>18 to guess or imagine.</p> <p>19 A. I don't know.</p> <p>20 Q. Do you know if there was an</p> <p>21 invitation list?</p> <p>22 A. I don't know.</p> <p>23 Q. Okay, I guess I'll hold on to these.</p> <p>24 In addition to that invitation that</p> <p>25 we just looked at, Exhibit 103, was there an</p> |

|  |  |
|--|--|
| 29   | 31   |
| <p>1 McDonald</p> <p>2 announcement of the exhibition with a photograph</p> <p>3 on it, do you know?</p> <p>4 A. Yes.</p> <p>5 MR. BROOKS: Let's mark as</p> <p>6 Plaintiff's Exhibit 104 a document that's</p> <p>7 been produced and Bates stamped GGP00139A</p> <p>8 and 140A front and back.</p> <p>9 (Plaintiff's Exhibit 104, GGP00139A</p> <p>10 and 140A, was marked for identification,</p> <p>11 as of this date.)</p> <p>12 Q. You've been handed Plaintiff's</p> <p>13 Exhibit 104. Do you know what it is?</p> <p>14 A. Yes.</p> <p>15 Q. Can you tell us?</p> <p>16 A. An announcement card for the</p> <p>17 exhibition.</p> <p>18 Q. Do you know if these announcement</p> <p>19 cards were mailed out?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know to whom they were mailed</p> <p>22 out, I don't mean the names of all the people,</p> <p>23 but what types of people, if you know?</p> <p>24 MS. BART: Objection, form.</p> <p>25 MR. HAYES: Objection, form.</p> | <p>1 McDonald</p> <p>2 give us maybe the page number of the</p> <p>3 actual catalog.</p> <p>4 MR. BROOKS: It's in the second</p> <p>5 insert I think. It's C00148. I think</p> <p>6 there's a Post-it there with that number.</p> <p>7 MS. BART: We're there.</p> <p>8 MR. BROOKS: That is the number,</p> <p>9 okay.</p> <p>10 BY MR. BROOKS:</p> <p>11 Q. So you said something about a</p> <p>12 picture in a studio, is this what you're</p> <p>13 referring to, the C148?</p> <p>14 MS. BART: Objection, form.</p> <p>15 A. This is a different picture.</p> <p>16 Q. This is a different picture than the</p> <p>17 announcement card?</p> <p>18 A. Yes.</p> <p>19 Q. How do you know that?</p> <p>20 A. It's a different angle.</p> <p>21 Q. Okay. But if you look at the</p> <p>22 announcement card there's a painting that</p> <p>23 appears to be propped up on two cans of paint,</p> <p>24 right?</p> <p>25 A. Yes.</p>   |
| 30   | 32   |
| <p>1 McDonald</p> <p>2 MR. SHERMAN: Objection, form.</p> <p>3 Q. You can answer.</p> <p>4 A. Yes.</p> <p>5 Q. Can you tell me?</p> <p>6 A. We have a mailing list of about</p> <p>7 7,500 people.</p> <p>8 Q. So these announcement cards were</p> <p>9 mailed to people on that list?</p> <p>10 MS. BART: Objection, form.</p> <p>11 Q. You can answer.</p> <p>12 A. Yes.</p> <p>13 Q. Do you notice on the front of the</p> <p>14 announcement card an image of a man, do you see</p> <p>15 him?</p> <p>16 A. I see a painting in a studio, yeah.</p> <p>17 The painting has a man in it, yes.</p> <p>18 Q. I couldn't hear what you said.</p> <p>19 MR. BROOKS: Read it back.</p> <p>20 (Record read.)</p> <p>21 BY MR. BROOKS:</p> <p>22 Q. Why don't you look in that book, the</p> <p>23 Canal Zone book, and I think if you look at</p> <p>24 page C00148 perhaps you will find something.</p> <p>25 MS. BART: You're going to have to</p>                                    | <p>1 McDonald</p> <p>2 Q. And if you look at C148 the same</p> <p>3 seems to be true, there's a picture propped up</p> <p>4 on two cans of paint, right?</p> <p>5 MS. BART: Objection, form.</p> <p>6 MR. HAYES: Objection, form.</p> <p>7 Q. You can answer.</p> <p>8 A. There is a painting on two cans of</p> <p>9 paint.</p> <p>10 Q. So you're saying that the photo is</p> <p>11 from a different angle, but is it correct that</p> <p>12 the image in Exhibit 104 in the announcement is</p> <p>13 maybe a different photo of the same painting</p> <p>14 that's propped on the two cans in C148?</p> <p>15 A. Yes.</p> <p>16 Q. But it's from a different angle?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And do you know if the</p> <p>19 painting that's shown on C148 in the insert in</p> <p>20 the book, do you know if that painting was</p> <p>21 actually exhibited at the Canal Zone exhibition?</p> <p>22 A. I don't know.</p> <p>23 Q. Could you look at the very first</p> <p>24 painting in the book, you have to go back to the</p> <p>25 beginning.</p> |

|  |   |
|--|---|
| 33   | 35  |
| <p>1 McDonald</p> <p>2 (Witness looks at exhibit.)</p> <p>3 Q. No, no, not on the cover.</p> <p>4 Number 1, it's called Graduation.</p> <p>5 It's on page C95.</p> <p>6 MS. BART: C96?</p> <p>7 Q. Well, 95 says Graduation, right?</p> <p>8 Correct?</p> <p>9 A. Yes.</p> <p>10 MS. BART: There's no number on</p> <p>11 these.</p> <p>12 Q. Doesn't it say 1, Graduation?</p> <p>13 A. Graduation, yes.</p> <p>14 MS. BART: But there's no Bates</p> <p>15 number on it.</p> <p>16 Q. Right. That's C95.</p> <p>17 Now, the next page is a painting</p> <p>18 called Graduation, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, absent the paint cans, is that</p> <p>21 painting Graduation the same image that's</p> <p>22 depicted on the announcement?</p> <p>23 MS. BART: Objection, form.</p> <p>24 Q. You can answer.</p> <p>25 A. Yes.</p>   | <p>1 McDonald</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 A. No.</p> <p>4 Q. It's correct that there's nothing</p> <p>5 obscuring his face, right?</p> <p>6 MS. BART: Objection, form.</p> <p>7 MR. HAYES: Objection, form.</p> <p>8 A. Correct.</p> <p>9 Q. And do you know if that's the same</p> <p>10 Rastafarian that's in the announcement and in</p> <p>11 page 148?</p> <p>12 MS. BART: Objection, form.</p> <p>13 MR. HAYES: Objection, form.</p> <p>14 A. It looks the same.</p> <p>15 Q. And you don't know where --</p> <p>16 MS. BART: He doesn't want you</p> <p>17 to guess.</p> <p>18 MR. BROOKS: She answered --</p> <p>19 MO MS. BART: I'm going to object to</p> <p>20 the witness's answer as speculative and</p> <p>21 move to strike.</p> <p>22 MR. BROOKS: Well, you can't move,</p> <p>23 she's your witness.</p> <p>24 MS. BART: I certainly can.</p> <p>25 MO MR. HAYES: I also move to strike.</p>   |
| 34   | 36  |
| <p>1 McDonald</p> <p>2 Q. Do you know this man in the</p> <p>3 painting, in Graduation and on the announcement,</p> <p>4 do you know where this image was obtained?</p> <p>5 MS. BART: Objection, form.</p> <p>6 MR. HAYES: Objection, form.</p> <p>7 A. No.</p> <p>8 Q. In the second insert there's a page</p> <p>9 stamped C00151, did you find that?</p> <p>10 A. Yes.</p> <p>11 Q. And there are a number of images.</p> <p>12 There's a woman with it looks like blond hair,</p> <p>13 there's two images of her, right?</p> <p>14 A. In a painting, yes.</p> <p>15 Q. And in between them is a</p> <p>16 Rastafarian, do you see him?</p> <p>17 MS. BART: Objection, form.</p> <p>18 MR. HAYES: Objection, form.</p> <p>19 Q. You can answer.</p> <p>20 A. In the painting, yes.</p> <p>21 Q. And unlike the announcement and</p> <p>22 unlike Graduation, in that picture there's</p> <p>23 nothing obscuring the face of the man in the</p> <p>24 painting, right?</p> <p>25 MS. BART: Objection, form.</p> | <p>1 McDonald</p> <p>2 Same grounds.</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. On page C151, I'm talking about the</p> <p>5 Rastafarian in between the women, do you know</p> <p>6 where that image came from?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection, form.</p> <p>9 A. No.</p> <p>10 Q. Could you look at page C168 --</p> <p>11 actually, look at the page before, and that's a</p> <p>12 painting called Tales of Brave Ulysses, is it</p> <p>13 not?</p> <p>14 MS. BART: It's blank on ours.</p> <p>15 Q. Well, the page before 168 says</p> <p>16 number 16, Tales of Brave Ulysses, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And then on page 168 is a copy of a</p> <p>19 painting called Tales of Brave Ulysses, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And was this picture or this</p> <p>22 painting part of the show?</p> <p>23 A. I don't know.</p> <p>24 Q. Do you see there are four images of</p> <p>25 the same Rastafarian that we've been looking at</p> |

|   |   |
|---|---|
| 37  | 39  |
| <p>1 McDonald</p> <p>2 who is in the announcement, correct?</p> <p>3 MS. BART: Objection, form.</p> <p>4 Q. You can answer.</p> <p>5 A. Yes.</p> <p>6 Q. Let me show you a document that's</p> <p>7 been marked as Plaintiff's Exhibit 32.</p> <p>8 Do you know what that is?</p> <p>9 A. Yes.</p> <p>10 Q. Can you tell us?</p> <p>11 A. It's the exhibition list.</p> <p>12 Q. Have you seen it before?</p> <p>13 A. No.</p> <p>14 Q. Do you see on the second page in</p> <p>15 gallery 2 it says number 3, Tales of Brave</p> <p>16 Ulysses, do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. If you go back to the page before,</p> <p>19 the first page of Exhibit 32, that page,</p> <p>20 GGP004298, do you recognize that schematic of</p> <p>21 the gallery on 24th Street?</p> <p>22 A. Yes.</p> <p>23 Q. This was where the show was held,</p> <p>24 correct?</p> <p>25 MS. BART: Objection, form.</p> | <p>1 McDonald</p> <p>2 A. No.</p> <p>3 Q. Do you have an understanding of</p> <p>4 where the studio was located?</p> <p>5 A. No.</p> <p>6 Q. Do you see a photo of the same</p> <p>7 Rastafarian we've been looking at who is in the</p> <p>8 announcement and in Graduation?</p> <p>9 MS. BART: Objection, form.</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 Q. You can answer.</p> <p>12 A. I see a figure in a painting, yeah.</p> <p>13 Q. It appears to be the same man?</p> <p>14 A. Yes.</p> <p>15 MS. BART: Objection, form.</p> <p>16 MR. HAYES: Objection, form.</p> <p>17 Q. What's the answer?</p> <p>18 A. Appears to be, yes.</p> <p>19 MS. BART: Are you asking her to</p> <p>20 speculate?</p> <p>21 MR. BROOKS: No, I'm asking her to</p> <p>22 do what anyone can do by looking at</p> <p>23 things, what anyone can do.</p> <p>24 MS. BART: I'll object to the form.</p> <p>25 MR. BROOKS: Fine.</p>   |
| 38  | 40  |
| <p>1 McDonald</p> <p>2 Q. You can answer.</p> <p>3 A. Yes.</p> <p>4 Q. And was the configuration of the</p> <p>5 paintings on display as indicated in Exhibit 32?</p> <p>6 MS. BART: Objection, form.</p> <p>7 A. I don't know.</p> <p>8 Q. You don't remember or you don't</p> <p>9 know?</p> <p>10 A. I don't remember.</p> <p>11 MR. HAYES: Off the record.</p> <p>12 (Discussion off the record.)</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. In the Canal Zone catalog can you</p> <p>15 look at the page that's been stamped C00184,</p> <p>16 please. It's also -- it's in the third insert</p> <p>17 I believe.</p> <p>18 Have you found that page?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know what this depicts?</p> <p>21 A. The artist's studio.</p> <p>22 Q. When you say the artist you mean</p> <p>23 Mr. Prince?</p> <p>24 A. Richard Prince.</p> <p>25 Q. Were you ever in his studio?</p>              | <p>1 McDonald</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. The painting we were looking at</p> <p>4 before, Tales of Brave Ulysses, which is on 168</p> <p>5 I think, do you happen to know if that painting</p> <p>6 was ever sold?</p> <p>7 A. I don't know.</p> <p>8 Q. You weren't involved with that?</p> <p>9 A. No.</p> <p>10 Q. I'm sorry, I'm going to ask you,</p> <p>11 I meant to ask you before, go back to page 184</p> <p>12 and the third insert that we were just looking</p> <p>13 at.</p> <p>14 Now, you said there's an image of</p> <p>15 a man there. What do you see surrounding the</p> <p>16 image of the man?</p> <p>17 MS. BART: Objection, form.</p> <p>18 Q. You can answer.</p> <p>19 A. Objects in the artist's studio,</p> <p>20 canvases.</p> <p>21 Q. No, I'm sorry. I mean on that</p> <p>22 canvas, do you notice landscaping?</p> <p>23 MS. BART: Objection, form.</p> <p>24 Q. You can answer.</p> <p>25 A. There's foliage, yeah.</p> |

|   |  |
|---|--|
| 41  | 43   |
| <p>1 McDonald</p> <p>2 Q. Foliage, okay, fine.</p> <p>3 If you look at that canvas on C184</p> <p>4 with the Rastafarian and the foliage -- and</p> <p>5 maybe keep your hand there in case you want to</p> <p>6 go back to it -- and now look at C124.</p> <p>7 MS. BART: I'm sorry, C124?</p> <p>8 MR. BROOKS: Right.</p> <p>9 BY MR. BROOKS:</p> <p>10 Q. Do you know if the painting in C124</p> <p>11 is based on the canvas we looked at in C184?</p> <p>12 MR. HAYES: Objection to form.</p> <p>13 MS. BART: Join.</p> <p>14 Q. You can answer.</p> <p>15 A. I don't know.</p> <p>16 Q. Do you know where the -- you call</p> <p>17 this foliage, if you look at 124?</p> <p>18 A. Mm-hmm.</p> <p>19 Q. The plants that are around the image</p> <p>20 of the man, do you know where those images of</p> <p>21 foliage came from?</p> <p>22 A. No.</p> <p>23 Q. Can I have the announcement back?</p> <p>24 Thanks.</p> <p>25 MS. BART: Are you done with this</p> | <p>1 McDonald</p> <p>2 advertisements were placed?</p> <p>3 A. The Art Newspaper, Financial Times,</p> <p>4 and New York Times.</p> <p>5 Q. How about W?</p> <p>6 A. The magazine? Yes, W.</p> <p>7 Q. How about Art Forum, Art in America,</p> <p>8 and Art and Auction?</p> <p>9 MS. BART: Objection.</p> <p>10 A. Yes.</p> <p>11 Q. All three?</p> <p>12 A. There were more than -- did you</p> <p>13 say W?</p> <p>14 Q. I just said -- no, after W I said</p> <p>15 Art Forum?</p> <p>16 A. Yes.</p> <p>17 Q. Were there ads there?</p> <p>18 A. One ad, yes.</p> <p>19 Q. And Art in America, was there an ad</p> <p>20 for the Canal Zone exhibition there?</p> <p>21 A. Yes.</p> <p>22 Q. And how about Art and Auction?</p> <p>23 A. Yes.</p> <p>24 Q. One ad in each of them?</p> <p>25 A. Yes.</p>  |
| 42  | 44   |
| <p>1 McDonald</p> <p>2 one?</p> <p>3 MR. BROOKS: I'm done with that</p> <p>4 page, yes, but she should keep the book.</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. Did you ever ask anyone where the</p> <p>7 images of the Rastafarians that are in many of</p> <p>8 these Canal Zone paintings came from?</p> <p>9 MS. BART: Objection, form.</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 Q. You can answer.</p> <p>12 A. No.</p> <p>13 Q. Did you ever hear anyone explaining</p> <p>14 where they came from?</p> <p>15 MS. BART: Objection, form.</p> <p>16 A. No.</p> <p>17 Q. Have you ever seen this book, it's</p> <p>18 called Yes Rasta?</p> <p>19 A. No.</p> <p>20 Q. Okay, you can give it back to me.</p> <p>21 Thank you.</p> <p>22 Were there newspaper advertisements</p> <p>23 for the Canal Zone exhibition?</p> <p>24 A. Yes.</p> <p>25 Q. Do you remember where the</p>  | <p>1 McDonald</p> <p>2 Q. In the New York Times were there two</p> <p>3 ads?</p> <p>4 A. I don't remember.</p> <p>5 Q. Was there an ad just for the Canal</p> <p>6 Zone exhibition in the New York Times?</p> <p>7 A. I remember it was on a list of other</p> <p>8 exhibitions the gallery was having in the</p> <p>9 New York Times ad.</p> <p>10 Q. Right. One other, right, a painter</p> <p>11 with a Japanese name?</p> <p>12 A. I think it was Hiroshi Sugimoto.</p> <p>13 Q. To your knowledge did Mr. Gagorian</p> <p>14 review the ads before they were placed in the</p> <p>15 newspapers?</p> <p>16 A. Yes.</p> <p>17 Q. That's a yes?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know if Mr. Prince reviewed</p> <p>20 the ads?</p> <p>21 A. I don't know for sure, no.</p> <p>22 Q. I'm going to hand you a series of</p> <p>23 e-mails that have been collectively marked as</p> <p>24 Plaintiff's Exhibit 45 previously.</p> <p>25 The first page of Exhibit 45</p> |

|  |   |
|--|---|
| 45   | 47  |
| <p>1 McDonald</p> <p>2 GGP001991 talks about an announcement card and</p> <p>3 adverts, and something -- it says Larry reviewed</p> <p>4 the options and wants to run the attached ad,</p> <p>5 parenthesis, AF Prince placeholder, closed</p> <p>6 parenthesis, in Art Forum, et cetera.</p> <p>7 Do you know what the Prince</p> <p>8 placeholder, it's all in capital letters, do you</p> <p>9 know what that is?</p> <p>10 A. She's referring to the file name</p> <p>11 that's attached.</p> <p>12 Q. And is that an image that ran in the</p> <p>13 advertisements?</p> <p>14 MS. BART: Objection, form.</p> <p>15 MR. HAYES: Objection, form.</p> <p>16 A. That was attached to the e-mail.</p> <p>17 I'd have to check.</p> <p>18 Q. Do you know if the image in the</p> <p>19 advertisements was an image of the same</p> <p>20 Rastafarian who is in the announcement card</p> <p>21 Exhibit 104?</p> <p>22 MR. HAYES: Objection, form.</p> <p>23 MS. BART: Objection, form.</p> <p>24 And I'd like to, since this doesn't</p> <p>25 have this witness's name on it, I'd ask</p> | <p>1 McDonald</p> <p>2 Look at the second page of</p> <p>3 Exhibit 45, please. Do you see it says but LG</p> <p>4 wants to make sure the ad is large and very</p> <p>5 clear because it has two shows on it, do you see</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. And then below that there's an</p> <p>9 e-mail from Nicole Heck October 17th saying</p> <p>10 run the attached again in NYT on Friday,</p> <p>11 October 24th, and then below that it says Prince</p> <p>12 and Sugimoto both open the week after that, does</p> <p>13 he want to run one ad announcing both on Friday,</p> <p>14 November 7th.</p> <p>15 Do you recall whether an ad was</p> <p>16 taken in the New York Times for both of those</p> <p>17 shows, Prince and Sugimoto?</p> <p>18 A. Yes.</p> <p>19 Q. And you don't think there were</p> <p>20 any images, just printed words in that ad in</p> <p>21 The Times?</p> <p>22 MS. BART: Objection, form, and</p> <p>23 asked and answered.</p> <p>24 Q. You can answer.</p> <p>25 A. Yes.</p> |
| 46   | 48  |
| <p>1 McDonald</p> <p>2 her to see if she's ever seen this before,</p> <p>3 the exhibit.</p> <p>4 MR. BROOKS: I understand.</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. Do you know?</p> <p>7 A. The same painting was used in the</p> <p>8 ad.</p> <p>9 Q. I know. I'm asking you?</p> <p>10 A. Yes.</p> <p>11 Q. It was? Okay.</p> <p>12 A. In the magazine ads.</p> <p>13 Q. What about the newspaper ads?</p> <p>14 A. No.</p> <p>15 Q. What was used in the newspaper ads?</p> <p>16 MS. BART: Objection, form.</p> <p>17 A. Text only.</p> <p>18 Q. No picture?</p> <p>19 A. No paintings.</p> <p>20 Q. So which were the magazine ad or</p> <p>21 ads?</p> <p>22 MS. BART: Objection, form.</p> <p>23 I don't understand. What do you</p> <p>24 mean?</p> <p>25 Q. Okay, we'll come back to it.</p>  | <p>1 McDonald</p> <p>2 Q. Could you look at page GGP002282,</p> <p>3 which is part of that same Exhibit 45.</p> <p>4 This is about the advertisement in</p> <p>5 W Magazine?</p> <p>6 A. Yes.</p> <p>7 Q. And there you say an image was used,</p> <p>8 a photo of the same Rastafarian that was in the</p> <p>9 announcement card?</p> <p>10 MS. BART: Objection, form.</p> <p>11 MR. HAYES: Objection, form.</p> <p>12 Q. You can answer.</p> <p>13 A. It's a different painting in the</p> <p>14 W ad.</p> <p>15 Q. But the same Rastafarian, right?</p> <p>16 MS. BART: Objection, form.</p> <p>17 MR. HAYES: Objection, form.</p> <p>18 A. I don't remember.</p> <p>19 Q. Okay. Did Larry Gagosian and</p> <p>20 Richard Prince approve the ad in W Magazine?</p> <p>21 MR. HAYES: Objection, form.</p> <p>22 MS. BART: Join.</p> <p>23 A. Larry approved. I did not have any</p> <p>24 interaction with Richard Prince for approval.</p> <p>25 Q. Now, on the next page, which is</p>                                     |

|   |   |
|---|---|
| 49  | 51  |
| <p>1 McDonald</p> <p>2 GGP002418, it says I told Nicole Larry likes the</p> <p>3 Prince ad with just, all capital letters, the</p> <p>4 Rasta man, not the one in the studio. For the</p> <p>5 announcements he likes the Rasta man poster on</p> <p>6 two paint cans with no books in the picture.</p> <p>7 Do you remember seeing a copy of</p> <p>8 this e-mail?</p> <p>9 A. No.</p> <p>10 Q. Is it correct though that the</p> <p>11 announcement had the picture in the studio on</p> <p>12 the paint can without books?</p> <p>13 MS. BART: Objection, form.</p> <p>14 Q. And I'm showing you Exhibit 104?</p> <p>15 A. Yes.</p> <p>16 Q. And the advertisement just had a</p> <p>17 Rastafarian, not the one in the studio, is that</p> <p>18 right?</p> <p>19 MS. BART: Objection, form.</p> <p>20 MR. HAYES: Objection, form.</p> <p>21 A. It had that same painting in the ad,</p> <p>22 yes.</p> <p>23 Q. Which ad?</p> <p>24 A. Which ad?</p> <p>25 Q. Yes.</p> | <p>1 McDonald</p> <p>2 to hear the question back. I'm not sure</p> <p>3 there was one.</p> <p>4 MR. BROOKS: There was.</p> <p>5 Can you read the question back,</p> <p>6 please.</p> <p>7 (Record read.)</p> <p>8 MS. BART: Object to form.</p> <p>9 Q. You can answer.</p> <p>10 A. I don't remember. I don't remember.</p> <p>11 Q. Does it look like what was used in</p> <p>12 the ads --</p> <p>13 MS. BART: Objection.</p> <p>14 Q. -- as you've been describing it?</p> <p>15 MS. BART: Objection, form.</p> <p>16 MR. HAYES: Objection, form.</p> <p>17 MS. BART: The witness isn't here to</p> <p>18 speculate.</p> <p>19 Q. You can answer.</p> <p>20 A. It's the same type. I don't know --</p> <p>21 I don't remember this.</p> <p>22 RQ MR. BROOKS: Okay. If the witness</p> <p>23 doesn't know I'm going to request that</p> <p>24 Gagosian tell us whether Exhibit 52 is the</p> <p>25 image that was used in newspaper and</p>  |
| 50  | 52  |
| <p>1 McDonald</p> <p>2 A. The Art Forum, Art in America, Art</p> <p>3 and Auction.</p> <p>4 Q. They had a painting, a picture of</p> <p>5 the same painting?</p> <p>6 A. Yes.</p> <p>7 Q. But the New York Times didn't?</p> <p>8 MS. BART: Objection, form, and</p> <p>9 asked and answered.</p> <p>10 Q. Is that what you're saying?</p> <p>11 MS. BART: Third time.</p> <p>12 A. No image was in the New York Times.</p> <p>13 Q. What about the Financial Times?</p> <p>14 A. No.</p> <p>15 Q. I'm going to show you a document</p> <p>16 which has previously been marked as Exhibit 52.</p> <p>17 Is that the image that was used in</p> <p>18 some of the ads anyway?</p> <p>19 MS. BART: Can we just have one of</p> <p>20 the extras that you have there, please?</p> <p>21 I think John needs one, right?</p> <p>22 MR. BROOKS: You do?</p> <p>23 MR. SHERMAN: Yes.</p> <p>24 A. I don't --</p> <p>25 MS. BART: Just one minute. I want</p>                       | <p>1 McDonald</p> <p>2 magazine ads.</p> <p>3 She's testified to a number of ads,</p> <p>4 some of which had images she said from</p> <p>5 the same painting, and I want to know if</p> <p>6 Exhibit 52 is the image that was used</p> <p>7 in the ads in Art Forum, Art in America,</p> <p>8 Art and Auction, the Art Newspaper, and W.</p> <p>9 MS. BART: We'll take it under</p> <p>10 advisement.</p> <p>11 But just so that I understand I know</p> <p>12 what you're asking me, are you talking</p> <p>13 about the entirety that includes the title</p> <p>14 that says Richard Prince at the top, or</p> <p>15 are you talking about the cutout in the</p> <p>16 middle, in other words, are you talking</p> <p>17 about the entirety?</p> <p>18 I don't know what you're asking.</p> <p>19 MR. BROOKS: Well, this is how it</p> <p>20 was produced to me by you.</p> <p>21 MS. BART: That's irrelevant.</p> <p>22 You're asking us for a stipulation,</p> <p>23 Mr. Brooks, and I'm asking you, are you</p> <p>24 saying just the thing in the middle or are</p> <p>25 you talking about the entirety --</p> |



Alison McDonald

December 17, 2009

|  |  |
|--|--|
| 53   | 55   |
| <p>1 McDonald</p> <p>2 MR. BROOKS: The entirety. But if</p> <p>3 the ad didn't say Richard Prince and only</p> <p>4 had the image, then you can tell me that.</p> <p>5 I just want to find out.</p> <p>6 MS. BART: We'll take it under</p> <p>7 advisement.</p> <p>8 MR. BROOKS: Well, I'm certainly</p> <p>9 entitled to know what images were used in</p> <p>10 the newspaper and magazine ads.</p> <p>11 If this witness can't -- I mean I</p> <p>12 think it's clear from her testimony that</p> <p>13 this is exactly what was used since there</p> <p>14 are no paint cans, it's not in the studio,</p> <p>15 it's the same painting. If it's not --</p> <p>16 MS. BART: Well, you don't know</p> <p>17 because it's cut off at the bottom, so --</p> <p>18 MR. BROOKS: Well, that's how it was</p> <p>19 produced to me by you. So that's the best</p> <p>20 I can do, I'm sorry.</p> <p>21 MS. BART: No, this is how it was</p> <p>22 originally made. We didn't cut anything</p> <p>23 off, Mr. Brooks.</p> <p>24 MR. BROOKS: Well, okay.</p> <p>25 MS. BART: We'll take your request</p> | <p>1 McDonald</p> <p>2 MS. BART: I'll instruct the witness</p> <p>3 not to speculate.</p> <p>4 MR. BROOKS: She already answered</p> <p>5 yes.</p> <p>6 You're saying it's speculating when</p> <p>7 I ask her if there are paint cans there?</p> <p>8 MS. BART: Well, what I'm saying to</p> <p>9 you is that --</p> <p>10 MR. BROOKS: Well, never mind. She</p> <p>11 answered.</p> <p>12 MS. BART: Richard Prince is the</p> <p>13 best person to ask these questions of, not</p> <p>14 a witness who didn't create these works of</p> <p>15 art.</p> <p>16 MR. BROOKS: Okay.</p> <p>17 BY MR. BROOKS:</p> <p>18 Q. With respect to these announcement</p> <p>19 cards, do you know if at the end of the show,</p> <p>20 the exhibition, you had leftover cards,</p> <p>21 announcement cards?</p> <p>22 A. Yes.</p> <p>23 Q. I'm going to show you what's been</p> <p>24 previously marked as Plaintiff's Exhibit 53, and</p> <p>25 actually the last two pages were previously</p> |
| 54   | 56   |
| <p>1 McDonald</p> <p>2 under advisement.</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. Can you take a look at the Canal</p> <p>5 Zone book again, please, and look at page</p> <p>6 C00122.</p> <p>7 (Witness looks at exhibit.)</p> <p>8 Q. C122 is a painting called</p> <p>9 Meditation, correct?</p> <p>10 A. Yes.</p> <p>11 Q. It's painting number 6 in the book?</p> <p>12 A. Yes.</p> <p>13 Q. Is that painting the same image as</p> <p>14 in Exhibit 52 in the document that I've been</p> <p>15 asking whether or not that's a newspaper ad --</p> <p>16 a magazine ad?</p> <p>17 MS. BART: Objection, form.</p> <p>18 Q. You can answer.</p> <p>19 A. Yes, same painting.</p> <p>20 Q. And it has no paint cans, right,</p> <p>21 it's not from the studio, correct?</p> <p>22 MS. BART: Objection, form.</p> <p>23 Q. You can answer.</p> <p>24 A. Yes.</p> <p>25 MR. HAYES: Objection, form.</p>   | <p>1 McDonald</p> <p>2 marked as 53A, so it's two exhibits.</p> <p>3 Could you look at the --</p> <p>4 MS. BART: Just give her a second to</p> <p>5 look at it.</p> <p>6 (Witness looks at exhibit.)</p> <p>7 Q. Okay. Look at the second page,</p> <p>8 GG002763. Did you receive a copy of the e-mail</p> <p>9 on the top from Jessica Arisohn?</p> <p>10 A. Yes.</p> <p>11 Q. And who is Jessica Arisohn?</p> <p>12 A. A gallery assistant.</p> <p>13 Q. At the Gagosian Gallery?</p> <p>14 A. Yes.</p> <p>15 Q. And who is Andie Trainer who wrote</p> <p>16 the e-mail beneath the first one in the chain?</p> <p>17 A. A gallery receptionist.</p> <p>18 Q. Do you know Ryan from Rare Posters?</p> <p>19 A. Know him? No.</p> <p>20 Q. Do you know who he is?</p> <p>21 A. Sure, yeah.</p> <p>22 Q. Who is he?</p> <p>23 A. He's someone who buys posters in</p> <p>24 bulk from us occasionally.</p> <p>25 Q. Do you see she said in the e-mail</p>                            |

|  |   |
|--|---|
| <p>57</p> <p>1 McDonald</p> <p>2 but somehow it doesn't seem right for him to be</p> <p>3 selling, capital letters, our invitations, do</p> <p>4 you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Did you get involved in the question</p> <p>7 of whether invitations should be given to Ryan?</p> <p>8 MS. BART: Objection, form.</p> <p>9 A. He normally sells posters.</p> <p>10 Q. Right. Okay.</p> <p>11 Let's look at the next page.</p> <p>12 Jessica Arisohn, now she's given his</p> <p>13 name, Ryan Dowler wants Prince Canal Zone, do</p> <p>14 you see that, it's the second e-mail?</p> <p>15 A. Yes.</p> <p>16 Q. Andie says we have three extra boxes</p> <p>17 left, and that was addressed -- that e-mail was</p> <p>18 addressed to you as well, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And then Nicole Heck wrote to</p> <p>21 you and Jessica Arisohn and Darlina Goldak,</p> <p>22 Shouldn't we get a percentage of the sale if he</p> <p>23 is selling something we paid to produce, do you</p> <p>24 see that?</p> <p>25 A. Yes.</p> | <p>59</p> <p>1 McDonald</p> <p>2 him, do you know?</p> <p>3 A. I don't know.</p> <p>4 Q. And in these e-mails there's a</p> <p>5 reference to invitations, right?</p> <p>6 Was that a reference to Exhibit 103,</p> <p>7 which is the invitation you had printed, or to</p> <p>8 104, which is the announcement, what we've been</p> <p>9 calling the announcement card?</p> <p>10 A. The announcement card.</p> <p>11 Q. 104?</p> <p>12 A. Yes.</p> <p>13 Q. That's what Ryan wanted, correct?</p> <p>14 A. Yes.</p> <p>15 Q. To make posters?</p> <p>16 MS. BART: Objection, form.</p> <p>17 MR. HAYES: Objection, form.</p> <p>18 A. No, he wasn't making posters.</p> <p>19 Q. What was he doing?</p> <p>20 A. Selling the cards I think.</p> <p>21 Q. Selling the cards? I see.</p> <p>22 It's just that on the first page --</p> <p>23 okay, I hear what you're saying.</p> <p>24 On the first page of Exhibit 53 it</p> <p>25 says Ryan from Rare Posters -- okay, so you're</p> |
| <p>58</p> <p>1 McDonald</p> <p>2 Q. Did you agree with that?</p> <p>3 MS. BART: Objection, form.</p> <p>4 Q. You can answer.</p> <p>5 A. I thought we should be reimbursed</p> <p>6 for what we paid to make them.</p> <p>7 Q. Reimbursed by Ryan's company?</p> <p>8 A. Yeah, instead of recycling.</p> <p>9 Q. Instead of?</p> <p>10 A. Recycling the extra invitations.</p> <p>11 Q. And if you look at the next page</p> <p>12 2766, GG -- actually, let's stick with the GGP,</p> <p>13 GGP003063, you wrote an e-mail saying we should</p> <p>14 sell them to him, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And what was your reasoning for</p> <p>17 that?</p> <p>18 A. They would have been recycled or</p> <p>19 discarded otherwise.</p> <p>20 Q. Why not just give them to him?</p> <p>21 MS. BART: Objection, form.</p> <p>22 Q. You can answer.</p> <p>23 A. I just thought we should get</p> <p>24 reimbursed for what we had spent to make them.</p> <p>25 Q. And did you sell these materials to</p>                                      | <p>60</p> <p>1 McDonald</p> <p>2 saying, your understanding was he wanted to sell</p> <p>3 the actual announcement cards, not make them</p> <p>4 into posters, is that right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. If I asked this before, I</p> <p>7 apologize, but were these announcement cards</p> <p>8 sold to Ryan?</p> <p>9 MS. BART: Objection, form.</p> <p>10 Q. If you know?</p> <p>11 MS. BART: And asked and answered.</p> <p>12 A. I don't know.</p> <p>13 Q. Okay. Did I ask you that before?</p> <p>14 MS. BART: Yes.</p> <p>15 Q. And what did you say before?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. All right. It wasn't a trick</p> <p>18 question. I don't remember it.</p> <p>19 MS. BART: You never know with</p> <p>20 Mr. Brooks.</p> <p>21 Q. So you don't know if they were</p> <p>22 sold --</p> <p>23 A. No.</p> <p>24 Q. -- to him? Okay.</p> <p>25 MS. BART: Objection.</p>   |

|   |   |
|---|---|
| 61  | 63  |
| <p>1 McDonald</p> <p>2 Q. Do you know Glenn O'Brien?</p> <p>3 A. Barely, yes.</p> <p>4 Q. Who is he?</p> <p>5 A. He worked with Andy Warhol.</p> <p>6 I believe he was involved in Interview Magazine.</p> <p>7 I don't know him very well.</p> <p>8 MR. BROOKS: Did you get that,</p> <p>9 Interview, Interview Magazine?</p> <p>10 (Discussion off the record.)</p> <p>11 BY MR. BROOKS:</p> <p>12 Q. I'm going to hand you a document</p> <p>13 that's previously been marked as Plaintiff's</p> <p>14 Exhibit 29.</p> <p>15 If you look at the first page of</p> <p>16 Exhibit 29, GGP001421, there appears to be at</p> <p>17 the bottom an e-mail from Glenn O'Brien to Betsy</p> <p>18 Biscone at the Prince studio asking for some</p> <p>19 images for the interview, do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Correct?</p> <p>22 A. Yes.</p> <p>23 Q. And did you become aware that</p> <p>24 Mr. O'Brien wanted some images for Interview</p> <p>25 Magazine?</p> | <p>1 McDonald</p> <p>2 A. Yes.</p> <p>3 Q. Rasta works.</p> <p>4 And she says, Please include James</p> <p>5 Brown Disco Ball, Meditation, and a few others</p> <p>6 to choose -- it should be choose from, do you</p> <p>7 see that?</p> <p>8 A. Yes.</p> <p>9 Q. And then Melissa Lazarov e-mailed</p> <p>10 you and said, I need to send some JPEGs to</p> <p>11 Glenn, please attach for me?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember this?</p> <p>14 A. Yes.</p> <p>15 Q. And do you remember sending JPEGs to</p> <p>16 Mr. McDonald?</p> <p>17 MS. BART: Objection, form.</p> <p>18 MR. HAYES: Objection, form.</p> <p>19 Q. You can answer.</p> <p>20 A. Sending them to?</p> <p>21 Q. Interview Magazine.</p> <p>22 What did I say?</p> <p>23 MR. HAYES: Mr. McDonald.</p> <p>24 Q. You're Ms. McDonald.</p> <p>25 Mr. O'Brien, I'm sorry.</p>   |
| 62  | 64  |
| <p>1 McDonald</p> <p>2 MR. HAYES: Objection to form.</p> <p>3 A. Yes.</p> <p>4 Q. Do you see his e-mail address there</p> <p>5 Glenn O'Brien, it's gobrien@brantpub.com, do you</p> <p>6 see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know if that's Interview</p> <p>9 Magazine?</p> <p>10 A. I don't know. They own several</p> <p>11 magazines.</p> <p>12 Q. Do you know who Peter Brant is?</p> <p>13 A. Yes.</p> <p>14 Q. And he's Brant Publications?</p> <p>15 A. Yes.</p> <p>16 Q. And you don't know if he owns</p> <p>17 Interview Magazine or not?</p> <p>18 A. He does own Interview Magazine.</p> <p>19 Q. The next e-mail is from Betsy</p> <p>20 Biscone -- she works for Prince, right, or</p> <p>21 worked for Prince then?</p> <p>22 A. Yes.</p> <p>23 Q. To Melissa Lazarov asking for a</p> <p>24 small selection of high-res -- does that mean</p> <p>25 high resolution?</p>   | <p>1 McDonald</p> <p>2 MS. BART: Objection, form.</p> <p>3 A. Can you repeat the question?</p> <p>4 Q. Yes. Look at the next page. Do you</p> <p>5 see some JPEGs were being sent?</p> <p>6 A. To Tony Manzella.</p> <p>7 Q. Who is Tony? He's at Echelon?</p> <p>8 A. Yes.</p> <p>9 Q. What's Echelon?</p> <p>10 A. They do reproduction work.</p> <p>11 Q. And it says, Hi, Tony -- this is</p> <p>12 from Darlina Goldak, she worked for you, right?</p> <p>13 A. Yes.</p> <p>14 Q. And you were copied on this e-mail?</p> <p>15 A. Yes.</p> <p>16 Q. And it says, Attached are eight</p> <p>17 Richard Prince works, please upload</p> <p>18 high-resolution files for each work to the</p> <p>19 Echelon -- dot, dot, dot -- provide me with</p> <p>20 download instructions.</p> <p>21 Was this being done so that these</p> <p>22 JPEGs could be sent to Interview Magazine?</p> <p>23 MS. BART: Objection, form.</p> <p>24 Q. You can answer.</p> <p>25 A. I don't know.</p> |

Alison McDonald

December 17, 2009

|  |   |
|--|---|
| <p style="text-align: center;">65</p> <p>1 McDonald</p> <p>2 Q. Do you know if images were sent to</p> <p>3 Mr. O'Brien at Interview Magazine of some of the</p> <p>4 Prince paintings?</p> <p>5 A. I don't know.</p> <p>6 Q. I'm going to place in front of you</p> <p>7 a document that's been previously marked as</p> <p>8 Plaintiff's Exhibit 28.</p> <p>9 Do you know whose photo that is at</p> <p>10 the very top of the first page?</p> <p>11 A. It's a photograph of Richard Prince.</p> <p>12 Q. And do you see five paintings, five</p> <p>13 images beneath his photograph?</p> <p>14 A. Yes.</p> <p>15 Q. Let me ask you to go back to the</p> <p>16 book again, the Canal Zone book.</p> <p>17 And beneath Mr. Prince's image and</p> <p>18 to the -- when you're looking at it -- on the</p> <p>19 left side is a painting, a grouping of figures,</p> <p>20 do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And do you know what painting that</p> <p>23 is?</p> <p>24 MS. BART: I'm going to --</p> <p>25 MR. BROOKS: If she doesn't know,</p> | <p style="text-align: center;">67</p> <p>1 McDonald</p> <p>2 MS. BART: Objection.</p> <p>3 Q. You can answer.</p> <p>4 A. Yes.</p> <p>5 Q. Now, to the right of James Brown</p> <p>6 Disco Ball in Exhibit 28 is another painting, if</p> <p>7 you look at page C -- it's another image -- if</p> <p>8 you look at page C168 in the Canal Zone book.</p> <p>9 MS. BART: There's no question.</p> <p>10 Q. What painting is that a part of?</p> <p>11 MR. HAYES: Objection, form.</p> <p>12 MS. BART: Objection to form.</p> <p>13 Q. You can answer.</p> <p>14 A. It appears to be Tales of Brave</p> <p>15 Ulysses. A detail of it.</p> <p>16 Q. I'm sorry, I didn't hear the end of</p> <p>17 it?</p> <p>18 A. A detail of it.</p> <p>19 Q. Okay. And then on the left, on the</p> <p>20 bottom row, there's a painting, part of a</p> <p>21 painting, if you look at C144 in the Canal Zone</p> <p>22 book, can you tell us --</p> <p>23 MS. BART: Just one second, please.</p> <p>24 Q. Can you tell us which painting that</p> <p>25 is a detail of?</p> |
| <p style="text-align: center;">66</p> <p>1 McDonald</p> <p>2 then we'll --</p> <p>3 MS. BART: I'm just going to object</p> <p>4 to this. You haven't even asked if she's</p> <p>5 ever seen this document before.</p> <p>6 MR. BROOKS: Right.</p> <p>7 BY MR. BROOKS:</p> <p>8 Q. Why don't you, just to save time, go</p> <p>9 to page C136 in the book.</p> <p>10 Okay. So the first image beneath</p> <p>11 Mr. Prince to the left, is that James Brown</p> <p>12 Disco Ball or a part of it?</p> <p>13 MS. BART: Objection, form.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 Q. You can answer.</p> <p>16 A. It appears to be part of that</p> <p>17 painting.</p> <p>18 Q. And do you recall in the e-mail that</p> <p>19 was one of the ones that was requested, do you</p> <p>20 remember, Exhibit 29?</p> <p>21 A. Yes.</p> <p>22 Q. On the first page James Brown Disco</p> <p>23 Ball, you see that was requested?</p> <p>24 MS. BART: Objection, form.</p> <p>25 Q. Do you see that?</p>   | <p style="text-align: center;">68</p> <p>1 McDonald</p> <p>2 MS. BART: Objection to form.</p> <p>3 MR. HAYES: Objection, form.</p> <p>4 Q. You can answer.</p> <p>5 A. It appears to be a detail of</p> <p>6 Ding Dong the Witch is Dead.</p> <p>7 Q. Which has the same title as</p> <p>8 Mr. Frey's essay or fictional narrative or</p> <p>9 whatever you call it?</p> <p>10 MS. BART: Objection, form.</p> <p>11 Q. Correct?</p> <p>12 MR. HAYES: Objection, form.</p> <p>13 A. Yes.</p> <p>14 Q. Do you know why?</p> <p>15 A. I do not know why.</p> <p>16 Q. In the bottom row in the middle</p> <p>17 there's another one if you look at C202, does</p> <p>18 the image in the middle of the bottom row appear</p> <p>19 to be from Cheese and Crackers?</p> <p>20 MS. BART: Objection, form.</p> <p>21 MR. HAYES: Form.</p> <p>22 A. Yes, it appears to be a detail from</p> <p>23 Cheese and Crackers.</p> <p>24 Q. And finally, if you look at C126 in</p> <p>25 the Canal Zone book, does the image on the right</p>                               |

|   |   |
|---|---|
| 69  | 71  |
| <p>1 McDonald</p> <p>2 in the bottom row of Exhibit 28 appear to be a</p> <p>3 detail from the Ocean Club painting?</p> <p>4 MS. BART: Objection, form.</p> <p>5 MR. HAYES: Objection to form.</p> <p>6 Q. You can answer.</p> <p>7 A. Yes, it appears to be.</p> <p>8 Q. And that's that same Rastafarian</p> <p>9 whose picture is in the announcement card,</p> <p>10 correct?</p> <p>11 MR. HAYES: Objection, form.</p> <p>12 MS. BART: Objection, form.</p> <p>13 A. I can't see it in this picture, on</p> <p>14 the interview copy.</p> <p>15 Q. But how about on page C126?</p> <p>16 MS. BART: Objection, form.</p> <p>17 Q. The Ocean Club painting?</p> <p>18 MS. BART: Objection, form.</p> <p>19 Q. You can answer.</p> <p>20 A. It appears to be.</p> <p>21 Q. Now, Exhibit 28 is a copy of</p> <p>22 Mr. O'Brien's interview of Mr. Prince. Have you</p> <p>23 ever seen it before?</p> <p>24 A. No.</p> <p>25 Q. Did you read it at the time?</p>   | <p>1 McDonald</p> <p>2 see that?</p> <p>3 A. Yes.</p> <p>4 Q. And there's some attachments. And</p> <p>5 some of this has been redacted, but I see it</p> <p>6 says Prince 2008.0049, .0058, .0056, .0053,</p> <p>7 .0060, and .0059, do you see where I'm reading</p> <p>8 from?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know what those numbers refer</p> <p>11 to?</p> <p>12 A. Database numbers.</p> <p>13 Q. Of?</p> <p>14 A. The Gagosian Gallery inventory.</p> <p>15 Q. And if you know that number is it</p> <p>16 possible to figure out which paintings were</p> <p>17 being sent as JPEGs?</p> <p>18 A. Yes.</p> <p>19 Q. I'm going to show you a document</p> <p>20 that's previously been marked as Exhibit 46.</p> <p>21 Ms. McDonald, do you know what</p> <p>22 Exhibit 46 is a copy of?</p> <p>23 A. A checklist of Richard Prince</p> <p>24 paintings.</p> <p>25 Q. This indicates a date at the top,</p>   |
| 70  | 72  |
| <p>1 McDonald</p> <p>2 MS. BART: Objection, form.</p> <p>3 A. No.</p> <p>4 Q. Do you know how Interview Magazine</p> <p>5 got the five images that are on the first page</p> <p>6 of Exhibit 28?</p> <p>7 A. I don't know.</p> <p>8 Q. Doesn't it seem most likely, based</p> <p>9 on what we looked at in Exhibit 29, that as</p> <p>10 requested it was sent by Gagosian Gallery to</p> <p>11 Interview Magazine?</p> <p>12 MR. HAYES: Objection.</p> <p>13 MS. BART: Based on her prior answer</p> <p>14 I'm going to instruct the witness not to</p> <p>15 speculate.</p> <p>16 MR. BROOKS: It's not privileged.</p> <p>17 MS. BART: I'm instructing her not</p> <p>18 to speculate. We're not going to have her</p> <p>19 answer that question which totally calls</p> <p>20 for speculation, no.</p> <p>21 RL MR. BROOKS: Mark that, okay?</p> <p>22 BY MR. BROOKS:</p> <p>23 Q. Look back at Exhibit 29, please.</p> <p>24 On the second page there's an e-mail</p> <p>25 from Darlina Goldak, and you were copied, do you</p> | <p>1 McDonald</p> <p>2 October 15th, 2008, do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And that's before the show, the</p> <p>5 exhibition of Canal Zone opened on November 8th?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have Exhibit 29 in front of</p> <p>8 you, the second page, where the JPEGs have</p> <p>9 numbers?</p> <p>10 Let's take the first one, Prince</p> <p>11 2008.0058. By looking at Exhibit 46 can you</p> <p>12 tell us which painting that is?</p> <p>13 A. Ding Dong the Witch is Dead.</p> <p>14 Q. The next one .0056, can you tell by</p> <p>15 looking at Exhibit 46 which painting that is?</p> <p>16 A. Graduation.</p> <p>17 Q. The next one .0053, can you tell by</p> <p>18 looking at Exhibit 46 which painting that is?</p> <p>19 A. Cheese and Crackers.</p> <p>20 Q. And I skipped 0049 inadvertently up</p> <p>21 at the top there, which painting is that,</p> <p>22 2008.0049?</p> <p>23 A. Back to the Garden.</p> <p>24 Q. And .0060, can you tell what</p> <p>25 painting that is?</p> |

|  |   |
|--|---|
| 73   | 75  |
| <p>1 McDonald</p> <p>2 A. Untitled.</p> <p>3 Q. And .0059?</p> <p>4 A. The Ocean Club.</p> <p>5 Q. Staying with Exhibit 46, that's the</p> <p>6 list of the paintings, there are images in the</p> <p>7 right-hand column, do you know what those are?</p> <p>8 A. I can't tell from this printout.</p> <p>9 Q. Let's just take the first painting,</p> <p>10 Specially Round Midnight, do you see that in</p> <p>11 Exhibit 46?</p> <p>12 A. On the list? Yes.</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. And then it says collage, inkjet and</p> <p>16 acrylic on canvas, do you know what that means?</p> <p>17 MS. BART: Objection, form.</p> <p>18 MR. HAYES: Objection, form.</p> <p>19 Q. You can answer.</p> <p>20 A. It's the media.</p> <p>21 Q. Do you know what inkjet refers to in</p> <p>22 connection with these particular paintings?</p> <p>23 A. It's a process for printing.</p> <p>24 Q. For scanning?</p> <p>25 MS. BART: Objection, form.</p> | <p>1 McDonald</p> <p>2 going to be stipulating this just so</p> <p>3 that we would avoid wasting time in</p> <p>4 depositions, she didn't prepare this</p> <p>5 document --</p> <p>6 MR. BROOKS: Well, we don't know</p> <p>7 that. Excuse me, she didn't say that.</p> <p>8 Don't put words in her mouth. I didn't</p> <p>9 ask her if she prepared it.</p> <p>10 MS. BART: At the beginning you did.</p> <p>11 MR. BROOKS: No, I didn't. I did</p> <p>12 not.</p> <p>13 MS. BART: And also about an hour</p> <p>14 ago you asked her if she participated in</p> <p>15 the sales and she didn't know.</p> <p>16 MR. BROOKS: That's a different</p> <p>17 question.</p> <p>18 BY MR. BROOKS:</p> <p>19 Q. Let me ask you about this document.</p> <p>20 Did you prepare this document?</p> <p>21 A. No.</p> <p>22 Q. Do you know who did?</p> <p>23 A. No.</p> <p>24 Q. Do you know what the purpose of it</p> <p>25 is?</p>  |
| 74   | 76  |
| <p>1 McDonald</p> <p>2 Q. You can answer.</p> <p>3 MR. HAYES: Objection, form.</p> <p>4 A. No, not scanning. Printing.</p> <p>5 Q. Printing.</p> <p>6 And at the right it says Specially</p> <p>7 Round Midnight sold. Do you know what that --</p> <p>8 under the column status, do you have any</p> <p>9 knowledge of what that indicates?</p> <p>10 A. It indicates that the painting sold.</p> <p>11 Q. Before the exhibition opened?</p> <p>12 A. It indicates that based on the date</p> <p>13 at the top of the list.</p> <p>14 MS. BART: But you don't know?</p> <p>15 A. But I don't know.</p> <p>16 Q. October 15th, 2008?</p> <p>17 MS. BART: She doesn't know.</p> <p>18 A. I don't know.</p> <p>19 Q. Well, you see it says October 15,</p> <p>20 2008, right?</p> <p>21 MS. BART: I believe we're going to</p> <p>22 be giving you -- we've already given</p> <p>23 you --</p> <p>24 MR. BROOKS: Well --</p> <p>25 MS. BART: Hold on a second. We're</p>     | <p>1 McDonald</p> <p>2 A. To organize the information clearly.</p> <p>3 Q. Is this something that you see in</p> <p>4 the normal course of business at Gagosian</p> <p>5 Gallery, this type of format?</p> <p>6 A. No, it's always different.</p> <p>7 Q. Okay. Have you seen documents like</p> <p>8 this at Gagosian Gallery when there's a show?</p> <p>9 MS. BART: Objection, form.</p> <p>10 Q. You can answer.</p> <p>11 A. Yes.</p> <p>12 Q. Do you know who prepares documents</p> <p>13 in this format, and I'm talking about</p> <p>14 Exhibit 46, at Gagosian?</p> <p>15 MS. BART: Objection, form.</p> <p>16 A. It's always different.</p> <p>17 Q. It's always a different person?</p> <p>18 A. Yes.</p> <p>19 Q. Is it someone in accounting?</p> <p>20 A. Not usually.</p> <p>21 Q. Who would prepare this type of form</p> <p>22 within Gagosian?</p> <p>23 MS. BART: Objection, form.</p> <p>24 Q. You can answer.</p> <p>25 A. A gallery assistant.</p> |

|   |   |
|---|---|
| 77  | 79  |
| <p>1 McDonald</p> <p>2 Q. Do you know who the gallery</p> <p>3 assistant was at the 24th Street gallery for</p> <p>4 this show?</p> <p>5 A. No.</p> <p>6 Q. Do you know who came up with the</p> <p>7 names for the various paintings in the Canal</p> <p>8 Zone exhibition?</p> <p>9 A. I don't know.</p> <p>10 Q. Let me ask you to look at the first</p> <p>11 insert in the book, which is the James Frey --</p> <p>12 I'm sorry, what did you call it, a fictional --</p> <p>13 A. Text.</p> <p>14 Q. Text? Okay.</p> <p>15 If I asked this, I apologize in</p> <p>16 advance, but did you review the text? I think</p> <p>17 you said you did, right?</p> <p>18 A. Yes.</p> <p>19 Q. And you did?</p> <p>20 A. Yes.</p> <p>21 MS. BART: For typos is what she</p> <p>22 said.</p> <p>23 A. For proofreading.</p> <p>24 Q. Do you know whose idea it was to</p> <p>25 have inserts in the Canal Zone catalog including</p> | <p>1 McDonald</p> <p>2 a hat, yeah.</p> <p>3 Q. Do you know where Mr. Prince got</p> <p>4 that image?</p> <p>5 A. No.</p> <p>6 Q. I'm going to place in front of you a</p> <p>7 document which has been previously been marked</p> <p>8 as Plaintiff's Exhibit 54.</p> <p>9 MR. BROOKS: Off the record.</p> <p>10 (Discussion off the record.)</p> <p>11 BY MR. BROOKS:</p> <p>12 Q. Exhibit 54 is a copy of an e-mail</p> <p>13 that you sent?</p> <p>14 A. Yes.</p> <p>15 Q. Who is Vanessa Riding?</p> <p>16 A. Larry Gagosian's assistant.</p> <p>17 Q. And you say Melissa asked me to send</p> <p>18 this text on to Larry to read, do you know what</p> <p>19 text that is?</p> <p>20 A. The James Frey fictional text.</p> <p>21 Q. And who is Melissa again, is that</p> <p>22 Melissa Lazarov?</p> <p>23 A. Melissa Lazarov.</p> <p>24 Q. And do you know if Mr. Gagosian had</p> <p>25 had comments or suggestions with respect to the</p>               |
| 78  | 80  |
| <p>1 McDonald</p> <p>2 the James Frey fictional text?</p> <p>3 A. The designers.</p> <p>4 Q. And who was that again?</p> <p>5 A. Graphic Thought Facility.</p> <p>6 Q. Ivor Williams?</p> <p>7 A. Yeah.</p> <p>8 Q. Is that right?</p> <p>9 A. Yeah.</p> <p>10 Q. I'm sorry, what is the name of the</p> <p>11 company again was what?</p> <p>12 A. Graphic Thought Facility.</p> <p>13 Q. And they were in London or Toronto?</p> <p>14 A. London.</p> <p>15 Q. London, okay. Thank you.</p> <p>16 In the second insert, Ms. McDonald,</p> <p>17 if you could look at the page which is stamped</p> <p>18 C00155, do you know what is being depicted</p> <p>19 there?</p> <p>20 A. The artist's studio.</p> <p>21 Q. And by the artist you mean</p> <p>22 Mr. Prince?</p> <p>23 A. Richard Prince.</p> <p>24 Q. You see a picture of a man in a hat?</p> <p>25 A. I see a painting that has a man with</p>                     | <p>1 McDonald</p> <p>2 James Frey text?</p> <p>3 A. No, I never got a response.</p> <p>4 Q. You never got a --</p> <p>5 A. -- response.</p> <p>6 (Discussion off the record.)</p> <p>7 BY MR. BROOKS:</p> <p>8 Q. I'm going to show the witness</p> <p>9 what's been marked previously as Plaintiff's</p> <p>10 Exhibit 55.</p> <p>11 Now, Darlina Goldak and Nicole Heck,</p> <p>12 I think you said before, were both people that</p> <p>13 worked for you in connection with the book?</p> <p>14 A. Yes.</p> <p>15 Q. Do you see at the bottom it says</p> <p>16 they want a more-interesting, non-traditional</p> <p>17 way to present the text in the book, Alison</p> <p>18 explained this to Ivor yesterday, do you see</p> <p>19 that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall explaining something</p> <p>22 about a non-traditional way to present the text</p> <p>23 to Ivor Williams?</p> <p>24 A. Yes.</p> <p>25 MS. BART: Objection to form.</p> |

Alison McDonald

December 17, 2009

|   |  |
|---|--|
| <p style="text-align: center;">81</p> <p>1 McDonald</p> <p>2 Q. What did you explain to him?</p> <p>3 A. That we wanted to do something</p> <p>4 different from the normal presentation of text</p> <p>5 in our other catalogs that we made previously.</p> <p>6 Q. Did you discuss having an insert,</p> <p>7 you know, a smaller-size page with the text?</p> <p>8 A. That came later.</p> <p>9 Q. Did you discuss having the cartoons</p> <p>10 added in with the text?</p> <p>11 A. Can I read this document first?</p> <p>12 Q. Yes, by all means.</p> <p>13 (Witness looks at exhibit.)</p> <p>14 A. Okay, sorry.</p> <p>15 Q. So what is your recollection of what</p> <p>16 you discussed with him?</p> <p>17 MS. BART: About what?</p> <p>18 Q. Having a more-interesting,</p> <p>19 non-traditional way to present the text?</p> <p>20 A. We just discussed that as a</p> <p>21 fictional text and not an art historical text,</p> <p>22 it should be a different presentation from how</p> <p>23 we tend to do it in our catalogs.</p> <p>24 Q. You discussed having a different</p> <p>25 font?</p> | <p style="text-align: center;">83</p> <p>1 McDonald</p> <p>2 It's in the middle of the first</p> <p>3 page?</p> <p>4 A. Yes.</p> <p>5 Q. Please find attached the pitch which</p> <p>6 was displayed on the wall at the Eden Rock Hotel</p> <p>7 in St. Barths for last December 2007 Eden Rock</p> <p>8 show. Do you know anything about the pitch?</p> <p>9 A. No.</p> <p>10 Q. You don't know what it is?</p> <p>11 A. No.</p> <p>12 Q. Did you know there was a show at the</p> <p>13 Eden Rock Hotel in St. Barths in December 2007?</p> <p>14 A. No.</p> <p>15 Q. Can I have that back?</p> <p>16 A. Yes.</p> <p>17 Q. Thank you.</p> <p>18 I'm going to show you a document</p> <p>19 that's previously been marked as Exhibit 31.</p> <p>20 Do you know what that is?</p> <p>21 A. Press release for the exhibition.</p> <p>22 Q. Do you know who wrote it?</p> <p>23 A. I don't know who wrote this, no.</p> <p>24 Q. Did you write it?</p> <p>25 A. No.</p>                      |
| <p style="text-align: center;">82</p> <p>1 McDonald</p> <p>2 A. No.</p> <p>3 Q. Did you leave it up to him to make</p> <p>4 it non-traditional?</p> <p>5 A. Yes.</p> <p>6 Q. Okay, good.</p> <p>7 Further up, a few lines up above</p> <p>8 that it says, Please include essay or text by</p> <p>9 James Frey in the title page. And then it says</p> <p>10 they want the book to come up if you Google</p> <p>11 James Frey, do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know what the reason was that</p> <p>14 that was desired?</p> <p>15 A. I don't know.</p> <p>16 Q. Did you discuss that with anyone?</p> <p>17 A. No.</p> <p>18 Q. I'm going to hand you what's been</p> <p>19 marked as Exhibit 23 at a previous deposition.</p> <p>20 There's a reference in here to --</p> <p>21 MS. BART: Just a minute, please.</p> <p>22 Let her take a look at it.</p> <p>23 Q. There's a reference in there to</p> <p>24 something called the pitch, with an initial</p> <p>25 caps, capital T, capital P, do you see that?</p>   | <p style="text-align: center;">84</p> <p>1 McDonald</p> <p>2 Q. Is this first page taken from the</p> <p>3 Gagosian Gallery website, if you know?</p> <p>4 A. Yes.</p> <p>5 Q. And it shows the first page of a</p> <p>6 press release, is that right, about the show?</p> <p>7 A. Yes.</p> <p>8 Q. And the second page is a</p> <p>9 continuation of the press release?</p> <p>10 A. No. I don't know.</p> <p>11 MS. BART: The second page.</p> <p>12 A. Oh, the second page, yes.</p> <p>13 Q. It is, okay.</p> <p>14 All right. Just so the record is</p> <p>15 clear, you're saying the first two pages of</p> <p>16 Exhibit 31 are the press release taken from the</p> <p>17 Gagosian Gallery website, is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Now, look at the first page of</p> <p>20 Exhibit 31, please.</p> <p>21 Do you see where it says --</p> <p>22 MR. HAYES: Do you have a copy of</p> <p>23 that?</p> <p>24 MR. BROOKS: Yes, I do.</p> <p>25 MR. HAYES: Thanks.</p> |



|  |  |
|--|--|
| 85   | 87   |
| <p>1 McDonald</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. On the first page of Exhibit 31, do</p> <p>4 you see where it says Richard Prince on the left</p> <p>5 at the top, and if you go down from there it</p> <p>6 says press release?</p> <p>7 A. Yes.</p> <p>8 Q. If you clicked on press release</p> <p>9 would you see this press release we just looked</p> <p>10 at, the first two pages of Exhibit 31?</p> <p>11 A. Today?</p> <p>12 Q. Back then?</p> <p>13 MR. LARKIN: Objection, form.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 A. Yes.</p> <p>16 Q. Is that a yes?</p> <p>17 A. Yes.</p> <p>18 Q. Now, beneath that it says view work,</p> <p>19 do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. If you clicked on that in November</p> <p>22 or December 2008 do you know what would come up?</p> <p>23 A. Paintings from the exhibition.</p> <p>24 Q. Have you ever seen them?</p> <p>25 A. Or installation photographs.</p>                       | <p>1 McDonald</p> <p>2 then if you clicked view work?</p> <p>3 A. Yes.</p> <p>4 Q. And then the subsequent pages, just</p> <p>5 go through them slowly one by one, but what do</p> <p>6 they depict, if you know?</p> <p>7 A. Installation shots of the paintings</p> <p>8 installed in the Chelsea 24th Street gallery.</p> <p>9 Q. As they were during the exhibition?</p> <p>10 A. I don't know when these photographs</p> <p>11 were taken.</p> <p>12 Q. But does that look like what the</p> <p>13 exhibition looked like?</p> <p>14 MS. BART: Objection, form.</p> <p>15 A. Yes.</p> <p>16 Q. Do you see on the very last page</p> <p>17 there's an automobile, right, C00558?</p> <p>18 A. Yes.</p> <p>19 Q. Which appears to have some painting</p> <p>20 on it. Was that part of the Canal Zone</p> <p>21 exhibition?</p> <p>22 A. Yes.</p> <p>23 Q. Could I have that back, please?</p> <p>24 Thank you.</p> <p>25 Now, were you looking at Exhibit 31</p>   |
| 86   | 88   |
| <p>1 McDonald</p> <p>2 Q. Have you ever seen them?</p> <p>3 A. Seen the paintings from the</p> <p>4 exhibition?</p> <p>5 Q. By clicking on view work?</p> <p>6 A. No.</p> <p>7 MR. BROOKS: Let's mark as</p> <p>8 Plaintiff's Exhibit 105 a series of</p> <p>9 documents Bates stamped C00541 through</p> <p>10 558.</p> <p>11 (Plaintiff's Exhibit 105, documents</p> <p>12 C00541 through 558, was marked for</p> <p>13 identification, as of this date.)</p> <p>14 Q. So we've placed in front of you</p> <p>15 Exhibit 105, and you'll notice the first two</p> <p>16 pages are the same as the first two pages of</p> <p>17 Exhibit 31, except the picture is in color,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. Now, do you see the third page</p> <p>21 C00543 it has a number of it looks like</p> <p>22 thumbnails you can click on on the left, do you</p> <p>23 see that?</p> <p>24 A. Yes.</p> <p>25 Q. And is that what you would get back</p> | <p>1 McDonald</p> <p>2 before or did I take it back?</p> <p>3 MS. BART: You took it back.</p> <p>4 Q. I did. Then I'm going to have to</p> <p>5 give it to you again.</p> <p>6 Exhibit 31 I'm handing you. If</p> <p>7 you look on the right of the printout from the</p> <p>8 website do you see it says Richard Prince, and</p> <p>9 then it says artist info, do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And then beneath that it says view?</p> <p>12 A. Yes.</p> <p>13 Q. And do you know what would come up</p> <p>14 at that time if you clicked view?</p> <p>15 A. No.</p> <p>16 Q. Just take a look at the last page</p> <p>17 of Exhibit 31, do you see that, there's some</p> <p>18 information about Richard Prince?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know if that came from the</p> <p>21 Gagosian Gallery website?</p> <p>22 A. Yes.</p> <p>23 Q. And look back -- I know it's a</p> <p>24 little bit hard to see, but if you look back at</p> <p>25 the first page there's a little image there</p> |

|  |  |
|--|--|
| 89   | 91   |
| <p>1 McDonald</p> <p>2 where it says artist info, can you make it out?</p> <p>3 A. No.</p> <p>4 Q. All right. Having looked at the</p> <p>5 last page of Exhibit 31, do you know if that</p> <p>6 material about Richard Prince is the artist info</p> <p>7 that's referred to on the first page of</p> <p>8 Exhibit 31?</p> <p>9 A. I don't know.</p> <p>10 Q. Okay. Were you familiar with</p> <p>11 Mr. Prince's cowboy paintings or cowboy photos</p> <p>12 or whatever they are?</p> <p>13 A. A bit.</p> <p>14 Q. Do you know where he got them from?</p> <p>15 MS. BART: Objection, form.</p> <p>16 MR. HAYES: Objection, form.</p> <p>17 A. No.</p> <p>18 Q. How about his nurse paintings, were</p> <p>19 you familiar with those?</p> <p>20 A. The paintings?</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. And do you know where those images</p> <p>24 came from?</p> <p>25 MS. BART: Objection, form.</p>                                     | <p>1 McDonald</p> <p>2 Q. Were you aware that Mr. Prince had a</p> <p>3 retrospective at the Guggenheim Museum in late</p> <p>4 2007?</p> <p>5 A. Yes.</p> <p>6 Q. Did you go to it?</p> <p>7 A. No.</p> <p>8 Q. Did Gagosian represent Mr. Prince at</p> <p>9 that time?</p> <p>10 A. I don't know.</p> <p>11 Q. Did you know in 2008 that Mr. Prince</p> <p>12 had a practice of appropriating images created</p> <p>13 by others and including those images in his</p> <p>14 work?</p> <p>15 MS. BART: Objection, form.</p> <p>16 MR. HAYES: Form.</p> <p>17 Q. You can answer.</p> <p>18 A. Can you say it again?</p> <p>19 Q. He'll read it again.</p> <p>20 (Record read.)</p> <p>21 A. I knew he was an appropriation</p> <p>22 artist, yes.</p> <p>23 Q. Well, how do you define an</p> <p>24 appropriation artist?</p> <p>25 MR. HAYES: Objection, form.</p>  |
| 90   | 92   |
| <p>1 McDonald</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 A. No.</p> <p>4 Q. The cover of pulp fiction novels?</p> <p>5 MR. HAYES: Objection, form.</p> <p>6 MS. BART: Join.</p> <p>7 A. Sometimes, I think, yes.</p> <p>8 Q. Were you familiar with his painting</p> <p>9 Spiritual America?</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 A. Is that a painting?</p> <p>12 Q. It's a rephotograph of a picture of</p> <p>13 Brooke Shields when she was ten years old?</p> <p>14 A. I think it's a photograph, yes.</p> <p>15 Q. And were you aware that Mr. Prince</p> <p>16 rephotographed that photograph that some other</p> <p>17 photographer had taken?</p> <p>18 MS. BART: Objection, form.</p> <p>19 MR. HAYES: Form.</p> <p>20 Q. You can answer.</p> <p>21 A. That photograph I'm familiar with</p> <p>22 recently.</p> <p>23 Q. Do you know how long Gagosian</p> <p>24 Gallery has represented Mr. Prince?</p> <p>25 A. I don't know.</p> | <p>1 McDonald</p> <p>2 A. An artist who uses materials that</p> <p>3 influence him and reinvents them to make</p> <p>4 something new.</p> <p>5 Q. He uses materials that influence</p> <p>6 him, materials created by others, right?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection, form.</p> <p>9 A. Other painters, other magazines.</p> <p>10 Q. Other photographers?</p> <p>11 MS. BART: Objection, form.</p> <p>12 MR. HAYES: Objection, form.</p> <p>13 Q. You can answer.</p> <p>14 A. Could be, yeah.</p> <p>15 Q. Did you personally do anything to</p> <p>16 find out whether any of the images in these</p> <p>17 Canal Zone paintings were taken from copyrighted</p> <p>18 material?</p> <p>19 MS. BART: Objection, form.</p> <p>20 MR. HAYES: Objection, form.</p> <p>21 Q. You can answer.</p> <p>22 A. No.</p> <p>23 Q. Do you know if anyone at Gagosian</p> <p>24 Gallery did that?</p> <p>25 MS. BART: Objection, form.</p> |

|   |  |
|---|--|
| <p style="text-align: center;">93</p> <p>1 McDonald</p> <p>2 Q. You can answer.</p> <p>3 A. I don't know.</p> <p>4 Q. Did you ever try to find out -- I</p> <p>5 know you didn't ask him you said already, but</p> <p>6 did you ever try to find out where the images in</p> <p>7 these Canal Zone paintings, specifically the</p> <p>8 Rastafarian images, came from?</p> <p>9 MS. BART: Objection, form.</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 Q. You can answer.</p> <p>12 A. No.</p> <p>13 Q. To your knowledge did anyone at</p> <p>14 Gagosian Gallery make an attempt to find out</p> <p>15 where the Rastafarian images came from?</p> <p>16 MS. BART: Objection, form.</p> <p>17 MR. HAYES: Objection, form.</p> <p>18 Q. You can answer.</p> <p>19 A. I don't know.</p> <p>20 MR. BROOKS: Let's take five minutes</p> <p>21 and I might be finished. I want to look</p> <p>22 at my notes.</p> <p>23 MS. BART: Okay.</p> <p>24 (Recess taken: 3:40 p.m.)</p> <p>25 (Proceedings resumed: 3:48 p.m.)</p> | <p style="text-align: center;">95</p> <p>1 McDonald</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 ALISON MCDONALD, 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 BRYAN NILSEN, RPR</p> |
| <p style="text-align: center;">94</p> <p>1 McDonald</p> <p>2 MR. BROOKS: I have no further</p> <p>3 questions. And happy birthday.</p> <p>4 MS. BART: Thank you for</p> <p>5 acknowledging that.</p> <p>6 MR. HAYES: I have no questions.</p> <p>7 MR. SHERMAN: I don't either.</p> <p>8 (Time noted: 3:48 p.m.)</p> <p>9</p> <p>10 _____</p> <p>11 ALISON MCDONALD</p> <p>12</p> <p>13 Subscribed and sworn to</p> <p>14 before me this ___ day</p> <p>15 of _____, 2009.</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;">96</p> <p>1 McDonald</p> <p>2 ----- I N D E X -----</p> <p>3 WITNESS EXAMINATION BY PAGE</p> <p>4 ALISON MCDONALD MR. BROOKS.....6</p> <p>5</p> <p>6</p> <p>7 ----- INFORMATION REQUESTS -----</p> <p>8 RULINGS: page 70, line 21</p> <p>9</p> <p>10 REQUESTS: PAGE</p> <p>11 Whether Exhibit 52 is image used in</p> <p>12 newspaper and magazine ads.....51</p> <p>13</p> <p>14 MOTIONS: PAGE</p> <p>15 Motion to strike.....35</p> <p>16 Motion to strike.....35</p> <p>17</p> <p>18</p> <p>19 ----- EXHIBITS -----</p> <p>20 PLAINTIFF'S FOR ID.</p> <p>21 103 Invitation GGP001696A.....28</p> <p>22 104 GGP00139A and 140A.....29</p> <p>23 105 Documents C00541 through 558.....86</p> <p>24</p> <p>25 ** EXHIBITS RETAINED BY COUNSEL **</p>  |

Alison McDonald

December 17, 2009

|  |  |
|--|--|
| <p style="text-align: center;">97</p> <p>1                    DEPOSITION ERRATA SHEET</p> <p>2                    RE:        Esquire Deposition Solutions</p> <p>3                    File No. 13829</p> <p>4                    Case Caption: PATRICK CARIOU</p> <p>5                    vs. RICHARD PRINCE</p> <p>6                    Deponent: ALISON MCDONALD</p> <p>7                    Deposition Date:</p> <p>8                    To the Reporter:</p> <p>9                    I have read the entire transcript of my Deposition taken</p> <p>10                   in the captioned matter or the same has been read to me.</p> <p>11                   I request that the following changes be entered upon the</p> <p>12                   record for the reasons indicated. I have signed my name to</p> <p>13                   the Errata Sheet and the appropriate Certificate and</p> <p>14                   authorize you to attach both to the original transcript.</p> <p>15</p> <p>16                   Page No. _____ Line No. _____ Change to: _____</p> <p>17                   _____</p> <p>18                   Reason for change: _____</p> <p>19                   Page No. _____ Line No. _____ Change to: _____</p> <p>20                   _____</p> <p>21                   Reason for change: _____</p> <p>22                   Page No. _____ Line No. _____ Change to: _____</p> <p>23                   _____</p> <p>24                   Reason for change: _____</p> <p>25</p> |  |
| <p style="text-align: center;">98</p> <p>1                    Deposition of ALISON MCDONALD</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                   ALISON MCDONALD</p>  |  |

Louise Neri

December 17, 2009

|   |  |
|---|--|
| <p style="text-align: center;">1</p> <p style="text-align: center;">Neri<br/>UNITED STATES DISTRICT COURT<br/>SOUTHERN DISTRICT OF NEW YORK</p> <p>-----x<br/>PATRICK CARIOU, Plaintiff, Index No.:<br/>vs. 08 CIV 11327 (DAB)<br/>RICHARD PRINCE, GAGOSIAN<br/>GALLERY, INC., LAWRENCE<br/>GAGOSIAN, and RIZZOLI<br/>INTERNATIONAL PUBLICATIONS,<br/>INC., Defendants.<br/>-----x</p> <p style="text-align: center;">DEPOSITION OF LOUISE NERI<br/>New York, New York<br/>Thursday, December 17, 2009</p> <p>Reported by:<br/>Bryan Nilsen, RPR<br/>JOB NO. 305996-B</p> | <p style="text-align: center;">3</p> <p>1 Neri<br/>2 APPEARANCES:<br/>3<br/>4 SCHNADER HARRISON SEGAL &amp; LEWIS LLP<br/>5 Attorneys for Plaintiff<br/>6 140 Broadway, Suite 3100<br/>7 New York, New York 10005-1101<br/>8 BY: DANIEL J. BROOKS, ESQ.<br/>9 PHONE: (212)973-8000<br/>10 EMAIL: dbrooks@schnader.com<br/>11<br/>12 WITHERS BERGMAN LLP<br/>13 Attorneys for Defendants Gagosian Gallery, Inc.,<br/>14 and Lawrence Gagosian<br/>15 430 Park Avenue, 10th Floor<br/>16 New York, New York 10022-3505<br/>17 BY: HOLLIS GONERKA BART, ESQ.<br/>18 PHONE: (212)848-9800<br/>19 EMAIL: hollis.bart@withers.us.com<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>                               |
| <p style="text-align: center;">2</p> <p>1 Neri<br/>2<br/>3<br/>4<br/>5<br/>6 December 17, 2009<br/>7 3:57 p.m.<br/>8<br/>9<br/>10 Deposition of LOUISE NERI, held<br/>11 at the offices of Withers Bergman, LLP,<br/>12 430 Park Avenue, New York, New York,<br/>13 pursuant to Notice, before Bryan Nilsen,<br/>14 RPR, a Notary Public of the State of<br/>15 New York.<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>   | <p style="text-align: center;">4</p> <p>1 Neri<br/>2 APPEARANCES (Cont'd.)<br/>3<br/>4 HANLY CONROY BIERSTEIN SHERIDAN FISHER &amp; HAYES LLP<br/>5 Attorneys for Defendant Richard Prince<br/>6 112 Madison Avenue<br/>7 New York, New York 10016-7416<br/>8 BY: STEVEN M. HAYES, ESQ.<br/>9 PHONE: (212)784-6400<br/>10 EMAIL: shayes@hanlyconroy.com<br/>11<br/>12 WEISMANN CELLER SPETT &amp; MODLIN P.C.<br/>13 Attorneys for Defendant Rizzoli International<br/>14 Publications, Inc.<br/>15 445 Park Avenue, No. 1500<br/>16 New York, New York 10022<br/>17 BY: JOHN B. SHERMAN, ESQ.<br/>18 PHONE: (212)371-5400<br/>19 EMAIL: jsherman@wcm445.com<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p> |

|  |   |
|--|---|
| <p style="text-align: center;">5</p> <p>1 Neri</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 Neri</p> <p>2 A. Far too long ago.</p> <p>3 Q. Okay, never mind.</p> <p>4 How long have you been working for</p> <p>5 Gagosian Gallery?</p> <p>6 A. This is my fourth year.</p> <p>7 Q. What is your title there?</p> <p>8 A. Director.</p> <p>9 Q. Of?</p> <p>10 A. I'm a director.</p> <p>11 Q. A director?</p> <p>12 A. One of several directors.</p> <p>13 Q. What does that mean?</p> <p>14 A. I'm an artistic director. I work</p> <p>15 on exhibitions, publications, texts, artist</p> <p>16 acquisition, gallery representation, research</p> <p>17 for the gallery of new and existing artists.</p> <p>18 Q. At which location do you work?</p> <p>19 A. My office is at 555 West</p> <p>20 24th Street, Chelsea.</p> <p>21 Q. So in the gallery where the Canal</p> <p>22 Zone show took place?</p> <p>23 A. Exactly.</p> <p>24 Q. How long have you been working in</p> <p>25 that gallery?</p>   |
| <p style="text-align: center;">6</p> <p>1 Neri</p> <p>2 LOUISE NERI, called as a witness,</p> <p>3 having been duly sworn by a Notary Public,</p> <p>4 was examined and testified as follows:</p> <p>5 THE COURT REPORTER: Please state</p> <p>6 your name and address for the record.</p> <p>7 THE WITNESS: Louise N. Neri,</p> <p>8 1 University Place, New York, New York</p> <p>9 10003.</p> <p>10 EXAMINATION BY</p> <p>11 MR. BROOKS:</p> <p>12 Q. Good afternoon, Ms. Neri. I'm going</p> <p>13 to ask you a few questions. And as I said, I</p> <p>14 represent the plaintiff in this lawsuit.</p> <p>15 If you don't understand my question,</p> <p>16 just tell me and I will rephrase it.</p> <p>17 A. Sure.</p> <p>18 Q. What is your education?</p> <p>19 A. I have an art history background, a</p> <p>20 BA in art history.</p> <p>21 Q. Where did you earn that?</p> <p>22 A. University of Melbourne.</p> <p>23 Q. In Australia?</p> <p>24 A. In Australia.</p> <p>25 Q. And when did you get that?</p> | <p style="text-align: center;">8</p> <p>1 Neri</p> <p>2 A. I have been there since I joined</p> <p>3 Gagosian in February 2006.</p> <p>4 Q. To whom do you report?</p> <p>5 A. To Larry.</p> <p>6 Q. Directly?</p> <p>7 A. And Melissa Lazarov, yes.</p> <p>8 Q. Okay. I'm going to show you what's</p> <p>9 been marked as Plaintiff's Exhibit 23 at another</p> <p>10 deposition.</p> <p>11 MR. BROOKS: Off the record.</p> <p>12 (Discussion off the record.)</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. These are a couple of e-mails.</p> <p>15 Do you recall receiving these two e-mails?</p> <p>16 A. Yes. I have one e-mail.</p> <p>17 Q. One, and then one you sent, right?</p> <p>18 A. Yes, and a response to say that I</p> <p>19 received the material.</p> <p>20 MS. BART: Dan, I don't mean to</p> <p>21 interrupt your examination, but we asked</p> <p>22 this witness to make sure that she had</p> <p>23 pulled any responsive documents because</p> <p>24 when we looked at this one -- this we're</p> <p>25 just going to produce to everybody now,</p> |

Louise Neri

December 17, 2009

|   |  |
|---|--|
| 9   | 11   |
| 1 Neri  | 1 Neri   |
| 2 it's the exact same thing, the only thing       | 2 Q. Did you in or about October 2008              |
| 3 that it has is the attachment.                  | 3 read the pitch, it's with a capital T and a      |
| 4 MR. BROOKS: It has what?                        | 4 capital P?                                       |
| 5 MS. BART: It has the attachment.                | 5 A. Yes, I did.                                   |
| 6 MR. BROOKS: What attachment?                    | 6 Q. And did you read it before you                |
| 7 THE WITNESS: That's mentioned in                | 7 talked to Mr. Prince about his idea?             |
| 8 her e-mail.                                     | 8 A. Yes.  |
| 9 MR. BROOKS: Oh, the pitch, right?               | 9 Q. And I see at the top you wrote back           |
| 10 MS. BART: Yeah.                                | 10 to Betsy Biscone, you wrote, Dear Betsy, I      |
| 11 MR. BROOKS: Okay. All right.                   | 11 definitely want to talk to Richard but let me   |
| 12 MS. BART: Unfortunately the icons              | 12 get started. Richard being Richard Prince?      |
| 13 don't print out when she prints it from        | 13 A. Mm-hmm, exactly.                             |
| 14 her computer, but we asked her to bring        | 14 Q. When you said let me get started,            |
| 15 that in.                                       | 15 what is it that you wanted to get started on?   |
| 16 MR. BROOKS: Right, I see, okay.                | 16 A. I wanted to get started writing the          |
| 17 Off the record.                                | 17 press release for the exhibition.               |
| 18 (Discussion off the record.)                   | 18 Q. Did your reading of the pitch, which         |
| 19 MR. BROOKS: Let's mark this as 106.            | 19 is the exhibit part of Exhibit 106, did that    |
| 20 (Plaintiff's Exhibit 106, e-mail               | 20 enter into at least your initial draft of the   |
| 21 with pitch attachment, was marked for          | 21 press release?                                  |
| 22 identification, as of this date.)              | 22 MS. BART: Objection, form.                      |
| 23 BY MR. BROOKS:                                 | 23 Q. Let me rephrase it.                          |
| 24 Q. Ms. Neri, your counsel has handed us        | 24 You read the pitch before you                   |
| 25 a document Bates stamped GGP004336 through 39. | 25 started preparing the press release?            |
| 10  | 12   |
| 1 Neri  | 1 Neri   |
| 2 If you take a look at what was                  | 2 A. Yes, I did.                                   |
| 3 marked as Exhibit 23 there's an e-mail to you   | 3 Q. Did what you read in the pitch                |
| 4 that says, it begins, Dear Louise, I hope this  | 4 inform what you wrote in the press release at    |
| 5 finds you well, per Richard's request please    | 5 all?   |
| 6 find attached the pitch, and then it goes on.   | 6 A. Yes.  |
| 7 But nothing was attached to                     | 7 Q. What else, if anything, helped you            |
| 8 Exhibit 23. Now, we have Exhibit 106, and I'm   | 8 write the press release, and I'm just talking    |
| 9 going to ask you is that the same e-mail but    | 9 about the first go through?                      |
| 10 with the attachment, the pitch, the pitch      | 10 A. My knowledge of Richard's work.              |
| 11 attachment that's missing from Exhibit 23?     | 11 I'm a working art historian and critic. I have  |
| 12 A. Yes, it is.                                 | 12 worked with him before, and so some general     |
| 13 Q. Okay, fine. Keep that in front of           | 13 knowledge on Prince's work.                     |
| 14 you in case you need it.                       | 14 Q. You had worked with Mr. Prince               |
| 15 But now, so getting back to 23, you            | 15 before?   |
| 16 got this e-mail, the one on the bottom, from   | 16 A. Yes.   |
| 17 Betsy Biscone?                                 | 17 Q. In connection with what?                     |
| 18 A. Mm-hmm.                                     | 18 A. I used to edit a magazine called             |
| 19 Q. And she worked for Richard Prince?          | 19 Parkett Magazine, which I did for eleven years, |
| 20 A. Yes.  | 20 and I prepared an issue of the magazine with    |
| 21 Q. In his studio?                              | 21 him.  |
| 22 A. Yes.  | 22 Q. Called?                                      |
| 23 Q. And as she says, she attached the           | 23 A. Parkett, P-A-R-K-E-T-T.                      |
| 24 pitch, which is now part of Exhibit 106?       | 24 Q. And what did that have to do with            |
| 25 A. Yes.  | 25 Mr. Prince?                                     |

Louise Neri

December 17, 2009

|  |   |
|--|---|
| 13   | 15  |
| 1 Neri   | 1 Neri  |
| 2 A. The magazine? Each magazine, each             | 2 A. I don't recall.                              |
| 3 issue of this particular magazine devotes itself | 3 Q. Do you understand what I'm saying,           |
| 4 to the study of an artist's work. And one of     | 4 what I'm asking?                                |
| 5 the many numbers that I did was devoted to       | 5 A. I do understand.                             |
| 6 Mr. Prince's work.                               | 6 Q. So it could have been one, just one          |
| 7 Q. Do you know when that was?                    | 7 final draft, or more than one?                  |
| 8 A. It was approximately ten years ago,           | 8 A. Usually I do one or two, maybe three         |
| 9 1996.  | 9 that have very few changes, but just fiddling   |
| 10 Q. Who were you employed by then, was           | 10 around when I'm writing. They're not full      |
| 11 it Parkett?                                     | 11 drafts that are different from each other.     |
| 12 A. Parkett Publishers.                          | 12 Q. Did anyone give you comments on your        |
| 13 Q. Is that part of --                           | 13 first draft of the press release?              |
| 14 A. It's an independent Swiss-based              | 14 A. Yes.  |
| 15 publishing company.                             | 15 Q. Who?  |
| 16 Q. Back to Exhibit 23, there's a                | 16 A. We have a process in the gallery            |
| 17 reference to the pitch having been displayed at | 17 whereby we have a review process. Melissa      |
| 18 the Eden Rock Hotel in St. Barths, do you see   | 18 Lazarov, Richard would have seen that press    |
| 19 that, in December 2007?                         | 19 release.                                       |
| 20 A. Yes.   | 20 Q. Richard Prince?                             |
| 21 Q. Were you familiar with that having           | 21 A. Mm-hmm.                                     |
| 22 taken place?                                    | 22 Q. Who else?                                   |
| 23 A. I knew about the show. I didn't              | 23 A. I think that was it.                        |
| 24 know that the pitch had been exhibited in the   | 24 Q. Did you get comments from either of         |
| 25 show.   | 25 them?  |
| 14   | 16  |
| 1 Neri   | 1 Neri  |
| 2 Q. Towards the bottom of the e-mail              | 2 A. Yes, I did.                                  |
| 3 there's a heading that says additional Eden Rock | 3 Q. Did you make changes?                        |
| 4 slash pitch material written March 2008, and     | 4 A. Very few from memory. There was a            |
| 5 there are four items and then I guess kind of a  | 5 section on utopia which at one point was taken  |
| 6 summary, did you read that too?                  | 6 out and then was put in again, and that's       |
| 7 A. Yes.  | 7 documented.                                     |
| 8 Q. Did that in any way help you prepare          | 8 Q. Did you review any -- besides the            |
| 9 the press release?                               | 9 pitch, which is text, did you review any images |
| 10 A. Yes.   | 10 of any of the paintings in the Canal Zone      |
| 11 MS. BART: Objection, form.                      | 11 exhibition in connection with preparing --     |
| 12 Q. Did it?                                      | 12 A. Yes, I did.                                 |
| 13 You can answer.                                 | 13 Q. -- the press release?                       |
| 14 A. Yes.   | 14 MS. BART: Let him finish.                      |
| 15 Q. Okay. After some point after                 | 15 Q. And where did you view those?               |
| 16 October 7th, 2008, when you said I definitely   | 16 A. As reproductions, as JPEGs.                 |
| 17 want to talk to Richard, did you talk to him    | 17 Q. As JPEGs?                                   |
| 18 about this Canal Zone exhibition?               | 18 A. Mm-hmm.                                     |
| 19 A. I don't remember. I think it wasn't          | 19 Q. And so you saw them where?                  |
| 20 necessary. I only talk to the artist if         | 20 Where were you when you saw them?              |
| 21 absolutely necessary for me to do so.           | 21 A. Probably in my office.                      |
| 22 Q. How many drafts or versions of the           | 22 Q. You did not go up to Mr. Prince's           |
| 23 press release did you go through?               | 23 studio?  |
| 24 MS. BART: Objection, form.                      | 24 A. Never.                                      |
| 25 Q. You can answer.                              | 25 Q. How many JPEGs, do you remember how         |



Louise Neri

December 17, 2009

|   |  |
|---|--|
| 17  | 19   |
| 1 Neri  | 1 Neri   |
| 2 many you saw?                                     | 2 like a website copy.                             |
| 3 A. I can't recall. A few. Probably                | 3 Q. Whose website?                                |
| 4 five.   | 4 A. Our website, Gagosian Gallery                 |
| 5 Q. Some of those images had pictures of           | 5 website.   |
| 6 Rastafarians, correct?                            | 6 Q. Do the first two pages of Exhibit 31          |
| 7 MS. BART: Objection, form.                        | 7 appear to be your press release as taken off the |
| 8 MR. HAYES: Objection, form.                       | 8 website?   |
| 9 Q. You can answer.                                | 9 A. Yes.  |
| 10 You can answer.                                  | 10 Q. Now, let me ask you this. On the             |
| 11 A. Yes, they did. Or I would say men             | 11 first page do you see where it says artist info |
| 12 with dreadlocks. I don't know if they were       | 12 and it says view on the right?                  |
| 13 strictly Rastafarians.                           | 13 A. Yes.   |
| 14 Q. Okay, so let's call them men with             | 14 Q. Are you familiar with the Gagosian           |
| 15 dreadlocks.                                      | 15 Gallery website?                                |
| 16 Did you ever attempt to ascertain                | 16 A. Yes.   |
| 17 where those images came from, the ones with the  | 17 Q. If you were to click on that where           |
| 18 men with dreadlocks?                             | 18 it says view artist info, view, what would you  |
| 19 A. No.   | 19 get?  |
| 20 Q. Did you ever ask him?                         | 20 A. It depends. You would either get a           |
| 21 A. No.   | 21 view of available works, or in the case of an   |
| 22 Q. Having worked with Mr. Prince before          | 22 exhibition you would have a view of the         |
| 23 and knowing him, you knew he was known as an     | 23 exhibition. In certain cases we shoot videos    |
| 24 appropriation artist, correct?                   | 24 of the show.                                    |
| 25 MS. BART: Objection, form.                       | 25 Q. In this case please look at the              |
| 18  | 20   |
| 1 Neri  | 1 Neri   |
| 2 MR. HAYES: Objection, form.                       | 2 third page of Exhibit 31. There appears to be    |
| 3 Q. You can answer.                                | 3 some biographical information about Mr. Prince,  |
| 4 A. Yes.   | 4 correct?   |
| 5 Q. You knew he had a practice of                  | 5 A. Yes.  |
| 6 appropriating images created by others and        | 6 Q. Do you know if that's the artist              |
| 7 including them in his work, right?                | 7 info that's being referred to on the first page  |
| 8 MR. HAYES: Objection, form.                       | 8 of Exhibit 31?                                   |
| 9 MS. BART: Objection, form.                        | 9 A. I don't understand your question,             |
| 10 Q. You can answer.                               | 10 I'm sorry.                                      |
| 11 A. Yes.  | 11 Q. You don't understand my question?            |
| 12 Q. Do you know if anyone at Gagosian             | 12 A. No.  |
| 13 Gallery attempted in this case to make sure that | 13 Q. Do you know if you clicked on --             |
| 14 the images appropriated in the Canal Zone        | 14 A. Oh, sorry, I see it.                         |
| 15 paintings were not copyright protected?          | 15 Could you repeat the question?                  |
| 16 MS. BART: Objection, form.                       | 16 Q. Does the third page of Exhibit 31            |
| 17 MR. HAYES: Form.                                 | 17 appear to be the artist info referred to on the |
| 18 Q. You can answer.                               | 18 first page?                                     |
| 19 A. I don't know.                                 | 19 MS. BART: Objection, form.                      |
| 20 Q. Let's talk about the press release            | 20 A. It appears to be. I can't tell you           |
| 21 then. I'm going to hand you what's been marked   | 21 for sure.                                       |
| 22 as Exhibit 31.                                   | 22 Q. Did you write the third page of              |
| 23 Here's Exhibit 31. Do you know what              | 23 Exhibit 31?                                     |
| 24 Exhibit 31 is or what it is a copy of?           | 24 A. Yes.   |
| 25 A. It looks like a copy -- it looks              | 25 Q. You personally?                              |

Louise Neri

December 17, 2009

|   |  |
|---|--|
| 21  | 23   |
| 1 Neri  | 1 Neri   |
| 2 A. Yes.   | 2 press release, right?                            |
| 3 Q. You did?                                     | 3 MS. BART: Except that the date, the              |
| 4 A. Yes.   | 4 printout date is 12/14/2009 and this one         |
| 5 Q. Did you write it in connection with          | 5 says 12/8/2008.                                  |
| 6 the Canal Zone exhibition?                      | 6 Q. All right. It's the same press                |
| 7 A. No.  | 7 release, right?                                  |
| 8 Q. Do you know when you wrote it?               | 8 MS. BART: Take a look.                           |
| 9 A. Within the year. I write a lot of            | 9 A. Yes, it's the same press release.             |
| 10 material for the gallery on artists as we      | 10 Q. And if you look at the third page of         |
| 11 require information for many different reasons | 11 Exhibit 105 what does that appear to be?        |
| 12 and we often reuse the information.            | 12 A. Installation shots of an exhibition.         |
| 13 Q. Do you think you wrote the                  | 13 Q. Of the Canal Zone exhibition?                |
| 14 description of Mr. Prince, the third page of   | 14 A. They're too small for me to really           |
| 15 Exhibit 31, before the press release, which is | 15 see there, but --                               |
| 16 the first two pages of Exhibit 31?             | 16 Q. Why don't you look at the subsequent         |
| 17 A. Yes.  | 17 pages which are bigger copies of those images?  |
| 18 MS. BART: Objection to form.                   | 18 MS. BART: And, again, just for                  |
| 19 Q. The answer is what?                         | 19 the record, these pages are dated               |
| 20 A. Yes.  | 20 December 14th, 2009.                            |
| 21 Q. Now, one other question before we           | 21 MR. BROOKS: Right. We just printed              |
| 22 get to the text.                               | 22 it out from Google.                             |
| 23 On the left it says press release,             | 23 MS. BART: But this witness has                  |
| 24 is that a reference to this press release, the | 24 testified she doesn't know what it looked       |
| 25 first two pages?                               | 25 like in 2008.                                   |
| 22  | 24   |
| 1 Neri  | 1 Neri   |
| 2 A. Yes.   | 2 MR. BROOKS: Well, she hasn't looked              |
| 3 Q. And then underneath that it says             | 3 at it yet.                                       |
| 4 view work, do you know what you would have      | 4 BY MR. BROOKS:                                   |
| 5 gotten in late 2008 if you clicked view work?   | 5 Q. So look through those and tell us             |
| 6 MS. BART: Objection, form, and                  | 6 what those are shots of.                         |
| 7 asked and answered.                             | 7 A. The car that was exhibited in                 |
| 8 MR. BROOKS: Not of this witness.                | 8 gallery 108.                                     |
| 9 MS. BART: Mm-hmm.                               | 9 Q. In the Canal Zone exhibition?                 |
| 10 MR. BROOKS: No, I asked her what               | 10 A. Yes.   |
| 11 would happen if you clicked on artist          | 11 Q. What else?                                   |
| 12 info.  | 12 A. It's basically an exhibition                 |
| 13 MS. BART: No.                                  | 13 walkthrough.                                    |
| 14 MR. BROOKS: Yes, I did.                        | 14 Q. Of the Canal Zone exhibition?                |
| 15 BY MR. BROOKS:                                 | 15 A. Yes.   |
| 16 Q. What would happen if you clicked on         | 16 Q. Thank you.                                   |
| 17 view work?                                     | 17 Can I have that back, please?                   |
| 18 A. You might see images from the               | 18 MS. BART: Sure.                                 |
| 19 exhibition or you might see general work.      | 19 Q. On Exhibit 31 there's an image at            |
| 20 I can't be sure.                               | 20 the very top, it looks like somebody sitting on |
| 21 Q. Let me show you --                          | 21 a donkey, do you see that, among other things?  |
| 22 A. Depending on when it was done.              | 22 MS. BART: Objection, form.                      |
| 23 Q. Let me show you what was marked as          | 23 You can't see that from this                    |
| 24 Exhibit 105 previously.                        | 24 photocopied image.                              |
| 25 The first two pages are the same               | 25 MR. BROOKS: You need better glasses             |

Louise Neri

December 17, 2009

|  |   |
|--|---|
| 25   | 27  |
| 1                   Neri                                   | 1                   Neri                                      |
| 2           then.  | 2   is being shown in Exhibit 105?                            |
| 3           MS. BART: You can't see that. I                | 3           MS. BART: Objection, form.                        |
| 4           have glasses on.                               | 4           Q. You can answer.                                |
| 5           MR. BROOKS: Well, let's see if she             | 5           A. Yes. It's the same image.                      |
| 6           can see it. It doesn't matter if you can       | 6           Q. And what is the name of that                   |
| 7           see it.  | 7           painting?   |
| 8   BY MR. BROOKS:   | 8           A. In the book it says Back to the                |
| 9           Q. Do you see the image?                       | 9           Garden.   |
| 10           MS. BART: Objection, form.                    | 10           Q. Let me show you another book. It's            |
| 11           MR. HAYES: Objection, form.                   | 11           called Yes Rasta. It's photos by Patrick Cariou  |
| 12           A. I would not be able to tell what it        | 12           who is the plaintiff in this case.               |
| 13           was from this photocopy.                      | 13           Have you ever seen that book?                    |
| 14           Q. Do you see the image?                      | 14           A. No.   |
| 15           A. Not really, no.                            | 15           Q. I've opened the book, the Patrick             |
| 16           Q. Is it better in 105, Exhibit 105?          | 16           Cariou book to a page which is not numbered, but |
| 17           A. Yes.                                       | 17           I will make an exhibit of this double page.      |
| 18           Q. You see a man sitting on a donkey?         | 18           Does that appear to be the same                  |
| 19           A. Yes.                                       | 19           image?   |
| 20           Q. I won't swear it's a donkey --             | 20           MS. BART: Objection, form.                       |
| 21           A. Or the back of a donkey.                   | 21           Q. Of the man on the donkey?                     |
| 22           Q. Some kind of --                            | 22           MS. BART: Objection, form.                       |
| 23           A. A mule maybe.                              | 23           Q. You can answer.                               |
| 24           Q. Who knows.                                 | 24           MS. BART: If she can.                            |
| 25           Take a look at the Canal Zone                 | 25           A. Yes.  |
| 26   | 28  |
| 1                   Neri                                   | 1                   Neri                                      |
| 2   catalog which is in front of you, please.              | 2           Q. Excuse me?                                     |
| 3           Have you ever seen that book before?           | 3           A. Yes.   |
| 4           A. Yes.  | 4           Q. Do you know how that image from                |
| 5           Q. Was it being exhibited and offered          | 5           Mr. Cariou's book ended up in the Back to the     |
| 6           for sale during the exhibition between         | 6           Garden painting?                                  |
| 7           November 8th and December 20th, 2008 --        | 7           MS. BART: Objection, form.                        |
| 8           MS. BART: Objection, form.                     | 8           Q. You can answer.                                |
| 9           Q. -- at the gallery?                          | 9           A. I don't.                                       |
| 10           A. It was exhibited at the front desk         | 10           Q. Do you know if it was scanned on or           |
| 11           of the gallery during the exhibition, for how | 11           squeegeed on?                                    |
| 12           long I cannot be sure.                        | 12           MS. BART: Objection, form.                       |
| 13           Q. And it was on sale?                        | 13           A. I'm not sure I understand the                 |
| 14           A. At the beginning.                          | 14           question.  |
| 15           Q. It was on sale?                            | 15           Q. Well, you used those words in your            |
| 16           MS. BART: Objection, form.                    | 16           press release, right?                            |
| 17           Q. You can answer.                            | 17           A. Yes, but I used them in a very                |
| 18           A. Our catalogs usually are.                  | 18           precise context.                                 |
| 19           Q. Do you know if copies of it were           | 19           Q. Okay, so we'll get to the press               |
| 20           sold?   | 20           release in a moment.                             |
| 21           A. I don't know.                              | 21           MR. BROOKS: Let's mark as                        |
| 22           Q. Could you turn to page -- you'll see       | 22           Exhibit 107, just so everybody will know         |
| 23           there are some Post-its with numbers. Turn to | 23           what I was talking about, a photocopy of         |
| 24           page C000116, please.                         | 24           the page.  |
| 25           Is that the painting, part of which           | 25           (Plaintiff's Exhibit 107, two                    |

Louise Neri

December 17, 2009

|   |  |
|---|--|
| <p>29</p> <p>1 Neri</p> <p>2 pages from Yes Rasta, was marked for</p> <p>3 identification, as of this date.)</p> <p>4 Q. Just for the record Ms, Neri, what's</p> <p>5 been put in front of you is 107. It appears to</p> <p>6 be a copy of two pages in the Patrick Cariou</p> <p>7 book we've just been talking about, correct?</p> <p>8 A. Yes.</p> <p>9 Q. May I have that, please?</p> <p>10 Thank you.</p> <p>11 Okay. So now back to Exhibit 31, if</p> <p>12 you don't mind.</p> <p>13 First, there's a quote in italics,</p> <p>14 the story was basically about a guy who lands in</p> <p>15 St. Barths, gets off the plane, is immediately</p> <p>16 told that there's been a nuclear holocaust in</p> <p>17 the rest of the world and he looks at his family</p> <p>18 and says, quote, we can't go back, unquote.</p> <p>19 And that's attributed there to</p> <p>20 Richard Prince, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And is that something you took out</p> <p>23 of what we've been calling the pitch?</p> <p>24 A. I can't recall.</p> <p>25 Q. Do you recall where you got that</p> | <p>31</p> <p>1 Neri</p> <p>2 MS. BART: You said I assume these</p> <p>3 are your words, you read them, and then</p> <p>4 you asked her do you see them.</p> <p>5 MR. BROOKS: Well, now I'm going to</p> <p>6 ask her if they're her words.</p> <p>7 MS. BART: Okay.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. Are those your words?</p> <p>10 A. I wrote them, yes.</p> <p>11 Q. What were you referring to when you</p> <p>12 said Naughty Nurse pulp fiction?</p> <p>13 A. Richard made a series of collages,</p> <p>14 works on paper and paintings after a book series</p> <p>15 called the Naughty Nurse series.</p> <p>16 Q. And did he appropriate the covers?</p> <p>17 MS. BART: Objection, form.</p> <p>18 Q. You can answer.</p> <p>19 A. He actually used the covers.</p> <p>20 Q. Oh, the actual covers?</p> <p>21 A. In some cases, yes.</p> <p>22 Q. In what way did he use them?</p> <p>23 A. As collages, paint collages.</p> <p>24 Q. Did he enlarge them or just use them</p> <p>25 directly onto the canvas, if you know?</p>  |
| <p>30</p> <p>1 Neri</p> <p>2 language from?</p> <p>3 A. From Richard Prince. Whether it was</p> <p>4 from his pitch or whether it was from him, it</p> <p>5 was a quote that was verified by him.</p> <p>6 Q. And did he discuss this idea of a</p> <p>7 family getting off a plane and finding out</p> <p>8 there's been a nuclear war, did he discuss that</p> <p>9 with you?</p> <p>10 MS. BART: Objection, form.</p> <p>11 Q. You can answer.</p> <p>12 A. It was the pitch that he had</p> <p>13 written.</p> <p>14 Q. So the answer is you did not discuss</p> <p>15 that with him?</p> <p>16 A. I did not discuss it further, no.</p> <p>17 Q. In the third paragraph these are</p> <p>18 your words I assume, following his burlesque</p> <p>19 dialogues with the art of De Kooning, Picasso,</p> <p>20 and Naughty Nurse pulp fiction, Prince has</p> <p>21 turned to his own biographical roots for</p> <p>22 inspiration, do you see that?</p> <p>23 MS. BART: Objection, form.</p> <p>24 A. Yes.</p> <p>25 MR. BROOKS: What's the objection?</p>   | <p>32</p> <p>1 Neri</p> <p>2 MS. BART: Objection, form.</p> <p>3 Q. You can answer.</p> <p>4 A. They were collages, works on paper,</p> <p>5 so there was no canvas involved. And then there</p> <p>6 are a series of large canvases where the images</p> <p>7 that are inspired by the original images,</p> <p>8 they're not the book covers, they're not the</p> <p>9 book covers per se.</p> <p>10 Q. Further down you said, you refer to</p> <p>11 Rastafarians with massive dreadlocks, do you see</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. Now, before I asked you if there are</p> <p>15 Rastafarians in the paintings and you said you</p> <p>16 didn't know, you just said they were just men</p> <p>17 with dreadlocks. How did you know these were</p> <p>18 Rastafarians when you wrote the press release?</p> <p>19 MS. BART: Objection, form.</p> <p>20 Q. You can answer.</p> <p>21 A. In the additional notes to the</p> <p>22 pitch, which we've all seen, he referred to a</p> <p>23 group of Rastas.</p> <p>24 Q. So we have to go back to Exhibit 23</p> <p>25 then briefly. Do you have it there?</p> |

Louise Neri

December 17, 2009

|  |   |
|--|---|
| 33   | 35  |
| 1 Neri   | 1 Neri  |
| 2 I'm looking at the additional                    | 2 Q. Do you know if they're supposed to             |
| 3 Eden Rock slash pitch material, right?           | 3 be well-known literary and artistic lesbians      |
| 4 A. Mm-hmm.                                       | 4 from the early 20th century?                      |
| 5 Q. And where does it say these are               | 5 MS. BART: Objection, form.                        |
| 6 Rastafarians?                                    | 6 MR. HAYES: Objection, form.                       |
| 7 A. Number 1, Rastas and Reggae.                  | 7 Q. You can answer.                                |
| 8 Q. And anywhere else besides that?               | 8 A. I know all their names. Djuna                  |
| 9 A. No.   | 9 Barnes I certainly know is a famous writer, and   |
| 10 Q. Look at number 3 about the Amazons,          | 10 a couple of the others. Whether they're famous   |
| 11 do you see that?                                | 11 lesbians, I don't know.                          |
| 12 A. Yes.   | 12 Q. If you look at that painting about            |
| 13 Q. Do you know what the Guanahani Hotel         | 13 the four women taking over the Guanahani on page |
| 14 is?   | 14 C00164, do you see a tropical landscape          |
| 15 A. It's a hotel in St. Barths.                  | 15 background against which the four women are      |
| 16 Q. Do you know if one of the paintings          | 16 superimposed?                                    |
| 17 in this Canal Zone exhibition purports to show  | 17 MS. BART: Objection, form.                       |
| 18 four women taking over the Guanahani Hotel in   | 18 A. I can see vegetation.                         |
| 19 St. Barths?                                     | 19 Q. Do you know where that vegetation             |
| 20 A. There's a painting with the title            | 20 came from?                                       |
| 21 Guanahani in it, whether they are taking over   | 21 A. No.   |
| 22 the hotel I couldn't tell you. I think it's a   | 22 Q. I'm going to show you another two             |
| 23 figure of speech.                               | 23 pages from the plaintiff's photo book.           |
| 24 Q. Take a look at the Canal Zone book.          | 24 You've never seen this book before,              |
| 25 You were looking at it before.                  | 25 correct?   |
| 34   | 36  |
| 1 Neri   | 1 Neri  |
| 2 By the way, for the record, I should             | 2 A. No.  |
| 3 have said it before, a copy has been marked as   | 3 Q. Have you ever heard of Mr. Cariou              |
| 4 Plaintiff's Exhibit 42. So please take a look    | 4 before?   |
| 5 at the Canal Zone book again.                    | 5 A. No.  |
| 6 And if you could look at page                    | 6 Q. Do those two pages appear to be the            |
| 7 C00164, is that the painting you were discussing | 7 vegetation background in the painting which is    |
| 8 before about something about the Guanahani Hotel | 8 reproduced on page C00164, the Guanahani          |
| 9 and four women?                                  | 9 painting?   |
| 10 MS. BART: Objection, form.                      | 10 MS. BART: Objection, form.                       |
| 11 Q. You can answer.                              | 11 Q. You can answer.                               |
| 12 A. It says Guanahani, it doesn't say            | 12 A. It could be. I don't know.                    |
| 13 hotel.  | 13 Q. Do you see the --                             |
| 14 Q. Does it say they're taking it over?          | 14 MS. BART: Just don't guess.                      |
| 15 A. It says take over the Guanahani.             | 15 Q. Do you notice the palm leaf in the            |
| 16 Q. And who are those four women                 | 16 upper right-hand corner of the Cariou book?      |
| 17 supposed to be, do you know?                    | 17 It might be under that pink Post-it              |
| 18 MS. BART: Objection, form.                      | 18 there, do you see that?                          |
| 19 MR. HAYES: Objection, form.                     | 19 A. Yes.  |
| 20 Q. You can answer.                              | 20 Q. With a tree kind of on a slant?               |
| 21 A. I would take the title at face               | 21 A. Yes.  |
| 22 value.  | 22 Q. Do you notice that same palm tree in          |
| 23 Q. Well, are they supposed to be the            | 23 the Guanahani painting by Mr. Prince?            |
| 24 Amazons in point 3 of the additional notes?     | 24 MS. BART: Objection, form.                       |
| 25 A. I don't know.                                | 25 Q. You can answer.                               |

Louise Neri

December 17, 2009

|  |  |
|--|--|
| 37   | 39   |
| <p>1 Neri</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 A. I see a palm tree.</p> <p>4 Q. It looks different to you?</p> <p>5 MS. BART: Objection, form.</p> <p>6 Q. Does it look different to you?</p> <p>7 MS. BART: Objection, form.</p> <p>8 Q. You can answer. That doesn't mean</p> <p>9 you can't answer the question.</p> <p>10 MS. BART: She knows that.</p> <p>11 MR. BROOKS: I don't know.</p> <p>12 MS. BART: I think she's studying</p> <p>13 the pictures.</p> <p>14 MR. BROOKS: Okay, fine.</p> <p>15 (Witness looks at exhibit.)</p> <p>16 A. I can't say for sure.</p> <p>17 MR. BROOKS: Again, just so the</p> <p>18 record will be clear, let's mark as</p> <p>19 Plaintiff's Exhibit 108 a photocopy of</p> <p>20 those two pages that we were just</p> <p>21 discussing from the Patrick Cariou book.</p> <p>22 (Plaintiff's Exhibit 108, photocopy</p> <p>23 of two pages from Yes Rasta, was marked</p> <p>24 for identification, as of this date.)</p> <p>25 Q. Just so the record is clear, does</p>          | <p>1 Neri</p> <p>2 others are, quote, dragged on, unquote,</p> <p>3 using a primitive collage technique</p> <p>4 whereby printed figures are roughly cut</p> <p>5 out, then the backs of those figures</p> <p>6 painted and pasted directly onto the base</p> <p>7 canvas with a squeegee so that the excess</p> <p>8 paint squirts out on and around the image,</p> <p>9 period, unquote.</p> <p>10 Did you write those words, the ones</p> <p>11 I just read?</p> <p>12 A. Yes.</p> <p>13 Q. And that was based -- you were able</p> <p>14 to write those words based on what information?</p> <p>15 A. Based on looking at the images that</p> <p>16 I had been given in JPEG form and speaking,</p> <p>17 discussing it a bit with Richard.</p> <p>18 Q. So you did discuss this with</p> <p>19 Richard?</p> <p>20 A. Yes, at one point.</p> <p>21 Q. Oh, okay. At what point?</p> <p>22 A. I can't remember.</p> <p>23 Q. Where were you when you discussed it</p> <p>24 with him?</p> <p>25 A. In my office.</p> |
| 38   | 40   |
| <p>1 Neri</p> <p>2 Exhibit 108 appear to be a photocopy of the</p> <p>3 pages in the Yes Rasta book we were just looking</p> <p>4 at?</p> <p>5 A. Is this a copy of --</p> <p>6 Q. Yes.</p> <p>7 A. Yes.</p> <p>8 Q. Do you know -- I'm still on the</p> <p>9 Guanahani painting, C00164. Do you know by what</p> <p>10 means the vegetation part of the painting came</p> <p>11 to be on the canvas?</p> <p>12 MS. BART: Objection, form.</p> <p>13 MR. HAYES: Objection, form.</p> <p>14 Q. You can answer.</p> <p>15 A. No.</p> <p>16 Q. Can you turn to the second page of</p> <p>17 your press release -- and you can close that for</p> <p>18 now -- which is Exhibit 31, right?</p> <p>19 I'm going to read from the second</p> <p>20 page of Exhibit 31 and then I'm going to ask you</p> <p>21 if you wrote those words, but I'm going to read</p> <p>22 it into the record.</p> <p>23 At the top of the second page:</p> <p>24 Some images, scanned from originals,</p> <p>25 are printed directly onto the base canvas;</p> | <p>1 Neri</p> <p>2 Q. Where was he?</p> <p>3 A. I assume he was in his studio.</p> <p>4 Q. He was on the phone?</p> <p>5 A. Yes.</p> <p>6 Q. And what do you remember about that</p> <p>7 discussion now?</p> <p>8 A. I think just what I wrote here.</p> <p>9 It's very brief.</p> <p>10 Q. All right. When you said some</p> <p>11 images scanned from originals, what did you mean</p> <p>12 by originals?</p> <p>13 A. Originals can mean any source, any</p> <p>14 source image.</p> <p>15 Q. For instance, I'm going to show you</p> <p>16 Exhibits 107 and 108 again.</p> <p>17 Could those be originals that were</p> <p>18 scanned onto two of the paintings?</p> <p>19 MS. BART: I'd like to hear the</p> <p>20 question back, please.</p> <p>21 (Record read.)</p> <p>22 MS. BART: Objection, form.</p> <p>23 MR. HAYES: Objection, form.</p> <p>24 Q. You can answer.</p> <p>25 A. I'm not sure, because when I just</p>   |

Louise Neri

December 17, 2009

|   |   |
|---|---|
| 41  | 43  |
| <p>1 Neri</p> <p>2 identified what I thought originals were in</p> <p>3 Prince's work that does not necessarily mean an</p> <p>4 original image, it means whatever he is working</p> <p>5 with in the studio at the time. It can be a</p> <p>6 collage.</p> <p>7 Q. Well, I'm asking you about these two</p> <p>8 images, Exhibits 107 and 108?</p> <p>9 MS. BART: She just answered the</p> <p>10 question. She said she's not sure.</p> <p>11 Q. You're not sure about what?</p> <p>12 A. I'm not sure that these are images</p> <p>13 that I would call originals from which scans</p> <p>14 were made. I can't answer that.</p> <p>15 Q. Okay, whether they're original or</p> <p>16 not, do you believe scans were made, for</p> <p>17 instance, the fellow on the donkey?</p> <p>18 MS. BART: Objection, form.</p> <p>19 MR. HAYES: Objection, form too.</p> <p>20 MS. BART: Calls for speculation.</p> <p>21 Q. As part of Back to the Garden?</p> <p>22 MS. BART: Objection, form, and</p> <p>23 asked and answered.</p> <p>24 Q. You can answer.</p> <p>25 A. I don't have anything more to add.</p> | <p>1 Neri</p> <p>2 dreadlocks, do you see it?</p> <p>3 A. Yes.</p> <p>4 Q. Is that an image?</p> <p>5 MS. BART: Objection, form.</p> <p>6 MR. HAYES: Objection, form.</p> <p>7 A. It's a photograph.</p> <p>8 Q. So it's a photograph.</p> <p>9 Is it an original photograph?</p> <p>10 MS. BART: Objection, form.</p> <p>11 MR. HAYES: Objection, form.</p> <p>12 A. I don't know.</p> <p>13 Q. Well, can you just explain what you</p> <p>14 meant when you said some images, scanned from</p> <p>15 originals, are printed directly onto the base</p> <p>16 canvas?</p> <p>17 A. An image already indicates that some</p> <p>18 transformation has taken place.</p> <p>19 Q. What do you mean?</p> <p>20 A. Exactly what I said. An image is</p> <p>21 not to be confused with an original. An image</p> <p>22 is usually figurative, a picture that has been</p> <p>23 somehow developed from various sources.</p> <p>24 I'm using image as opposed to a</p> <p>25 photograph or an original source.</p>                                |
| 42  | 44  |
| <p>1 Neri</p> <p>2 Q. What?</p> <p>3 A. I don't have anything more to add to</p> <p>4 what I've already said.</p> <p>5 Q. Who told you that originals were</p> <p>6 scanned directly onto the base canvas?</p> <p>7 A. That's not actually correct. I</p> <p>8 think you are mixing a couple of words there.</p> <p>9 Q. Okay, you wrote some images, scanned</p> <p>10 from originals are printed directly onto the</p> <p>11 base canvas. Who told you that some originals</p> <p>12 were scanned?</p> <p>13 MS. BART: Objection, form.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 Q. You can answer.</p> <p>16 A. There is a difference between images</p> <p>17 being scanned from originals and originals being</p> <p>18 scanned. I wrote some images scanned from</p> <p>19 originals. So I'm not saying the originals are</p> <p>20 being scanned. I'm saying images that are</p> <p>21 created from original sources. It's a --</p> <p>22 there's a distinction.</p> <p>23 Q. Okay. I'm going to show you</p> <p>24 Plaintiff's book again.</p> <p>25 There's a picture of a man with</p>       | <p>1 Neri</p> <p>2 Q. Where did you get the understanding</p> <p>3 that some scanning had taken place in this with</p> <p>4 respect to these paintings?</p> <p>5 A. In my research as to how the work</p> <p>6 was made, how the work came together.</p> <p>7 Q. Okay. So let's stay with the</p> <p>8 scanning part of it. How did that affect the</p> <p>9 making of these paintings?</p> <p>10 MS. BART: Objection, form.</p> <p>11 Q. How did the scanning affect the</p> <p>12 making of the paintings?</p> <p>13 MS. BART: Objection, form.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 Q. You can answer.</p> <p>16 A. It would have been one of many</p> <p>17 processes.</p> <p>18 Q. But I'm only asking about -- we'll</p> <p>19 get to the other processes later. I'm focusing</p> <p>20 on that process only in these questions.</p> <p>21 So how did scanning enter into the</p> <p>22 making of these paintings?</p> <p>23 MS. BART: Objection, form, and</p> <p>24 asked and answered.</p> <p>25 Q. You can answer.</p> |

Louise Neri

December 17, 2009

|  |   |
|--|---|
| 45   | 47  |
| 1 Neri   | 1 Neri  |
| 2 MR. HAYES: Objection, form.                      | 2 MS. BART: Can we lay a foundation                 |
| 3 A. I've answered your question. I have           | 3 then as to her involvement in that book?          |
| 4 nothing more to add.                             | 4 BY MR. BROOKS:                                    |
| 5 Q. Who did the scanning?                         | 5 Q. Take a look at the first painting.             |
| 6 A. I don't know.                                 | 6 It's called Graduation. It's on page C0096.       |
| 7 Q. Did Mr. Prince tell you he sent               | 7 And if you wouldn't mind, put 109 so              |
| 8 pictures out to be scanned at a laboratory?      | 8 she can look at it.                               |
| 9 A. No.   | 9 Does that appear to be the same                   |
| 10 Q. With all due respect, you haven't            | 10 person?  |
| 11 answered my question, because I'm not stupid, I | 11 MS. BART: Objection, form, calls                 |
| 12 don't understand what you're saying, honestly.  | 12 for speculation.                                 |
| 13 It's not a trick question. You're               | 13 MR. HAYES: Form.                                 |
| 14 saying here something was scanned from          | 14 Q. You can answer.                               |
| 15 originals. What does that mean?                 | 15 A. The same person, I don't know. It             |
| 16 MS. BART: Okay, she's answered your             | 16 could be.  |
| 17 question. She's --                              | 17 Q. Look at 168, C00168. It's a                   |
| 18 MR. BROOKS: No, she answered with               | 18 painting called Tales of Brave Ulysses.          |
| 19 gibberish.                                      | 19 All right. Do you see the same man               |
| 20 THE WITNESS: Excuse me. Wow --                  | 20 who is in Exhibit 109?                           |
| 21 MS. BART: No, no, no, don't engage              | 21 MS. BART: Objection, form.                       |
| 22 with him. We're not --                          | 22 A. Yes.  |
| 23 THE WITNESS: I don't need to be                 | 23 Q. Now, with respect to Tales of Brave           |
| 24 insulted.                                       | 24 Ulysses, which is painting number 16 in the      |
| 25 MR. BROOKS: Hold on. Leave that.                | 25 book, do you know if that image of this man was  |
| 46   | 48  |
| 1 Neri   | 1 Neri  |
| 2 Let's mark as Exhibit 109 a copy of              | 2 scanned on, squeegeed on, or ended up there by    |
| 3 the image photograph that we've been             | 3 some other technological method?                  |
| 4 looking at in the book.                          | 4 MS. BART: Objection, form.                        |
| 5 (Plaintiff's Exhibit 109, copy of                | 5 Q. You can answer.                                |
| 6 photograph, was marked for identification,       | 6 A. It's a collage process.                        |
| 7 as of this date.)                                | 7 Q. So it was neither scanned nor                  |
| 8 Q. First of all, 109, does it appear to          | 8 squeegeed on?                                     |
| 9 you be to be a photocopy of the page in the      | 9 MS. BART: Objection, form.                        |
| 10 Yes Rasta book we've been looking at?           | 10 MR. HAYES: Objection, form.                      |
| 11 A. Yes.   | 11 A. The squeegee is simply the                    |
| 12 Q. Now, with respect to 109 did you see         | 12 instrument that's used. It's not a technique in  |
| 13 an image of the same man in any of the Canal    | 13 itself. So it's simply what is used to stick     |
| 14 Zone paintings?                                 | 14 one surface to another.                          |
| 15 MS. BART: Objection, form.                      | 15 Q. When you say it's a collage what do           |
| 16 MR. HAYES: Form.                                | 16 you mean?  |
| 17 A. I would have to look at them again.          | 17 A. A collage can be any series of                |
| 18 Q. Okay. So let's start with the first          | 18 different surfaces or substances joined together |
| 19 painting, Graduation.                           | 19 usually with some form of adhesive.              |
| 20 MS. BART: And you're talking about              | 20 Q. Okay. So the pictures --                      |
| 21 the ones that she looked at before she          | 21 A. It means to stick literally.                  |
| 22 wrote the press release?                        | 22 Q. So the pictures of the man with the           |
| 23 MR. BROOKS: No, I'm not. I'm                    | 23 dreadlocks in Tales of Brave Ulysses that you're |
| 24 asking her to look at the book, the Canal       | 24 looking at now, page C00168, are you saying that |
| 25 Zone book.                                      | 25 those images, those four images of that same man |



Louise Neri

December 17, 2009

|   |   |
|---|---|
| 49  | 51  |
| 1 Neri  | 1 Neri  |
| 2 are on there by virtue of some adhesive that      | 2 A. Yes.   |
| 3 make them stick on there?                         | 3 Q. Okay. What did you mean when you               |
| 4 MS. BART: Objection, form.                        | 4 said some were quote/unquote dragged on, what     |
| 5 Q. Is that what you're saying?                    | 5 does that mean?                                   |
| 6 MS. BART: Objection, form.                        | 6 A. I'm referring to composing using               |
| 7 MR. HAYES: Objection, form.                       | 7 computer tools where you drag, where you can      |
| 8 Q. You can answer.                                | 8 drag an image across a screen to make a           |
| 9 MS. BART: Objection to form.                      | 9 superimposition.                                  |
| 10 MR. BROOKS: Saying it three times                | 10 Q. And your understanding is that some           |
| 11 doesn't --                                       | 11 of the images in the Canal Zone paintings were   |
| 12 A. I would have to see the painting              | 12 put on the paintings that way by being dragged   |
| 13 again.   | 13 on?  |
| 14 Q. There it is.                                  | 14 A. No, I'm using it with a degree of             |
| 15 A. I can't see the way the painting is           | 15 license here because I'm trying to write these   |
| 16 made from a photograph. I'm sorry. It's very     | 16 press releases for a public, and the idea --     |
| 17 flat.  | 17 everyone knows in this day and age how to drag   |
| 18 Q. I see.  | 18 images across the screen, so I'm making an       |
| 19 A. One important thing about these               | 19 analogy between dragging on a screen and then    |
| 20 paintings is how they're made, and that does not | 20 I -- you know, you can't take it out of context. |
| 21 carry through in the photograph so I can't       | 21 It's dragging on using a primitive               |
| 22 verify that for you.                             | 22 collage technique whereby printed figures are    |
| 23 Q. Right. But when you wrote the press           | 23 roughly cut out and the backs of these figures   |
| 24 release all you had seen -- you hadn't even seen | 24 painted and pasted directly onto the canvas with |
| 25 paintings, you had just seen JPEGs, right?       | 25 a squeegee so that the excess paint, et cetera,  |
| 50  | 52  |
| 1 Neri  | 1 Neri  |
| 2 A. And I had spoken to Mr. Prince --              | 2 et cetera.  |
| 3 Q. Ah, to Mr. Prince.                             | 3 I'm not just saying dragged on.                   |
| 4 A. -- about the technique.                        | 4 I go on to qualify exactly how that dragging      |
| 5 Q. And what did he tell you about how             | 5 process occurs.                                   |
| 6 these Rastafarians ended up being on these        | 6 But I'm using a form of -- a kind of              |
| 7 paintings?  | 7 language to intrigue people. That's what press    |
| 8 MS. BART: Objection, form.                        | 8 releases are for.                                 |
| 9 MR. HAYES: Objection, form.                       | 9 Q. Okay. Further down in that                     |
| 10 Q. You can answer.                               | 10 paragraph you said this has become a completely  |
| 11 A. I didn't ask him.                             | 11 new way for Prince to make a painting.           |
| 12 Q. All right. Who told you that some             | 12 Where did you get that concept?                  |
| 13 of the images -- let me find Exhibit 31 -- who   | 13 MS. BART: Read the rest of that                  |
| 14 told you that some of the images had been pasted | 14 sentence in light of the witness's last          |
| 15 directly onto the base canvas with a squeegee?   | 15 answer.  |
| 16 A. He told me about his technique of             | 16 Q. All right. I'll read the whole                |
| 17 using a squeegee.                                | 17 sentence, but my question is about why it's      |
| 18 Q. Who is he?                                    | 18 completely new.                                  |
| 19 A. Richard Prince.                               | 19 This has become a completely new way             |
| 20 Q. And again, who told you that some             | 20 for Prince to make a painting, where much        |
| 21 had been scanned?                                | 21 of what shows up on the surface is               |
| 22 MS. BART: Objection, form, and                   | 22 incidental to the process, unquote.              |
| 23 asked and answered.                              | 23 Have I read that accurately?                     |
| 24 A. I've already answered that question.          | 24 A. Yes.  |
| 25 Q. Mr. Prince?                                   | 25 Q. Now, I'd like to focus on your                |

Louise Neri

December 17, 2009

|   |   |
|---|---|
| 53  | 55  |
| <p>1 Neri</p> <p>2 words, completely new way. Can you tell us</p> <p>3 what's completely new about this method that he</p> <p>4 employed?</p> <p>5 MS. BART: Objection, form.</p> <p>6 MR. HAYES: Objection, form.</p> <p>7 Q. You can answer.</p> <p>8 A. As I've explained in the preceding</p> <p>9 sentences, there's a degree of -- quite an</p> <p>10 involved degree of process and spontaneous</p> <p>11 process used, various techniques used in making</p> <p>12 these paintings.</p> <p>13 So it's quite sort of a spontaneous</p> <p>14 way of working with various techniques to create</p> <p>15 a single final image is a new way for him to</p> <p>16 work.</p> <p>17 And as I said, whereby much of what</p> <p>18 shows up on the surface is incidental to the</p> <p>19 process, meaning that a number of things</p> <p>20 happened in the process of him working.</p> <p>21 You know, we're speaking about the</p> <p>22 spontaneity of the paint that's used and so on.</p> <p>23 Q. And this is something he had never</p> <p>24 done before?</p> <p>25 A. Not to my knowledge.</p> | <p>1 Neri</p> <p>2 the first time he did it that way, right?</p> <p>3 MR. HAYES: Objection, form.</p> <p>4 MS. BART: Join.</p> <p>5 A. He said it was a completely new way</p> <p>6 for him to work.</p> <p>7 Q. Are you aware that in his deposition</p> <p>8 he said, no, it's a completely new way for</p> <p>9 everyone, that no one had ever done this before?</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 A. I'm not aware of his deposition.</p> <p>12 Q. You haven't read his deposition?</p> <p>13 A. No.</p> <p>14 (Interruption by reporter.)</p> <p>15 (Discussion off the record.)</p> <p>16 BY MR. BROOKS:</p> <p>17 Q. Look at the third page of</p> <p>18 Exhibit 31. This again is something you wrote,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. When you said -- I'm going to read</p> <p>22 what you said here, the second sentence.</p> <p>23 Mining images from mass media,</p> <p>24 advertising and entertainment since the</p> <p>25 late '70s, Prince has redefined the</p> |
| 54  | 56  |
| <p>1 Neri</p> <p>2 Q. Did you ask him if he had ever done</p> <p>3 it before?</p> <p>4 A. He volunteered that.</p> <p>5 Q. That he had never done it before?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. Did he tell you no one has ever done</p> <p>8 it before also?</p> <p>9 MS. BART: But the words --</p> <p>10 MR. BROOKS: No, no, I'm asking her</p> <p>11 what he told --</p> <p>12 MS. BART: I know, but her words --</p> <p>13 MR. BROOKS: No, I'm asking her --</p> <p>14 please don't coach.</p> <p>15 MS. BART: I'm not coaching. She</p> <p>16 doesn't need coaching, Mr. Brooks.</p> <p>17 BY MR. BROOKS:</p> <p>18 Q. Did he tell you that no one had ever</p> <p>19 done it that way before?</p> <p>20 A. No.</p> <p>21 MS. BART: And that's not what she</p> <p>22 wrote.</p> <p>23 MR. BROOKS: I know she didn't.</p> <p>24 BY MR. BROOKS:</p> <p>25 Q. He just said he's the only one, it's</p>   | <p>1 Neri</p> <p>2 concepts of authorship, ownership, and</p> <p>3 aura.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. What did you mean that he has</p> <p>7 redefined the concepts of -- let's take them one</p> <p>8 by one, authorship?</p> <p>9 MR. HAYES: Objection to form, by</p> <p>10 the way.</p> <p>11 MS. BART: Join.</p> <p>12 MR. BROOKS: What's the objection?</p> <p>13 MR. HAYES: Because you're saying</p> <p>14 you're taking it one by one and we haven't</p> <p>15 established with the witness that they're</p> <p>16 separate concepts.</p> <p>17 In other words, she could be writing</p> <p>18 this saying --</p> <p>19 MR. BROOKS: All right. We don't</p> <p>20 need coaching.</p> <p>21 MR. HAYES: There's no coaching.</p> <p>22 MS. BART: The witness doesn't need</p> <p>23 coaching.</p> <p>24 MR. HAYES: You asked me what the</p> <p>25 basis of the objection was. I'll tell</p>   |

Louise Neri

December 17, 2009

|  |   |
|--|---|
| 57   | 59  |
| 1 Neri   | 1 Neri  |
| 2 you. Do you want the basis of the                | 2 Q. What did you mean in this case with      |
| 3 objection or not?                                | 3 respect to Mr. Prince that he had redefined |
| 4 MR. BROOKS: No.                                  | 4 ownership, the concept of ownership?        |
| 5 MR. HAYES: Well, then why did you                | 5 MR. HAYES: Form objection.                  |
| 6 ask?   | 6 MS. BART: Join.                             |
| 7 MR. BROOKS: Because it seemed like               | 7 And asked and answered.                     |
| 8 a ridiculous objection.                          | 8 Q. You can answer.                          |
| 9 MR. HAYES: No, because it's a                    | 9 A. He challenged and expanded them.         |
| 10 statement obviously that can be connected.      | 10 Q. Meaning?                                |
| 11 You're breaking it up --                        | 11 A. In his own use, in his own practice     |
| 12 MR. BROOKS: Well, it's up to her to             | 12 of mining images from other sources.       |
| 13 say, not you.                                   | 13 Q. So he took other people's images,       |
| 14 BY MR. BROOKS:                                  | 14 right?                                     |
| 15 Q. What did you mean when you said he           | 15 MS. BART: Objection, form.                 |
| 16 has redefined the concept of authorship?        | 16 MR. HAYES: Objection, form.                |
| 17 Did you mean anything by that?                  | 17 Q. That's what you mean?                   |
| 18 MS. BART: Objection, form.                      | 18 MS. BART: Objection, form.                 |
| 19 Q. You can answer.                              | 19 A. No, he took -- I wouldn't say other     |
| 20 MR. HAYES: Objection, form.                     | 20 people's images. He took images from mass  |
| 21 MS. BART: It was just asked being               | 21 media, advertising and entertainment.      |
| 22 hostile.  | 22 Q. What about the Brooke Shields           |
| 23 A. I used the three terms together,             | 23 photograph Spiritual America?              |
| 24 authorship, ownership, and aura.                | 24 MS. BART: It's not a question.             |
| 25 MR. BROOKS: Thank you, Mr. Hayes.               | 25 There's no question.                       |
| 58   | 60  |
| 1 Neri   | 1 Neri  |
| 2 MS. BART: Let her finish, please.                | 2 Q. Did he take that?                        |
| 3 A. I wrote it, so I'm telling you what           | 3 MS. BART: Objection, form.                  |
| 4 I wrote.   | 4 MR. HAYES: Form.                            |
| 5 Q. Okay, so tell me what you meant.              | 5 Q. You can answer.                          |
| 6 A. That he redefined the concepts of             | 6 A. I can't give you an accurate answer.     |
| 7 authorship, ownership, and aura because these    | 7 Q. Did you ever hear of Gary Gross?         |
| 8 are the three tenets and primary concepts that   | 8 A. Yes.                                     |
| 9 have defined a work of art up until the late     | 9 Q. Who is he?                               |
| 10 modernist period.                               | 10 A. Photographer.                           |
| 11 And Prince belongs to a generation,             | 11 Q. And he's the one who took the           |
| 12 which, by the way, began many years before even | 12 picture of Brooke Shields, right?          |
| 13 with Picasso, who began to push at the          | 13 A. Yes.                                    |
| 14 boundaries of what those values could mean      | 14 Q. When she was ten, correct?              |
| 15 basically.                                      | 15 A. Yes.                                    |
| 16 Q. What does ownership mean?                    | 16 Q. And Mr. Prince rephotographed that      |
| 17 MS. BART: Objection, form.                      | 17 same photograph, right?                    |
| 18 MR. HAYES: Objection, form.                     | 18 MS. BART: Objection, form.                 |
| 19 Q. As you used it?                              | 19 MR. HAYES: Objection, form.                |
| 20 MS. BART: Same.                                 | 20 Q. Correct?                                |
| 21 A. The most general, the most general           | 21 MS. BART: Form.                            |
| 22 definition of ownership, you know, to own the   | 22 A. I can't remember.                       |
| 23 rights, to own the property, and to own, you    | 23 Q. You don't know?                         |
| 24 know, let's say the soul of an image or an      | 24 A. I can't give you an accurate            |
| 25 object.   | 25 response.                                  |

|   |  |
|---|--|
| <p style="text-align: center;">61</p> <p>1 Neri</p> <p>2 Q. Okay. But is that an example of</p> <p>3 redefining the concepts of authorship and</p> <p>4 ownership and aura?</p> <p>5 MS. BART: Objection, form.</p> <p>6 MR. HAYES: Form.</p> <p>7 Q. Is that?</p> <p>8 MS. BART: And badgering.</p> <p>9 Q. You can answer.</p> <p>10 MS. BART: Objection, form, and</p> <p>11 badgering.</p> <p>12 Q. You can answer.</p> <p>13 A. It's an example of the challenge,</p> <p>14 yes.</p> <p>15 Q. And how about when he rephotographed</p> <p>16 the Marlboro -- are you aware of that, the</p> <p>17 Marlboro Cowboy photos?</p> <p>18 A. Yes.</p> <p>19 MS. BART: Objection, form.</p> <p>20 Q. You're aware he rephotographed</p> <p>21 those?</p> <p>22 MS. BART: Objection, form.</p> <p>23 Q. Yes?</p> <p>24 A. Yes.</p> <p>25 Q. And is that an example of redefining</p>   | <p style="text-align: center;">63</p> <p>1 Neri</p> <p>2 you're badgering the witness.</p> <p>3 RL MR. BROOKS: Just mark that.</p> <p>4 BY MR. BROOKS:</p> <p>5 Q. When you had your discussion with</p> <p>6 Mr. Prince did you discuss with him where he</p> <p>7 obtained the various images that are in the</p> <p>8 Canal Zone paintings?</p> <p>9 A. No.</p> <p>10 Q. You didn't ask him?</p> <p>11 A. No.</p> <p>12 Q. He didn't tell you?</p> <p>13 A. I didn't ask him.</p> <p>14 Q. Well, he could have told you without</p> <p>15 being asked, did he?</p> <p>16 A. No.</p> <p>17 MR. BROOKS: Give me a few minutes</p> <p>18 and I'll see if I'm finished.</p> <p>19 (Recess taken: 5:06 p.m.)</p> <p>20 (Proceedings resumed: 5:17 p.m.)</p> <p>21 MR. BROOKS: I have no further</p> <p>22 questions. Thank you very much.</p> <p>23 MR. HAYES: I have no questions.</p> <p>24 MR. SHERMAN: I have no questions.</p> <p>25 MS. BART: Thank you.</p> |
| <p style="text-align: center;">62</p> <p>1 Neri</p> <p>2 the concepts of authorship, ownership, and aura?</p> <p>3 MS. BART: Objection, form.</p> <p>4 Q. You can answer.</p> <p>5 A. Yes.</p> <p>6 Q. And when he took the covers from the</p> <p>7 nurse books, created those paintings, is that</p> <p>8 another example of redefining the concepts of</p> <p>9 authorship, ownership, and aura?</p> <p>10 MR. HAYES: Objection, form.</p> <p>11 MS. BART: Objection, form.</p> <p>12 A. A different concept altogether.</p> <p>13 Q. How is it different?</p> <p>14 A. Completely -- I mean a different way</p> <p>15 of working with material. And there was no</p> <p>16 rephotography involved.</p> <p>17 Q. Well, there can be appropriation</p> <p>18 without rephotography, correct, in this day of</p> <p>19 computers?</p> <p>20 MS. BART: I'm not going to -- no,</p> <p>21 we're not going to have her answer. She's</p> <p>22 not here as an expert witness on</p> <p>23 appropriation art.</p> <p>24 I've given you a certain amount of</p> <p>25 leeway, but this has gone too far and</p> | <p style="text-align: center;">64</p> <p>1 Neri</p> <p>2 MR. HAYES: Thank you.</p> <p>3 (Time noted: 5:17 p.m.)</p> <p>4</p> <p>5 _____</p> <p>6 LOUISE NERI</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>  |

Louise Neri

December 17, 2009

|   |   |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
|---|---|----------------|------|-------------|-----------------|---|-------------|---------|---------------------------------------|---|-----------------------------------|----|--|--|-----------------------------|----|---|
| <p style="text-align: center;">65</p> <p style="text-align: center;">Neri<br/>CERTIFICATE</p> <p>STATE OF NEW YORK )<br/>                          )ss:<br/>COUNTY OF NEW YORK)</p> <p>I, BRYAN NILSEN, a Notary Public within and for the State of New York, do hereby certify:<br/>That LOUISE NERI, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.<br/>I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.<br/>IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of _____, 2009.</p> <p style="text-align: center;">_____<br/>BRYAN NILSEN, RPR</p>   | <p style="text-align: center;">67</p> <p style="text-align: center;">DEPOSITION ERRATA SHEET</p> <p>RE: Esquire Deposition Solutions<br/>File No. 13829<br/>Case Caption: PATRICK CARIOU vs. RICHARD PRINCE<br/>Deponent: LOUISE NERI<br/>Deposition Date: December 17, 2009<br/>To the Reporter:<br/>I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me.<br/>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.</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| <p style="text-align: center;">66</p> <p style="text-align: center;">Neri<br/>----- I N D E X -----</p> <table border="0"> <tr> <td style="text-align: left;">WITNESS</td> <td style="text-align: left;">EXAMINATION BY</td> <td style="text-align: left;">PAGE</td> </tr> <tr> <td>LOUISE NERI</td> <td>MR. BROOKS.....</td> <td>6</td> </tr> </table> <p>----- INFORMATION REQUESTS -----<br/>RULINGS: page 63</p> <p>----- EXHIBITS -----</p> <table border="0"> <tr> <td style="text-align: left;">PLAINTIFF'S</td> <td style="text-align: left;">FOR ID.</td> </tr> <tr> <td>106 E-mail with pitch attachment.....</td> <td>9</td> </tr> <tr> <td>107 Two pages from Yes Rasta.....</td> <td>28</td> </tr> <tr> <td>108 Photocopy of two pages from Yes Rasta...37</td> <td></td> </tr> <tr> <td>109 Copy of photograph.....</td> <td>46</td> </tr> </table> <p style="text-align: center;">** EXHIBITS RETAINED BY COUNSEL **</p> | WITNESS   | EXAMINATION BY | PAGE | LOUISE NERI | MR. BROOKS..... | 6 | PLAINTIFF'S | FOR ID. | 106 E-mail with pitch attachment..... | 9 | 107 Two pages from Yes Rasta..... | 28 | 108 Photocopy of two pages from Yes Rasta...37 |  | 109 Copy of photograph..... | 46 | <p style="text-align: center;">68</p> <p>Deposition of LOUISE NERI</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. ___ Line No. ___ Change to: _____</p> <p>Reason for change: _____</p> <p>SIGNATURE: _____ DATE: _____</p> <p style="text-align: center;">LOUISE NERI</p> |
| WITNESS   | EXAMINATION BY  | PAGE           |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| LOUISE NERI   | MR. BROOKS.....   | 6              |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| PLAINTIFF'S   | FOR ID.   |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| 106 E-mail with pitch attachment.....   | 9   |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| 107 Two pages from Yes Rasta.....   | 28  |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| 108 Photocopy of two pages from Yes Rasta...37  |   |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |
| 109 Copy of photograph.....   | 46  |                |      |             |                 |   |             |         |                                       |   |                                   |    |  |  |                             |    |   |

**Condensed Transcript**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PATRICK CARIOU,

Plaintiff,

vs.

Index No.: 08 CIV 11327 (DAB)

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

Defendants.

---

**DEPOSITION OF**

**PATRICK CARIOU**

Tuesday, January 12, 2010

New York, New York

Reported by:  
Bryan Nilsen, RPR



Telephone: 212.687.8010  
Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">1</p> <p style="text-align: center;">Cariou</p> <p>UNITED STATES DISTRICT COURT<br/>SOUTHERN DISTRICT OF NEW YORK<br/>-----x<br/>PATRICK CARIOU,<br/><br/>Plaintiff,                      Index No. :<br/>vs.    08 CIV 11327 (DAB)<br/>RICHARD PRINCE, GAGOSIAN<br/>GALLERY, INC., LAWRENCE<br/>GAGOSIAN, and RIZZOLI<br/>INTERNATIONAL PUBLICATIONS,<br/>INC.,<br/><br/>Defendants.<br/>-----x</p> <p style="text-align: center;">DEPOSITION OF PATRICK CARIOU<br/>New York, New York<br/>Tuesday, January 12, 2010</p> <p>Reported by:<br/>Bryan Nilsen, RPR<br/>JOB NO. 306677</p>   | <p style="text-align: center;">3</p> <p style="text-align: center;">Cariou</p> <p>1                                      APPEARANCES:</p> <p>2</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 Gagorian Gallery, Inc.,</p> <p>15                      and Lawrence Gagorian</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                      BY: DARA HAMMERMAN, ESQ.</p> <p>20                      PHONE: (212)848-9800</p> <p>21                      EMAIL: hollis.bart@withers.us.com</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;">Cariou</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6                                      January 12, 2010</p> <p>7                                      10:00 a.m.</p> <p>8</p> <p>9</p> <p>10                                      Deposition of PATRICK CARIOU, held</p> <p>11                                      at the offices of Withers Bergman, LLP,</p> <p>12                                      430 Park Avenue, New York, New York,</p> <p>13                                      pursuant to Notice and Agreement, 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;">Cariou</p> <p>1                                      APPEARANCES (Cont'd.)</p> <p>2</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</p> <p>23</p> <p>24</p> <p>25</p>  |



ESQUIRE  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

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





Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">9</p> <p>1 Cariou</p> <p>2 just do it as a combined total of the time.</p> <p>3 I'm hoping we can get this done in a</p> <p>4 day if we all work together.</p> <p>5 A. Okay.</p> <p>6 MR. BROOKS: Just note my objection</p> <p>7 or disagreement with that statement.</p> <p>8 I believe you're entitled to a total</p> <p>9 of seven hours, but let's proceed.</p> <p>10 MS. BART: Not when there's</p> <p>11 different defendants with different</p> <p>12 interests.</p> <p>13 MR. BROOKS: I don't agree. You</p> <p>14 have the same interest and you have seven</p> <p>15 hours, but go ahead.</p> <p>16 MS. BART: Again, we're trying to</p> <p>17 do this to avoid asking duplicative</p> <p>18 questions.</p> <p>19 MR. BROOKS: I understand.</p> <p>20 BY MS. BART:</p> <p>21 Q. Now, just to make sure that you and</p> <p>22 I are talking about the same thing, I'm going to</p> <p>23 be talking to you about the images which appear</p> <p>24 in the Yes Rasta book, which has been previously</p> <p>25 marked as Plaintiff's Exhibit 41.</p> | <p style="text-align: center;">11</p> <p>1 Cariou</p> <p>2 least the last page.</p> <p>3 (Discussion off the record.)</p> <p>4 MS. BART: Can we, just for purposes</p> <p>5 of the record, add this.</p> <p>6 BY MS. BART:</p> <p>7 Q. Mr. Cariou, I'm handing you what's</p> <p>8 been marked as Defendant's Exhibit 1, which is a</p> <p>9 copy of the amended complaint that's been filed</p> <p>10 in this case.</p> <p>11 Have you seen this document before?</p> <p>12 A. Yes.</p> <p>13 Q. Did you read it before it was filed?</p> <p>14 A. Yes, I did.</p> <p>15 Q. And did you satisfy yourself that</p> <p>16 all of the allegations in the amended complaint</p> <p>17 are accurate?</p> <p>18 A. Yes.</p> <p>19 Q. And looking at it today is there</p> <p>20 anything in that complaint that you feel you</p> <p>21 would want to state differently or would change?</p> <p>22 A. Well, I haven't read it for a while</p> <p>23 to be honest with you. So that will take me the</p> <p>24 reading in order to answer your question</p> <p>25 properly.</p>   |
| <p style="text-align: center;">10</p> <p>1 Cariou</p> <p>2 And when I refer to the Yes Rasta</p> <p>3 images I am referring to the reproductions of</p> <p>4 the photographs that you took which appear in</p> <p>5 the book Yes Rasta, is that acceptable?</p> <p>6 A. Yes, absolutely.</p> <p>7 Q. The Yes Rasta images.</p> <p>8 And then you've also seen the book</p> <p>9 Canal Zone. You've seen also the images of the</p> <p>10 Canal Zone book?</p> <p>11 A. Yeah.</p> <p>12 Q. And so we'll refer to those works of</p> <p>13 art as the Canal Zone paintings, and those refer</p> <p>14 to the works of art by Mr. Prince, is that</p> <p>15 acceptable?</p> <p>16 A. Okay.</p> <p>17 MS. BART: I'd like to mark as</p> <p>18 Defendant's Exhibit 1 a copy of the</p> <p>19 amended complaint that's been filed in</p> <p>20 this case on January 14th, 2009.</p> <p>21 (Defendant's Exhibit 1, amended</p> <p>22 complaint dated January 14, 2009, was</p> <p>23 marked for identification, as of this</p> <p>24 date.)</p> <p>25 MR. BROOKS: My copy is missing at</p>          | <p style="text-align: center;">12</p> <p>1 Cariou</p> <p>2 Q. Perhaps you could do that on a break</p> <p>3 and let us know if there is anything. But for</p> <p>4 now we'll assume that the complaint was accurate</p> <p>5 when it was filed and that it's still accurate</p> <p>6 today. Is that acceptable to you?</p> <p>7 A. Okay.</p> <p>8 Q. Now, according to your complaint</p> <p>9 you are the sole owner of the copyrights in the</p> <p>10 Yes Rasta images, is that correct?</p> <p>11 A. Yes, it is correct.</p> <p>12 Q. And it was filed as a compilation</p> <p>13 copyright registration?</p> <p>14 A. Absolutely.</p> <p>15 MS. BART: I'd like to mark as</p> <p>16 Defendant's Exhibit 2 a copy of the</p> <p>17 certificate of copyright registration</p> <p>18 dated November 5th, 2001.</p> <p>19 (Defendant's Exhibit 2, copyright</p> <p>20 registration dated November 5, 2001, was</p> <p>21 marked for identification, as of this</p> <p>22 date.)</p> <p>23 MS. BART: I'll just ask the court</p> <p>24 reporter to hand it to the witness.</p> <p>25 THE WITNESS: Thank you.</p> |



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| <p style="text-align: center;">13</p> <p>1 Cariou</p> <p>2 BY MS. BART:</p> <p>3 Q. Mr. Cariou, you have that document</p> <p>4 in front of you?</p> <p>5 A. Yes.</p> <p>6 Q. Is this the copyright registration</p> <p>7 that was filed in respect of the Yes Rasta</p> <p>8 images?</p> <p>9 A. Yes, it is.</p> <p>10 Q. And is this the only copyright</p> <p>11 registration that's been filed for the Yes Rasta</p> <p>12 images?</p> <p>13 A. Yes, it is.</p> <p>14 Q. Going back to your complaint and the</p> <p>15 claims that you've alleged in this case, can you</p> <p>16 tell us please in your own words why you believe</p> <p>17 you have a claim against Richard Prince in</p> <p>18 respect of the Yes Rasta images?</p> <p>19 MR. BROOKS: Object to the form,</p> <p>20 calls for a legal conclusion.</p> <p>21 MS. BART: No, it's in his own</p> <p>22 words. This isn't a legal form. This is</p> <p>23 not legal.</p> <p>24 MR. BROOKS: Subject to my objection</p> <p>25 you can answer.</p>   | <p style="text-align: center;">15</p> <p>1 Cariou</p> <p>2 MS. BART: Mr. Brooks, don't speak</p> <p>3 to me in that tone or tenor. Let's keep</p> <p>4 it civil today.</p> <p>5 And second of all, I want to say</p> <p>6 that all we're trying to do is to</p> <p>7 understand his theory of his claims,</p> <p>8 not your theory.</p> <p>9 MR. BROOKS: He's not a lawyer.</p> <p>10 MS. BART: I'm not asking him to be</p> <p>11 a lawyer.</p> <p>12 MR. BROOKS: It's improper.</p> <p>13 MS. BART: No, it's not. I'm trying</p> <p>14 to understand what his claims in this case</p> <p>15 are.</p> <p>16 BY MS. BART:</p> <p>17 Q. Mr. Cariou, will you please turn to</p> <p>18 paragraph 18 of your amended complaint, and if</p> <p>19 you would go to the portion that's on page 6?</p> <p>20 A. Yeah.</p> <p>21 Q. About five or six lines down it</p> <p>22 says -- there's a dash there and it says Prince</p> <p>23 copied the photographs in various ways,</p> <p>24 including by scanning them and printing them</p> <p>25 directly onto the base canvas of the paintings.</p> |
| <p style="text-align: center;">14</p> <p>1 Cariou</p> <p>2 A. It's a simple fact Mr. Prince used</p> <p>3 over 30 of my pictures in his Canal Zone</p> <p>4 artwork.</p> <p>5 Q. And it is simply in your view the</p> <p>6 use of those works of art or portions of them in</p> <p>7 the Canal Zone paintings that gives rise to your</p> <p>8 claim?</p> <p>9 MR. BROOKS: Object to the form,</p> <p>10 calls for a legal conclusion. He's not</p> <p>11 competent to answer that.</p> <p>12 MS. BART: I'm just asking him --</p> <p>13 MR. BROOKS: It also misrepresents</p> <p>14 what's in the complaint. That's not all</p> <p>15 that's alleged in the complaint.</p> <p>16 MS. BART: Well, let's look at the</p> <p>17 complaint then.</p> <p>18 MR. BROOKS: That would be a better</p> <p>19 way to proceed.</p> <p>20 MS. BART: Don't tell me how to run</p> <p>21 my deposition.</p> <p>22 MR. BROOKS: I'm going to tell you.</p> <p>23 If you ask objectionable questions I'm</p> <p>24 going to tell you, and I just did.</p> <p>25 So move on.</p> | <p style="text-align: center;">16</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. Is that why you believe you have a</p> <p>4 claim against Mr. Prince for copyright</p> <p>5 infringement?</p> <p>6 MR. BROOKS: Object to the form.</p> <p>7 Q. You can answer the question.</p> <p>8 A. Yeah.</p> <p>9 MR. BROOKS: Limited to that one</p> <p>10 sentence? Object to the form.</p> <p>11 MS. BART: We have his answer as</p> <p>12 yes? Did you get that down, please.</p> <p>13 BY MS. BART:</p> <p>14 Q. Is there anything else that</p> <p>15 Mr. Prince did to the Yes Rasta or with the</p> <p>16 Yes Rasta images that you believe entitles you</p> <p>17 to receive damages from him in this case?</p> <p>18 MR. BROOKS: Objection, calls for a</p> <p>19 legal conclusion. And I'm going to direct</p> <p>20 him not to answer anymore questions about</p> <p>21 law. Okay?</p> <p>22 MS. BART: I'm not. I'm asking</p> <p>23 him --</p> <p>24 MR. BROOKS: Just like you did when</p> <p>25 I tried to ask your client and Mr. Prince</p>  |



**ESQUIRE**  
an Alexander Guello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

|   |  |
|---|--|
| <p style="text-align: center;">17</p> <p>1 Cariou</p> <p>2 questions.</p> <p>3 MS. BART: You didn't ask that</p> <p>4 question.</p> <p>5 MR. BROOKS: No, I didn't ask that</p> <p>6 question. I asked what's original about</p> <p>7 this and you directed him not to answer.</p> <p>8 You can take it up with the judge.</p> <p>9 I'm not going to have a lay witness</p> <p>10 sitting here arguing with you about</p> <p>11 copyright law.</p> <p>12 MR. HAYES: We're entitled to get</p> <p>13 his understanding of what he says was done</p> <p>14 wrong. That's all we're asking for, his</p> <p>15 understanding. We're entitled to it.</p> <p>16 MS. BART: His understanding. It's</p> <p>17 not a legal conclusion.</p> <p>18 MR. BROOKS: He already answered.</p> <p>19 He said he copied over 30 of his photos.</p> <p>20 MR. HAYES: And we asked is there</p> <p>21 anything else.</p> <p>22 MS. BART: Right. That's all I did.</p> <p>23 MR. BROOKS: That's objectionable.</p> <p>24 MS. BART: And you objected and said</p> <p>25 go to the complaint, so I went to the part</p>  | <p style="text-align: center;">19</p> <p>1 Cariou</p> <p>2 question.</p> <p>3 MS. BART: I think this is wholly</p> <p>4 proper.</p> <p>5 MR. BROOKS: Move on. You can go to</p> <p>6 the judge. He's not answering that</p> <p>7 question.</p> <p>8 MS. BART: Why not?</p> <p>9 MR. BROOKS: He's a layman. It</p> <p>10 doesn't matter what he thinks. The facts</p> <p>11 are the facts. His photos were copied.</p> <p>12 The judge will decide whether there's a</p> <p>13 claim for copyright infringement.</p> <p>14 MR. HAYES: Again, he's a percipient</p> <p>15 witness who is a man who has a claim.</p> <p>16 We are entitled to get his statement</p> <p>17 about what he says was done. We are</p> <p>18 entitled to that.</p> <p>19 MS. BART: Yes, we are.</p> <p>20 MR. BROOKS: He said Mr. Prince</p> <p>21 copied over 30 of his photographs.</p> <p>22 MS. BART: Then I asked is that it,</p> <p>23 and --</p> <p>24 MR. BROOKS: No, that's improper.</p> <p>25 There are also newspaper ads, there's a</p>   |
| <p style="text-align: center;">18</p> <p>1 Cariou</p> <p>2 of the complaint that says you copied.</p> <p>3 MR. BROOKS: That's not the only</p> <p>4 part of the complaint. You selected that</p> <p>5 one phrase. There are many parts of the</p> <p>6 complaint that say other things that were</p> <p>7 copied and done improperly.</p> <p>8 MS. BART: Mr. Brooks --</p> <p>9 MR. BROOKS: So it's misleading.</p> <p>10 MS. BART: I just started the</p> <p>11 examination, which you've now interrupted</p> <p>12 probably more than I've gotten out on the</p> <p>13 record. Can we continue?</p> <p>14 BY MS. BART:</p> <p>15 Q. Mr. Cariou, we're not asking you for</p> <p>16 a legal conclusion. We're only asking you for</p> <p>17 why you believe that there is -- why you believe</p> <p>18 that you're entitled to damages from Mr. Prince</p> <p>19 by reason of his use of some or portions of the</p> <p>20 Yes Rasta images.</p> <p>21 Just why you think -- like if you</p> <p>22 were telling a friend, what would you tell your</p> <p>23 friend?</p> <p>24 MR. BROOKS: No, no, no. I direct</p> <p>25 him not to answer. Try to ask a proper</p> | <p style="text-align: center;">20</p> <p>1 Cariou</p> <p>2 book, the Canal Zone book. It's improper.</p> <p>3 You're trying to trick him into limiting</p> <p>4 it to one little thing.</p> <p>5 The complaint talks about the Canal</p> <p>6 Zone book, it talks about newspaper</p> <p>7 advertisements, it talks about having it</p> <p>8 on a website, it talks about all kinds</p> <p>9 of --</p> <p>10 MS. BART: Those are all copied.</p> <p>11 MR. BROOKS: Yes, but you're trying</p> <p>12 to limit it now to one thing about</p> <p>13 scanning it onto a canvas. It's</p> <p>14 misleading, it's improper, and I'm not</p> <p>15 going to let him answer --</p> <p>16 MS. BART: Enough of the speeches.</p> <p>17 MR. BROOKS: If you want to ask a</p> <p>18 specific question about what's in the</p> <p>19 complaint, go ahead.</p> <p>20 Unlike your clients, he read the</p> <p>21 complaint.</p> <p>22 MO MS. BART: Move to strike. It's</p> <p>23 just highly improper and unprofessional.</p> <p>24 MR. BROOKS: It's unprofessional not</p> <p>25 to show your clients their own answer.</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| <p style="text-align: center;">21</p> <p>1 Cariou</p> <p>2 It's absurd. Both of you.</p> <p>3 MS. BART: Are you done with the</p> <p>4 speech now, Mr. Brooks?</p> <p>5 MR. BROOKS: I'm ready for your next</p> <p>6 question.</p> <p>7 MS. BART: No, we're asking him --</p> <p>8 BY MS. BART:</p> <p>9 Q. Your attorney has said that your</p> <p>10 view is that the basis for your claims against</p> <p>11 Richard Prince in this case are for copying of</p> <p>12 the Yes Rasta images, is that my understanding?</p> <p>13 A. Yes.</p> <p>14 Q. And while there may be various forms</p> <p>15 of copying which appears, or reproduction which</p> <p>16 appears throughout your complaint, which we had</p> <p>17 not gotten to because of his interruptions, it</p> <p>18 is certainly the same -- it rises out of what</p> <p>19 you believe to be improper copying, scanning of</p> <p>20 images onto the canvas as alleged in your</p> <p>21 complaint, correct?</p> <p>22 A. Yeah.</p> <p>23 MR. BROOKS: The complaint also says</p> <p>24 it was exhibited, offered for sale, sold.</p> <p>25 Those are all acts of infringement.</p> | <p style="text-align: center;">23</p> <p>1 Cariou</p> <p>2 MR. BROOKS: He already explained</p> <p>3 Mr. Prince copied his photos.</p> <p>4 MS. BART: Don't coach him.</p> <p>5 MR. BROOKS: I'm not coaching him.</p> <p>6 He already said that.</p> <p>7 MS. BART: Does that apply for every</p> <p>8 one?</p> <p>9 MR. BROOKS: He's not a law</p> <p>10 professor or a lawyer.</p> <p>11 MS. BART: I'm not trying to turn</p> <p>12 him into --</p> <p>13 MR. BROOKS: Whether that gives rise</p> <p>14 to claim under the copyright act, maybe it</p> <p>15 doesn't. That's not for him to know or</p> <p>16 decide. It's for the judge and the jury</p> <p>17 to decide. Go to Judge Batts if you think</p> <p>18 I'm wrong.</p> <p>19 MS. BART: I think we might do that.</p> <p>20 MR. BROOKS: Go ahead.</p> <p>21 CQ MS. BART: Would you kindly certify</p> <p>22 this line of questions, please?</p> <p>23 I think it's highly proper for us --</p> <p>24 MR. BROOKS: Totally improper.</p> <p>25 Absurd.</p>  |
| <p style="text-align: center;">22</p> <p>1 Cariou</p> <p>2 MS. BART: And we've also</p> <p>3 established that this witness says that</p> <p>4 this complaint when he read it was</p> <p>5 accurate.</p> <p>6 MR. BROOKS: Fine.</p> <p>7 MS. BART: So we're not trying to</p> <p>8 limit him. You think there's a trick</p> <p>9 here, but there's no trick here,</p> <p>10 Mr. Brooks. I'm just trying to get a</p> <p>11 story out.</p> <p>12 We're entitled to know why this man</p> <p>13 thinks he can sue our client.</p> <p>14 BY MS. BART:</p> <p>15 Q. So I'd like to ask you the same</p> <p>16 question in your own words, not a legal</p> <p>17 conclusion, but in your own words why do you</p> <p>18 believe that you have a claim against Gagosian</p> <p>19 Gallery?</p> <p>20 MR. BROOKS: Objection. That calls</p> <p>21 for a legal conclusion.</p> <p>22 MR. HAYES: She's asking what he</p> <p>23 believes.</p> <p>24 MS. BART: It's just what he</p> <p>25 believes.</p>  | <p style="text-align: center;">24</p> <p>1 Cariou</p> <p>2 MS. BART: I believe it's</p> <p>3 completely --</p> <p>4 MR. BROOKS: Okay. Move on to your</p> <p>5 next area.</p> <p>6 MS. BART: Dan, let me finish my</p> <p>7 statement for the record. We've endured</p> <p>8 yours.</p> <p>9 It's totally proper for us to have</p> <p>10 a full understanding of why this man, as</p> <p>11 opposed to you, thinks he has a claim</p> <p>12 against our clients.</p> <p>13 MR. BROOKS: He already explained.</p> <p>14 BY MS. BART:</p> <p>15 Q. Now, when did you first become aware</p> <p>16 that portions, all or portions of the Yes Rasta</p> <p>17 images were used in some of the Canal Zone</p> <p>18 paintings?</p> <p>19 A. Could you define portions, please,</p> <p>20 because I have a problem with that word.</p> <p>21 Q. All right. We know that portions of</p> <p>22 the images, not all of the images were there --</p> <p>23 A. Yes, all of the images.</p> <p>24 Q. Well, how about if we say were any</p> <p>25 of your images used in any of the Canal Zone</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |   |
|---|---|
| 25  | 27  |
| <p>1 Cariou</p> <p>2 paintings, when did you first become aware of</p> <p>3 that?</p> <p>4 A. I became aware of it I think in</p> <p>5 mid-November 2009 through an ad in the Art</p> <p>6 Newspaper.</p> <p>7 Q. And you saw the ad or did someone</p> <p>8 bring the ad to your attention?</p> <p>9 A. A friend of mine called me a bit</p> <p>10 confused with the ad, asking me if I did a</p> <p>11 collaboration with Richard Prince, and I didn't</p> <p>12 know what he was talking about at the time.</p> <p>13 And I went to his place and looked</p> <p>14 at the ad and was a bit surprised I must say.</p> <p>15 MR. BROOKS: Can I interject. He</p> <p>16 said 2009, is that what you meant?</p> <p>17 A. 2008, sorry.</p> <p>18 MS. BART: Thank you.</p> <p>19 BY MS. BART:</p> <p>20 Q. And who was this friend?</p> <p>21 A. Francesco Solari.</p> <p>22 Q. This was the person you listed in</p> <p>23 your initial disclosures, correct?</p> <p>24 A. Yes.</p> <p>25 Q. So after you went to his place what</p>  | <p>1 Cariou</p> <p>2 complaint. And we represent him. How he</p> <p>3 found us is irrelevant.</p> <p>4 MS. BART: How many more speeches</p> <p>5 are we going to have today?</p> <p>6 MR. BROOKS: Well, it's an improper</p> <p>7 question.</p> <p>8 MR. HAYES: Are you directing him</p> <p>9 not to answer or no?</p> <p>10 MR. BROOKS: You can answer, over my</p> <p>11 objection. She wants to know how you</p> <p>12 found me.</p> <p>13 A. A friend of mine recommended them</p> <p>14 and we got in contact, and that was it.</p> <p>15 Q. And who was the friend?</p> <p>16 A. My friend was -- his name is Terry</p> <p>17 Daher, D-A-H-E-R.</p> <p>18 Q. And does Mr. Daher live in New York?</p> <p>19 A. He lives in New York, mm-hmm.</p> <p>20 Q. And when you spoke with Mr. Daher</p> <p>21 was this -- this is obviously after you had gone</p> <p>22 on the website and seen --</p> <p>23 A. Yeah.</p> <p>24 Q. And what did you tell Mr. Daher you</p> <p>25 needed?</p>  |
| 26  | 28  |
| <p>1 Cariou</p> <p>2 did you do next after making this discovery?</p> <p>3 A. I went on the web and on the</p> <p>4 Gagosian website and looked at the Canal Zone</p> <p>5 show and realized that the main subject of the</p> <p>6 show was Rastas.</p> <p>7 Q. And then what did you do?</p> <p>8 A. Then I started to make a few phone</p> <p>9 calls to friend in New York in order to know</p> <p>10 what to do and to find a lawyer.</p> <p>11 Q. And how was it that you came to find</p> <p>12 the Schnader Harison firm?</p> <p>13 MR. BROOKS: What's the relevance of</p> <p>14 that? What's the relevance of it?</p> <p>15 How did Prince find you? I mean</p> <p>16 it's not relevant how he found me.</p> <p>17 MS. BART: I think I'm entitled to</p> <p>18 ask that question.</p> <p>19 MR. BROOKS: Why? Tell me why and I</p> <p>20 will let him answer.</p> <p>21 MS. BART: Because it's part of the</p> <p>22 process of what he did to press his</p> <p>23 rights.</p> <p>24 MR. BROOKS: What he did to press</p> <p>25 his rights is irrelevant. You've got the</p> | <p>1 Cariou</p> <p>2 A. To go -- first thing I told him to</p> <p>3 go see the show. He went and was amazed by it</p> <p>4 and told me that we had to do something. At</p> <p>5 that particular moment I didn't know I was going</p> <p>6 to have a lawsuit. I just -- and he went and</p> <p>7 told me that the Rastas were all over the</p> <p>8 paintings and that something should be done.</p> <p>9 Q. And did he take photographs when he</p> <p>10 went to the exhibit?</p> <p>11 A. No, I don't think so.</p> <p>12 Q. He just -- then he called you back?</p> <p>13 A. He called me back, yeah.</p> <p>14 Q. And how do you know Terry Daher?</p> <p>15 A. Well, he's an old friend of mine.</p> <p>16 Q. Do you work with him?</p> <p>17 A. No.</p> <p>18 Q. Other than your counsel did you</p> <p>19 speak to anyone else -- anyone other than your</p> <p>20 counsel and Mr. Daher, did you speak to anyone</p> <p>21 else at this time about the exhibition?</p> <p>22 A. I don't think so, no.</p> <p>23 Q. And then the next thing you did was</p> <p>24 contact counsel --</p> <p>25 A. Right.</p> |



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

|  |  |
|--|--|
| <p style="text-align: center;">29</p> <p>1 Cariou</p> <p>2 Q. -- and then we have what's ensued?</p> <p>3 A. Yeah.</p> <p>4 MS. BART: Let's give him a copy of</p> <p>5 Plaintiff's Exhibit 40.</p> <p>6 Q. Mr. Cariou, I'm handing you what's</p> <p>7 been marked as Plaintiff's Exhibit 40 in this</p> <p>8 lawsuit. Do you see this document?</p> <p>9 A. Yeah.</p> <p>10 Q. And can you just tell us in your own</p> <p>11 words what this document is?</p> <p>12 A. Well, it's a compilation of</p> <p>13 Mr. Prince's work and my work and the</p> <p>14 photographs he used in the Canal Zone show.</p> <p>15 Q. And who prepared this document?</p> <p>16 A. Me and a friend of mine in Paris.</p> <p>17 Q. And who was that?</p> <p>18 A. Philippe Le Bihan, L-E, B-I-H-A-N.</p> <p>19 Q. Did anyone else assist you?</p> <p>20 A. No.</p> <p>21 Q. Was this something that -- and</p> <p>22 I'm not trying to encroach at all on the</p> <p>23 attorney/client privilege -- but was this</p> <p>24 something that Mr. Brooks asked you to do or was</p> <p>25 this something --</p> | <p style="text-align: center;">31</p> <p>1 Cariou</p> <p>2 your complaint appear in these images. I'm not</p> <p>3 trying to trick you with these words,</p> <p>4 Mr. Cariou.</p> <p>5 A. No, no, I thought it was a bit funny</p> <p>6 though.</p> <p>7 MR. BROOKS: No. Just answer the</p> <p>8 question.</p> <p>9 A. Yeah, yeah.</p> <p>10 Q. And since you prepared this document</p> <p>11 have you found any other images that you believe</p> <p>12 are incorporated?</p> <p>13 A. Yes.</p> <p>14 Q. And I'm going to hand you what's</p> <p>15 been marked as -- previously been marked as</p> <p>16 Plaintiff's Exhibit 41.</p> <p>17 I only have one copy of this with</p> <p>18 all the tabs, so we're going to have to kind of</p> <p>19 work with it together.</p> <p>20 You'll see on the bottom -- we</p> <p>21 talked about this before the deposition</p> <p>22 started -- we've added numbers to the images</p> <p>23 that appear in the Yes Rasta book.</p> <p>24 Can you please give me the page</p> <p>25 numbers for the additional images that you say</p>  |
| <p style="text-align: center;">30</p> <p>1 Cariou</p> <p>2 MR. BROOKS: Wait. Hold on. That</p> <p>3 is encroaching.</p> <p>4 Don't answer that question.</p> <p>5 If I asked him to do something, we</p> <p>6 had a conversation, that's a privileged</p> <p>7 conversation.</p> <p>8 He's not going to answer. Go to the</p> <p>9 judge if you don't agree with me. He's</p> <p>10 not going to ask him who told him to do</p> <p>11 it. He's not going to testify about any</p> <p>12 conversations he had with me.</p> <p>13 Q. Did you prepare this document with</p> <p>14 the assistance of counsel?</p> <p>15 A. No.</p> <p>16 Q. So this is something you prepared</p> <p>17 and then you provided it to your attorneys who</p> <p>18 then provided it to us?</p> <p>19 A. Yes.</p> <p>20 Q. Plaintiff's Exhibit 40 represents</p> <p>21 the Yes Rasta images which you claim appear in</p> <p>22 some of the Canal Zone paintings, correct?</p> <p>23 A. That I claim appear? They do</p> <p>24 appear.</p> <p>25 Q. Well, a claim is what you say in</p>                             | <p style="text-align: center;">32</p> <p>1 Cariou</p> <p>2 appear in the Canal Zone paintings but which are</p> <p>3 not found in Plaintiff's Exhibit 40?</p> <p>4 A. In order to do that I will need a</p> <p>5 printout of the painting called Canal Zone 2007</p> <p>6 that I've never seen really. We used -- which</p> <p>7 is the first painting Mr. Prince did was showed</p> <p>8 in St. Barth's and has probably 20 pictures in</p> <p>9 itself. If you show me that one --</p> <p>10 Q. You could mark a copy of that?</p> <p>11 A. I could find the image.</p> <p>12 Q. All right. Why don't we get a copy</p> <p>13 of that at a break and then we'll come back to</p> <p>14 that at the end of the sequence of questions, is</p> <p>15 that acceptable?</p> <p>16 MR. BROOKS: It's a deposition</p> <p>17 exhibit.</p> <p>18 MS. BART: Right. I know. We're</p> <p>19 getting it. We don't have it in here.</p> <p>20 MR. BROOKS: Fine. Whatever.</p> <p>21 BY MS. BART:</p> <p>22 Q. I'd like to take you through the</p> <p>23 images that appear in Plaintiff's Exhibit 40</p> <p>24 which you have shown to us.</p> <p>25 I'm going to hand you Plaintiff's</p> |



Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">57</p> <p>1 Cariou</p> <p>2 A. It's him, yeah. It's him. It's</p> <p>3 about -- you know, as you can notice it, he's</p> <p>4 right in the middle, and you can't be more</p> <p>5 simple as far as framing is concerned. It's</p> <p>6 about him and his strength.</p> <p>7 Q. Now, in paragraph 16 of your</p> <p>8 complaint you say that the images were taken in</p> <p>9 black and white?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. Was there a specific kind of film</p> <p>12 you were using or did it depend on the time of</p> <p>13 day you were shooting?</p> <p>14 A. No, I only used one film.</p> <p>15 Q. And what was the type of film?</p> <p>16 A. It's TRI-X 320.</p> <p>17 Q. TRI-X?</p> <p>18 A. Yeah.</p> <p>19 Q. Could you spell that for us?</p> <p>20 A. T-X 320.</p> <p>21 Q. But it's T-R-I-X 320?</p> <p>22 A. Yeah.</p> <p>23 Q. And who makes that?</p> <p>24 A. Kodak.</p> <p>25 MR. HAYES: Is it T-R-I-X or</p>   | <p style="text-align: center;">59</p> <p>1 Cariou</p> <p>2 A. Yes.</p> <p>3 Q. And if you could go back to the</p> <p>4 image of this particular Rastafarian --</p> <p>5 MR. BROOKS: This is on page -- what</p> <p>6 you've marked C18?</p> <p>7 MS. BART: C18, right.</p> <p>8 BY MS. BART:</p> <p>9 Q. Did you have it processed in a</p> <p>10 particular way?</p> <p>11 A. Yeah. We used a specific chemical.</p> <p>12 Well, first of all, I had it exposed a</p> <p>13 particular way.</p> <p>14 Q. And that would be with the F-stop?</p> <p>15 A. No, with --</p> <p>16 Q. With the chemicals?</p> <p>17 A. No, with the -- you know, each film</p> <p>18 has a sensitivity, ASA, you know, 400 ASA.</p> <p>19 Q. Right.</p> <p>20 A. But you don't have to -- you can</p> <p>21 over or underexpose it when you shoot. You</p> <p>22 know, that's a decision you can take.</p> <p>23 And then you process it, but you</p> <p>24 have to know what you have done before in order</p> <p>25 to process it properly and in order to get what</p>              |
| <p style="text-align: center;">58</p> <p>1 Cariou</p> <p>2 T-R-I-A-X?</p> <p>3 A. You can put T and X and that's good.</p> <p>4 Q. And is there a reason that you chose</p> <p>5 the TX 320 film --</p> <p>6 A. Yeah.</p> <p>7 Q. -- for this particular series of</p> <p>8 images?</p> <p>9 A. Oh, yeah. Because I want -- from</p> <p>10 the get-go I wanted to have a really specific</p> <p>11 look for the whole book. And it's a film that I</p> <p>12 thought would give me this look.</p> <p>13 But on top of choosing a film, you</p> <p>14 need to know how to expose it and to process it</p> <p>15 and then how to print it in order to get what</p> <p>16 you want.</p> <p>17 Q. And can you explain what the</p> <p>18 specific overall look you were going for was?</p> <p>19 A. Well, I knew I was going to shoot</p> <p>20 black man and black woman, you know, obviously.</p> <p>21 And I wanted to -- I wanted the overall book to</p> <p>22 be dark, you know, but still to have a lot of</p> <p>23 details and grays in the book, and that's what I</p> <p>24 did.</p> <p>25 Q. Now, you mentioned processing?</p> | <p style="text-align: center;">60</p> <p>1 Cariou</p> <p>2 you want.</p> <p>3 Q. And when you were out in the field</p> <p>4 did you keep a field notebook?</p> <p>5 A. No.</p> <p>6 Q. You kept no notes, so how would you</p> <p>7 know then what you had done in the field in</p> <p>8 terms of the ASA so that you could then give the</p> <p>9 right instructions?</p> <p>10 A. Because I'm a good photographer and</p> <p>11 I know what I do.</p> <p>12 Q. I see. So did you label the films</p> <p>13 so you could keep track?</p> <p>14 A. No.</p> <p>15 Q. And is that because you were taking</p> <p>16 not that many pictures?</p> <p>17 A. I wasn't taking that many pictures.</p> <p>18 Q. So it was easy for you to keep it in</p> <p>19 your mind?</p> <p>20 A. Yeah, plus I knew the technique, I</p> <p>21 knew what I wanted and, you know, with the light</p> <p>22 meter and camera it was easy for me to get what</p> <p>23 I wanted.</p> <p>24 Q. Now, a few minutes ago when you</p> <p>25 first started talking about the processing of</p> |



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| 69   | 71   |
| <p>1 Cariou</p> <p>2 Q. And the next page, what's the number</p> <p>3 there, page 115?</p> <p>4 A. 115, you know --</p> <p>5 Q. So it's not that particular</p> <p>6 landscape?</p> <p>7 A. No, it's not that particular</p> <p>8 landscape, no.</p> <p>9 Q. Okay. Turning back to Plaintiff's</p> <p>10 Exhibit 40, if you would turn to the page number</p> <p>11 that's marked C00021.</p> <p>12 Mr. Cariou, Plaintiff's Exhibit 40</p> <p>13 is your comparison, and I think --</p> <p>14 A. Yeah, I have it.</p> <p>15 Q. Oh, I see. You're going to the</p> <p>16 image itself?</p> <p>17 A. Yes.</p> <p>18 Q. And you'll find that on the tab, the</p> <p>19 blue tab on --</p> <p>20 A. 21.</p> <p>21 Q. -- the book, the page marked C21?</p> <p>22 A. Yeah.</p> <p>23 Q. Do you have both of those in front</p> <p>24 of you?</p> <p>25 A. Yes.</p>  | <p>1 Cariou</p> <p>2 the beginning of the series or was he towards</p> <p>3 the end?</p> <p>4 A. That must have been towards the</p> <p>5 middle.</p> <p>6 Q. Okay. Towards the middle.</p> <p>7 And was this a staged photograph?</p> <p>8 A. Yeah.</p> <p>9 Q. And was this a single Rastafarian</p> <p>10 that you lived with for a period of time?</p> <p>11 A. Yeah, he's a friend of mine</p> <p>12 actually.</p> <p>13 Q. And when did you first meet him?</p> <p>14 A. I met him towards the beginning of</p> <p>15 my trips in Jamaica, the first or the second</p> <p>16 trip.</p> <p>17 Q. 1992 time period?</p> <p>18 A. '93 I think we met.</p> <p>19 Q. '93?</p> <p>20 A. Yeah.</p> <p>21 Q. And where does this gentleman live?</p> <p>22 A. He lives west -- in the west end in</p> <p>23 Negril. And actually he's the first individual</p> <p>24 in the book, if you -- that's the same man.</p> <p>25 Q. I'm sorry, could you give us --</p>  |
| 70   | 72   |
| <p>1 Cariou</p> <p>2 Q. Okay. Now, this actually appears on</p> <p>3 pages 83 and 84 of Yes Rasta, correct, this</p> <p>4 image --</p> <p>5 A. Yeah.</p> <p>6 Q. -- that we see at the bottom of C21?</p> <p>7 A. 83 and 84, yeah.</p> <p>8 Q. Okay. To try to save time, was this</p> <p>9 taken with the same lens and the same camera?</p> <p>10 A. It was -- everything was taken with</p> <p>11 the same camera. The whole book was taken with</p> <p>12 the same.</p> <p>13 Q. And the same film?</p> <p>14 A. And the same film.</p> <p>15 And that's probably the same lens</p> <p>16 that the picture we talked earlier.</p> <p>17 Q. Can you tell us when this photograph</p> <p>18 was taken?</p> <p>19 A. No, I couldn't.</p> <p>20 Q. And is there a reason you can't</p> <p>21 place the timing of this?</p> <p>22 A. Well, because, you know, that's six</p> <p>23 years of long traveling, and I couldn't tell you</p> <p>24 when exactly it was taken.</p> <p>25 Q. And could you say whether it was at</p> | <p>1 Cariou</p> <p>2 that's on page 4?</p> <p>3 A. Page 4, yeah.</p> <p>4 Q. Mr. Cariou, since I don't have a</p> <p>5 copy of the book here can you just turn it</p> <p>6 around so I can see --</p> <p>7 A. Sure. Sorry, about that.</p> <p>8 He's the first individual in the</p> <p>9 book.</p> <p>10 Q. And that's, again, on page 4 of the</p> <p>11 book, the fourth image of the book?</p> <p>12 A. Yeah.</p> <p>13 MR. BROOKS: Well, it's page 4.</p> <p>14 Q. Returning back to the image which</p> <p>15 appears on the bottom of C00021 and pages 83 of</p> <p>16 the book, how long did it take you to shoot this</p> <p>17 particular work?</p> <p>18 A. I don't know.</p> <p>19 Q. But it was staged?</p> <p>20 A. Yeah, it was staged.</p> <p>21 Q. And other than this is a friend of</p> <p>22 yours or someone who's become a friend of yours,</p> <p>23 is there a particular reason why you wanted to</p> <p>24 photograph this particular person?</p> <p>25 A. Yeah, because he represents exactly</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |   |
|---|---|
| <p style="text-align: center;">85</p> <p style="text-align: center;">Cariou</p> <p>1 Q. And in this particular instance your<br/>2 focus is -- you used the surrounding hemp to<br/>3 draw attention to the facial features of this<br/>4 man that you thought were important?<br/>5<br/>6 A. Mm-hmm.<br/>7 Q. Or that you wanted to capture?<br/>8 MR. BROOKS: Excuse me, you should<br/>9 say yes. You can say yeah, but not<br/>10 uh-huh.<br/>11 A. Yes.<br/>12 MS. BART: Thank you, Mr. Brooks.<br/>13 BY MS. BART:<br/>14 Q. And we've already talked about<br/>15 processing, et cetera, and you've said you<br/>16 staged it. Do you know approximately how long<br/>17 it took you to take this shot?<br/>18 A. It took us about two hours to get to<br/>19 the plantation. That's one thing.<br/>20 And then, I don't know, maybe an<br/>21 hour in order to get the proper lighting and the<br/>22 proper shot.<br/>23 Q. And where is this plantation<br/>24 located?<br/>25 A. It's in -- what did I say? Out of</p>   | <p style="text-align: center;">87</p> <p style="text-align: center;">Cariou</p> <p>1 Q. Would it help you to see your<br/>2 answers to your initial disclosures?<br/>3<br/>4 A. I don't know.<br/>5 MR. BROOKS: Answers to<br/>6 interrogatories, to your interrogatories.<br/>7 MS. BART: Okay.<br/>8 Why don't we just mark this as the<br/>9 next exhibit.<br/>10 (Defendant's Exhibit 4, answers and<br/>11 objections to interrogatories, was marked<br/>12 for identification, as of this date.)<br/>13 Q. Have you found the place where you<br/>14 wrote --<br/>15 A. Yeah.<br/>16 Q. I'm sorry, I've handed you what's<br/>17 been marked as Defendant's Exhibit 4, which<br/>18 are Plaintiff Patrick Cariou's answers and<br/>19 objections to Defendants Gagosian Gallery, Inc.,<br/>20 and Lawrence Gagosian's interrogatories.<br/>21 Do you have that in front of you?<br/>22 A. Yeah.<br/>23 Q. And these are the responses that you<br/>24 prepared?<br/>25 A. Yes.</p>    |
| <p style="text-align: center;">86</p> <p style="text-align: center;">Cariou</p> <p>1 respect for the privacy of Rasta in Yes Rasta,<br/>2 caption, names and places have been excluded.<br/>3 Q. Yes. You've given us towns and<br/>4 things where this --<br/>5 A. Yes, but that's in Westmoreland, the<br/>6 Parish of Westmoreland.<br/>7 Q. I'm not going there, so it's okay,<br/>8 to the plantation.<br/>9 And did you have to ask for anyone<br/>10 else's permission to access the plantation?<br/>11 A. No, that was his plantation and<br/>12 everyone that he agreed on could be there.<br/>13 Q. Have you licensed any rights in this<br/>14 image other than those that were licensed to<br/>15 Powerhouse?<br/>16 A. No.<br/>17 Q. And have you attempted to market, as<br/>18 we defined it earlier, this image other than<br/>19 through Yes Rasta?<br/>20 A. No, I sold a print.<br/>21 Q. You sold a print?<br/>22 A. Yeah.<br/>23 Q. To whom did you sell this?<br/>24 A. To -- I don't have the list of --</p> | <p style="text-align: center;">88</p> <p style="text-align: center;">Cariou</p> <p>1 Q. And it says in the last response<br/>2 that you participated in the preparation of<br/>3 these responses?<br/>4 A. Yes.<br/>5 Q. So have you found the answer that<br/>6 you were thinking of?<br/>7 A. Yes.<br/>8 Q. Is that response to number 1C?<br/>9 A. Yeah.<br/>10 Q. So can you tell us who purchased the<br/>11 image that appears on page 33 of Plaintiff's 41?<br/>12 A. Nicolas Laurent Olivier Girard.<br/>13 Q. How do you know Mr. Girard?<br/>14 A. He's a friend of mine.<br/>15 Q. And how long have you known<br/>16 Mr. Girard?<br/>17 A. I would say about 10 years.<br/>18 Q. And how long before Mr. Girard<br/>19 purchased the image that appears on page 33 did<br/>20 you know Mr. Girard?<br/>21 A. He bought it -- I don't remember<br/>22 when he bought it. He bought it like two years<br/>23 ago. I must have known him for six years at<br/>24 least.<br/>25</p> |



**ESQUIRE**  
an Alexander Gailo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| <p style="text-align: center;">105</p> <p>1 Cariou</p> <p>2 just call it in the hemp grove, if that's all</p> <p>3 right with you?</p> <p>4 A. Yeah.</p> <p>5 Q. Which appears to be a man walking</p> <p>6 among rocks, do you see that?</p> <p>7 A. Yeah.</p> <p>8 Q. You'll find that image on page 80 of</p> <p>9 the book, the Yes Rasta book.</p> <p>10 A. 80?</p> <p>11 Q. Yes.</p> <p>12 MS. HAMMERMAN: It's the yellow 80.</p> <p>13 A. Sorry, thanks.</p> <p>14 Q. Or you can find it the other way.</p> <p>15 We've got both ways. It's the second 24.</p> <p>16 A. It's me. My fault. Okay, 80.</p> <p>17 MR. BROOKS: Wait a minute. What's</p> <p>18 yellow? Oh, orange okay. I think that's</p> <p>19 this one.</p> <p>20 MS. BART: No, that's not right.</p> <p>21 This number is wrong. I'm terribly sorry.</p> <p>22 MR. BROOKS: Can you find this guy?</p> <p>23 THE WITNESS: Yeah.</p> <p>24 BY MS. BART:</p> <p>25 Q. Try page 88.</p>   | <p style="text-align: center;">107</p> <p>1 Cariou</p> <p>2 A. Correct.</p> <p>3 Q. So it's only something that comes</p> <p>4 from the left-hand side?</p> <p>5 A. Exactly.</p> <p>6 MR. BROOKS: Well, it's the</p> <p>7 right-hand side.</p> <p>8 A. This side.</p> <p>9 MR. BROOKS: It's his right hand.</p> <p>10 MS. BART: I know. It's my left</p> <p>11 hand.</p> <p>12 MR. BROOKS: His right hand.</p> <p>13 MS. BART: Okay, I got it.</p> <p>14 BY MS. BART:</p> <p>15 Q. Page 88?</p> <p>16 MR. BROOKS: Right.</p> <p>17 Q. Mr. Cariou, I notice that there</p> <p>18 isn't a line that goes from the image of this</p> <p>19 page 88 that's on Plaintiff's Exhibit 40 to</p> <p>20 something in the work by Mr. Prince, which is</p> <p>21 entitled Canal Zone 2008, is there a reason why,</p> <p>22 were you not sure?</p> <p>23 A. Yeah, it's a mistake. I forgot.</p> <p>24 Q. So it's just a mistake?</p> <p>25 A. Yeah.</p>  |
| <p style="text-align: center;">106</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 MR. BROOKS: It's 87 and 88.</p> <p>4 MS. BART: I hadn't gotten there</p> <p>5 yet.</p> <p>6 BY MS. BART:</p> <p>7 Q. I think your lawyer wants to take</p> <p>8 your deposition, Mr. Cariou.</p> <p>9 A. No, no, he's fine.</p> <p>10 Q. You now have in front of you a</p> <p>11 two-page reproduction of an image that appears</p> <p>12 on pages 87 and 88, and is that the same image</p> <p>13 that appears in the bottom of C00024 in</p> <p>14 Plaintiff's Exhibit 40?</p> <p>15 It's to the right of the man in the</p> <p>16 hemp grove?</p> <p>17 A. Yes, it is.</p> <p>18 Q. Now, I notice that in your</p> <p>19 comparison that appears in page, I'm sorry,</p> <p>20 PEX40, that only one half of the actual total</p> <p>21 image appears in PEX40, and that's because the</p> <p>22 material that appears on page 87 of the book</p> <p>23 you're not saying that that appears in any of</p> <p>24 Mr. Prince's works, in this particular work, is</p> <p>25 that correct?</p> | <p style="text-align: center;">108</p> <p>1 Cariou</p> <p>2 Q. Why don't you take this red pen that</p> <p>3 I'm going to hand you and mark on the deposition</p> <p>4 exhibit where in the Canal Zone work you think</p> <p>5 that image appears.</p> <p>6 MR. BROOKS: Is this painting called</p> <p>7 Canal Zone?</p> <p>8 MS. BART: Well, you guys put it up</p> <p>9 there. I think it's called Canal Zone</p> <p>10 2008.</p> <p>11 MR. HAYES: It is.</p> <p>12 MR. BROOKS: Okay.</p> <p>13 MS. BART: If you want to check</p> <p>14 that, you can. We're just taking your</p> <p>15 example.</p> <p>16 (Witness marks exhibit.)</p> <p>17 A. Okay.</p> <p>18 Q. May I see what you've drawn?</p> <p>19 A. Sure.</p> <p>20 Q. All right. So what you've focused</p> <p>21 on are the three trees --</p> <p>22 A. Exactly.</p> <p>23 Q. -- or the three-headed tree, they</p> <p>24 look like poofs, that appear in the upper part</p> <p>25 of Mr. Prince's work, is that what you're</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gailo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

|   |   |
|---|---|
| <p style="text-align: center;">145</p> <p>1 Cariou<br/>2 seven images --<br/>3 A. If you don't mind, excuse me.<br/>4 That's the artwork I was talking<br/>5 about earlier.<br/>6 (Witness indicating.)<br/>7 Q. From the newspaper?<br/>8 A. No, from -- it's called Canal Zone<br/>9 2007. That's just a part of it.<br/>10 Q. Right. And I'm just reading from<br/>11 the top of what you prepared, which says it's<br/>12 from the Art Newspaper.<br/>13 A. Yeah, but they only use a portion of<br/>14 the artwork what was -- you know when we talked<br/>15 earlier this morning?<br/>16 Q. Yes.<br/>17 A. Just to -- you know.<br/>18 MS. BART: All right. Why don't we,<br/>19 at this point in time, mark as the next<br/>20 Defendant's Exhibit -- I think we're up<br/>21 to 5.<br/>22 (Defendant's Exhibit 5, color<br/>23 reproduction of Canal Zone 2007, was<br/>24 marked for identification, as of this<br/>25 date.)</p> | <p style="text-align: center;">147</p> <p>1 Cariou<br/>2 MR. BROOKS: Okay, fine.<br/>3 MS. BART: I know we had trouble<br/>4 with printing them off in Summation in<br/>5 time for the production.<br/>6 MR. BROOKS: Okay.<br/>7 BY MS. BART:<br/>8 Q. Mr. Cariou, we've handed you what's<br/>9 been marked as Defendant's Exhibit 5. And the<br/>10 bottom of this document bears in the left-hand<br/>11 column or corner Bates Number GG0083.<br/>12 A. Yes.<br/>13 Q. And it appears to be a color<br/>14 reproduction of a work by Richard Prince<br/>15 entitled The Canal Zone 2007, mixed media on<br/>16 homasote, and then it gives the dimensions.<br/>17 Do you have that in front of you?<br/>18 A. Yeah.<br/>19 Q. Is this the image, the larger image<br/>20 to which you were just referring in your last<br/>21 answer?<br/>22 A. Yes.<br/>23 Q. So the image that we see on 43 is<br/>24 just a portion of the image, the total image<br/>25 that appears in Defendant's Exhibit 5, correct?</p> |
| <p style="text-align: center;">146</p> <p>1 Cariou<br/>2 MR. BROOKS: Just for the record,<br/>3 I don't think we ever received a copy of<br/>4 this with colors.<br/>5 I think we did receive it and we<br/>6 marked it as Plaintiff's 15, this work,<br/>7 but I don't think we've ever seen it with<br/>8 colors, for what it's worth.<br/>9 MS. BART: Yes, we produced<br/>10 this because we paid extra for color<br/>11 photography to send all these images to<br/>12 you.<br/>13 MR. BROOKS: Yes, but we didn't get<br/>14 a copy with the colors on it.<br/>15 MS. BART: It's GG0083. It was<br/>16 produced just like this with the stamp on<br/>17 it.<br/>18 MS. HAMMERMAN: I think we mailed<br/>19 it.<br/>20 MS. BART: We mailed them to you<br/>21 because you had asked us for color images<br/>22 I think.<br/>23 MR. BROOKS: It doesn't matter. We<br/>24 have it now.<br/>25 MS. BART: I know we had --</p>              | <p style="text-align: center;">148</p> <p>1 Cariou<br/>2 A. Absolutely.<br/>3 Q. Would you take this yellow<br/>4 highlighter please, sir, and highlight the<br/>5 section that is on C43?<br/>6 MR. BROOKS: On the original<br/>7 exhibit?<br/>8 MS. BART: Yes, that's fine, on the<br/>9 original, please.<br/>10 (Witness marks exhibit.)<br/>11 BY MS. BART:<br/>12 Q. Mr. Cariou, looking at what's been<br/>13 marked as Defendant's Exhibit 5, is it your<br/>14 position that images from Yes Rasta appear in<br/>15 each one of the squares?<br/>16 A. Yeah.<br/>17 Q. So, for example, in the upper<br/>18 left-hand corner it says -- someone's written<br/>19 the words Canal Zone and there's vegetative<br/>20 matter underneath that, it looks like banana<br/>21 leaves to me, and small print?<br/>22 A. Yeah.<br/>23 Q. Can you show me where in the<br/>24 Yes Rasta book that image appears?<br/>25 A. That's a bad reproduction, so it's a</p>   |



Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

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



Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

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





Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">181</p> <p>1 Cariou</p> <p>2 pages of my outline, Mr. Brooks, as an</p> <p>3 accommodation to your client.</p> <p>4 I'd like to mark Defendant's</p> <p>5 Exhibit 7, please.</p> <p>6 (Defendant's Exhibit 7, Powerhouse</p> <p>7 agreement, was marked for identification,</p> <p>8 as of this date.)</p> <p>9 Q. Mr. Cariou, I'm handing you what's</p> <p>10 been marked as Defendant's Exhibit 7, which is a</p> <p>11 copy of the agreement between you and Powerhouse</p> <p>12 to which we've been referring throughout the day</p> <p>13 today, and it's dated June 9, 2000.</p> <p>14 And you see it's between Powerhouse</p> <p>15 Cultural Entertainment, Inc., and yourself.</p> <p>16 Is this the Powerhouse agreement?</p> <p>17 A. Yes, it is.</p> <p>18 Q. And if you go to the last page which</p> <p>19 bears Bates stamp number C7, that's your</p> <p>20 signature on the last page?</p> <p>21 A. Yes.</p> <p>22 Q. Is there a reason why Yes Rasta was</p> <p>23 published by Powerhouse Cultural Entertainment</p> <p>24 as opposed to Powerhouse Books, do you know?</p> <p>25 A. It's the same entity.</p> | <p style="text-align: center;">183</p> <p>1 Cariou</p> <p>2 MS. BART: Right. Let me just</p> <p>3 finish, Mr. Brooks.</p> <p>4 BY MS. BART:</p> <p>5 Q. That the proprietor grants the</p> <p>6 publisher Powerhouse the first option for the</p> <p>7 initial term of this agreement on all future</p> <p>8 licenses the right to distribute the book, and</p> <p>9 then it also gives him a right to include</p> <p>10 additional books. And that appears in I think</p> <p>11 section 35.</p> <p>12 Does this help you refresh your mind</p> <p>13 as to whether or not you're familiar with what</p> <p>14 an option is?</p> <p>15 A. No, I'm not familiar with what an</p> <p>16 option is.</p> <p>17 Q. Okay. When you first published the</p> <p>18 Surfer book did you give Powerhouse just the</p> <p>19 right to publish the first book?</p> <p>20 MR. BROOKS: Objection, calls for a</p> <p>21 legal conclusion.</p> <p>22 You can answer.</p> <p>23 A. I don't know.</p> <p>24 Q. Did you have an agreement in the</p> <p>25 first book?</p> |
| <p style="text-align: center;">182</p> <p>1 Cariou</p> <p>2 Q. It's the same entity?</p> <p>3 A. Yeah.</p> <p>4 Q. When you approached or when you had</p> <p>5 discussions with Powerhouse did you approach</p> <p>6 them or did they approach you about publishing</p> <p>7 this book?</p> <p>8 A. Well, they already had published my</p> <p>9 first book called Surfers.</p> <p>10 Q. The Surfers?</p> <p>11 A. Yeah.</p> <p>12 Q. Did they have an option on your next</p> <p>13 book after Surfers?</p> <p>14 MR. BROOKS: I just want to make</p> <p>15 sure he knows what that means. If he does</p> <p>16 he can answer.</p> <p>17 Q. If you turn to page 24 of the</p> <p>18 Powerhouse agreement --</p> <p>19 MR. HAYES: You mean paragraph 24?</p> <p>20 Q. Paragraph 24. It says in that</p> <p>21 paragraph, the proprietor -- which is in this</p> <p>22 case Powerhouse -- hereby grants the</p> <p>23 publisher --</p> <p>24 MR. BROOKS: No, he's the</p> <p>25 proprietor.</p>   | <p style="text-align: center;">184</p> <p>1 Cariou</p> <p>2 A. Did I have a contract for the first</p> <p>3 book?</p> <p>4 Q. Yes.</p> <p>5 A. Yeah.</p> <p>6 Q. And in that contract did it talk</p> <p>7 about what would happen if you came up with</p> <p>8 another idea of the book?</p> <p>9 In other words, if you came up with</p> <p>10 book number 2 did Powerhouse have any right to</p> <p>11 publish that before anybody else or make a</p> <p>12 decision to publish that?</p> <p>13 A. I don't know.</p> <p>14 Q. You don't know?</p> <p>15 A. I don't know. I really don't know.</p> <p>16 Q. So the publication of the Yes Rasta</p> <p>17 book wasn't just an option to purchase your</p> <p>18 second book?</p> <p>19 A. No, it was just we were really</p> <p>20 friendly, the first book went really well and</p> <p>21 they were really supportive from the beginning</p> <p>22 on this project.</p> <p>23 Q. This meaning Yes Rasta?</p> <p>24 A. Yeah. And that's it.</p> <p>25 Q. Did Powerhouse Books or Powerhouse</p>        |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| <p>189</p> <p>1 Cariou</p> <p>2 agreements or any other type of agreement with</p> <p>3 respect to the Yes Rasta book or the images?</p> <p>4 A. No.</p> <p>5 Q. So they were just protecting</p> <p>6 themselves in the event one might be entered</p> <p>7 into?</p> <p>8 MR. BROOKS: Objection to the form.</p> <p>9 Q. You can answer the question.</p> <p>10 A. Yeah, I guess so. I mean --</p> <p>11 MR. BROOKS: Don't guess.</p> <p>12 Q. Don't guess. I don't want you to</p> <p>13 guess. Did you discuss paragraph 22 and why it</p> <p>14 was in the agreement?</p> <p>15 A. I think what it is is that, you</p> <p>16 know, in the case of the book could be</p> <p>17 translated in French or Italian or whatever,</p> <p>18 they had the right to be in control. That's</p> <p>19 what it means.</p> <p>20 Q. Now, in paragraph 2, back on</p> <p>21 page C3, that's marked C3, it states that you're</p> <p>22 going to provide to the publisher certain types</p> <p>23 of materials. Do you see that?</p> <p>24 A. Yeah.</p> <p>25 Q. Including the original images and</p> | <p>191</p> <p>1 Cariou</p> <p>2 So I wanted to pay an homage to the Rasta by</p> <p>3 saying that they were staying strong against</p> <p>4 barbarism.</p> <p>5 Q. And this homage you talked about,</p> <p>6 is that what we see in paragraph 16 of your</p> <p>7 complaint that says that the Rastafarians are a</p> <p>8 spiritual society living simply, independently,</p> <p>9 and in harmony with nature apart from the</p> <p>10 industrialized world of environmental pollution</p> <p>11 and materialism which they reject and refer to</p> <p>12 as Babylon?</p> <p>13 A. Yeah.</p> <p>14 Q. Now, was the Henzell essay among the</p> <p>15 materials that you provided to Powerhouse?</p> <p>16 A. No. Perry Henzell provided the</p> <p>17 material himself.</p> <p>18 Q. He provided what?</p> <p>19 A. He provided the material himself.</p> <p>20 MR. BROOKS: Material.</p> <p>21 Q. And how did it come to be that</p> <p>22 Henry --</p> <p>23 A. Perry Henzell.</p> <p>24 Q. -- Perry Henzell was going to write</p> <p>25 the introduction, did you select him?</p> |
| <p>190</p> <p>1 Cariou</p> <p>2 some other items, which included text, and I</p> <p>3 wondered what materials besides the images you</p> <p>4 provided to Powerhouse?</p> <p>5 A. Nothing.</p> <p>6 Q. But you did provide the text --</p> <p>7 A. Yeah.</p> <p>8 Q. -- that appears in Defendant's</p> <p>9 Exhibit --</p> <p>10 A. That text, yeah, that's --</p> <p>11 Q. -- 2, is it?</p> <p>12 A. There's another text that I wrote.</p> <p>13 Which means they stand strong against barbarism.</p> <p>14 Q. And you're pointing to one of the</p> <p>15 white pages at the beginning of the book?</p> <p>16 A. Yeah, the first page that is white.</p> <p>17 Q. And that's something you provided to</p> <p>18 the publisher?</p> <p>19 A. Yeah.</p> <p>20 Q. And what did you mean by that</p> <p>21 sentence?</p> <p>22 A. It meant that --</p> <p>23 Q. I'm sorry, what?</p> <p>24 A. Jamaica is a really violent country,</p> <p>25 and Rasta are men of peace within that society.</p>  | <p>192</p> <p>1 Cariou</p> <p>2 A. Yeah, I was a great -- well, he's</p> <p>3 dead -- and I am a great admirer of his work.</p> <p>4 He did a really famous movie about Jamaica</p> <p>5 called The Harder They Come, and I really</p> <p>6 thought it was an honor for me to have a text</p> <p>7 about my book.</p> <p>8 Q. By Mr. Henzell?</p> <p>9 A. Yeah. So I did what I had to do to</p> <p>10 meet him and convince him to write the essay.</p> <p>11 Q. And you're the one who did that, not</p> <p>12 the publisher?</p> <p>13 A. Yeah.</p> <p>14 Q. You're the one who convinced</p> <p>15 Mr. Henzell to write that?</p> <p>16 A. Yeah.</p> <p>17 Q. When he did that, prepared that</p> <p>18 essay, did he interview you?</p> <p>19 A. No. Well, we had a couple -- we</p> <p>20 went to lunch a couple of times, you know, to</p> <p>21 talk about my experience in Jamaica or my</p> <p>22 experience with Rastafarians, but no formal</p> <p>23 interview.</p> <p>24 MS. BART: We're going to mark a</p> <p>25 copy of the essay.</p>                                 |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| 193  | 195  |
| <p>1 Cariou</p> <p>2 (Defendant's Exhibit 8, copy of</p> <p>3 essay by Mr. Henzell, was marked for</p> <p>4 identification, as of this date.)</p> <p>5 Q. I've handed you what's been marked</p> <p>6 as Defendant's Exhibit 8, which is a photocopy</p> <p>7 of the full text of the essay by Mr. Henzell</p> <p>8 which appears in the front portion of the</p> <p>9 Yes Rasta book.</p> <p>10 Do you have that in front of you?</p> <p>11 A. Yes.</p> <p>12 Q. And you agree that this is the essay</p> <p>13 that appears?</p> <p>14 A. I do agree.</p> <p>15 Q. Did you participate in the drafting</p> <p>16 of this document?</p> <p>17 A. No.</p> <p>18 Q. Did you make any corrections to it?</p> <p>19 A. No.</p> <p>20 Q. And when Mr. Henzell -- did he give</p> <p>21 it to you before he gave it to the publisher or</p> <p>22 did you get it at the same time?</p> <p>23 A. We -- I'm not exactly sure, but I</p> <p>24 think we got it at the same time, and we were</p> <p>25 both pleased with the essay, and there was not</p>  | <p>1 Cariou</p> <p>2 been marked as Defendant's Exhibit 9, which</p> <p>3 appears in the back of the Yes Rasta book. I</p> <p>4 would call this the acknowledgments page.</p> <p>5 A. Yeah.</p> <p>6 Q. Does this refresh your recollection</p> <p>7 that you provided additional text to the</p> <p>8 publisher?</p> <p>9 A. Absolutely.</p> <p>10 Q. And you wrote what appears in this</p> <p>11 acknowledgment?</p> <p>12 A. Yeah.</p> <p>13 Q. Is that correct?</p> <p>14 A. Yeah.</p> <p>15 Q. Let's start with the first sentence</p> <p>16 that says, first of all, thanks to all the</p> <p>17 Rastas in this book for allowing me into their</p> <p>18 lives and showing me what rightfulness and</p> <p>19 strength is all about.</p> <p>20 Do you see that sentence?</p> <p>21 A. Yeah.</p> <p>22 Q. And that is the essence of what your</p> <p>23 Yes Rasta book is trying to communicate about</p> <p>24 this society, correct?</p> <p>25 A. Absolutely.</p>  |
| 194  | 196  |
| <p>1 Cariou</p> <p>2 much discussion about it.</p> <p>3 Q. Okay. Returning back to the</p> <p>4 Powerhouse agreement, other than the originals</p> <p>5 of the images and the written text which you've</p> <p>6 just described to us, did you provide any other</p> <p>7 materials to Powerhouse?</p> <p>8 MR. BROOKS: Hold on a second.</p> <p>9 You're not suggesting he provided</p> <p>10 the Perry Henzell text?</p> <p>11 MS. BART: No, he already testified</p> <p>12 he didn't, Mr. Henzell did.</p> <p>13 MR. BROOKS: So what text are you</p> <p>14 referring to? The one sentence?</p> <p>15 MS. BART: The homage, and I think</p> <p>16 he's also testified to --</p> <p>17 A. Did I provide?</p> <p>18 Q. Any other materials?</p> <p>19 A. No, I don't think so, no.</p> <p>20 MS. BART: All right. Let's mark</p> <p>21 this as the next exhibit.</p> <p>22 (Defendant's Exhibit 9,</p> <p>23 acknowledgments page, was marked for</p> <p>24 identification, as of this date.)</p> <p>25 Q. Mr. Cariou, I've handed you what's</p> | <p>1 Cariou</p> <p>2 Q. Now, the next line you're giving</p> <p>3 thanks to people, and one is a person whose name</p> <p>4 is -- I'll just try to pronounce the name --</p> <p>5 Zutumer?</p> <p>6 A. Yeah.</p> <p>7 Q. For sharing her love of Jamaica.</p> <p>8 Who is Ms. Zutumer?</p> <p>9 A. She is a good friend of mine who at</p> <p>10 that time was going out with a Jamaican man and</p> <p>11 told me -- and was going down to Jamaica a lot</p> <p>12 and told me a lot of stories that made me dream</p> <p>13 about going. And she actually started the whole</p> <p>14 process by making me dream about going down to</p> <p>15 Jamaica.</p> <p>16 Q. So she was sort of the impetus for</p> <p>17 you going and doing this project?</p> <p>18 A. Yeah.</p> <p>19 Q. And I think I asked you earlier</p> <p>20 in one of my earlier questions whether or not</p> <p>21 anyone had introduced you to any of the</p> <p>22 Rastafarians whose images appeared in the book,</p> <p>23 and you had said no, not really, you just met</p> <p>24 them.</p> <p>25 But does this now refresh your</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| 197   | 199  |
| <p>1 Cariou</p> <p>2 recollection that Ms. Zutumer had introduced</p> <p>3 you to some of the Rastafarians?</p> <p>4 A. No, she's not -- we've never been to</p> <p>5 Jamaica together.</p> <p>6 Q. I see. But did she hook you up with</p> <p>7 any of the people?</p> <p>8 A. No.</p> <p>9 Q. Who is Lisa Schnepf?</p> <p>10 A. She is a -- she owns a hotel in</p> <p>11 Negril.</p> <p>12 Q. And when you say for showing me the</p> <p>13 way, what did she do for you in relation to this</p> <p>14 project?</p> <p>15 A. Well, she lived -- she lived in</p> <p>16 Jamaica for 25 years, so she had a clear view of</p> <p>17 what Jamaica was about. And she enlightened me</p> <p>18 about, you know, mistakes -- not mistake --</p> <p>19 excuse me -- she enlightened me about things not</p> <p>20 to do, things to do, how to behave in order to</p> <p>21 achieve what I wanted to achieve.</p> <p>22 Q. Helped you with the cultural aspects</p> <p>23 of the project?</p> <p>24 A. Exactly. Thank you.</p> <p>25 Q. Now, Messrs Power and Cohen, you're</p>                 | <p>1 Cariou</p> <p>2 Q. So did he get two thirds of the</p> <p>3 six-thousand-dollar advance, I call it an</p> <p>4 advance?</p> <p>5 A. No.</p> <p>6 Q. No, he did not?</p> <p>7 A. No.</p> <p>8 Q. Is that because he passed away</p> <p>9 before the publication?</p> <p>10 A. No.</p> <p>11 Q. He never took the money?</p> <p>12 A. He never took the money.</p> <p>13 Q. So you took the full 6,000</p> <p>14 nonrefundable portion?</p> <p>15 A. Yeah.</p> <p>16 Q. Marie Gerard and Lisa Scheubel from</p> <p>17 Adidas, which is --</p> <p>18 A. Adidas, yeah. Those are the two</p> <p>19 ladies who were holding the press bureau in</p> <p>20 Paris where I could pick up as much Adidas</p> <p>21 clothes as I wanted.</p> <p>22 And for some reason Jamaicans love</p> <p>23 Adidas more than anything else. So every time</p> <p>24 I was coming I could give it away and, you know,</p> <p>25 make presents to my friends.</p> |
| 198   | 200  |
| <p>1 Cariou</p> <p>2 thanking them for their commitment to beautiful</p> <p>3 photography books, and those are the</p> <p>4 representatives of Powerhouse with whom you've</p> <p>5 developed a relationship, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Herve Morel for his unconditional</p> <p>8 support?</p> <p>9 A. He's a really close friend of mine,</p> <p>10 always, you know, when I was down was picking me</p> <p>11 up and helping me in any way possible in order</p> <p>12 to make me move forward.</p> <p>13 Q. On this particular or just in</p> <p>14 general?</p> <p>15 A. No, in general.</p> <p>16 Q. Do you have some sort of commercial</p> <p>17 relationship with Mr. Morel?</p> <p>18 A. No, he's dead.</p> <p>19 Q. Well, I notice in paragraph 7 of the</p> <p>20 publishing agreement there's moneys that are to</p> <p>21 be given to Mr. Morel?</p> <p>22 A. Yeah, at some point he got into</p> <p>23 publishing. I couldn't really recall exactly</p> <p>24 what was the deal with that, but I don't know.</p> <p>25 To tell you the truth I have no idea.</p> | <p>1 Cariou</p> <p>2 Q. And did you also bring the Au Chip</p> <p>3 shorts that appear in some of the photographs?</p> <p>4 A. No.</p> <p>5 Q. No?</p> <p>6 A. No.</p> <p>7 Q. And who is -- well, we've heard</p> <p>8 about Francesco Solari?</p> <p>9 A. Yeah.</p> <p>10 Q. She's one of the people who</p> <p>11 purchased --</p> <p>12 MR. BROOKS: It's a man.</p> <p>13 Q. Oh, he.</p> <p>14 MR. BROOKS: No, it's the man who</p> <p>15 told him. Well --</p> <p>16 Q. Who is Mr. Solari?</p> <p>17 A. Solari is a good friend of mine.</p> <p>18 He's actually the man who told me about the</p> <p>19 Canal Zone.</p> <p>20 Q. And you've known him for a long time</p> <p>21 I think you've already testified, right?</p> <p>22 A. Yeah.</p> <p>23 Q. And what perspective on the art</p> <p>24 world did he give you at the time this book was</p> <p>25 being published?</p>  |



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">201</p> <p style="text-align: center;">Cariou</p> <p>1<br/>2 A. You know, we were always talking<br/>3 about art and what we liked, what we didn't<br/>4 like. He was showing me things, I was showing<br/>5 him things, you know, between two friends who<br/>6 have a common interest.</p> <p>7 Q. In photographs as art?</p> <p>8 A. In photographs and paintings also,<br/>9 and all those things.</p> <p>10 Q. Who is Marion de Beaupre?</p> <p>11 A. She's a fellow collector in Paris,<br/>12 photo collector in Paris.</p> <p>13 MR. BROOKS: A what?</p> <p>14 A. Photography collector.</p> <p>15 Q. Has she purchased any of your works?</p> <p>16 A. No. I gave her some.</p> <p>17 Q. You gave her some?</p> <p>18 Did you give her works of art from<br/>19 the Yes Rasta book?</p> <p>20 A. I couldn't tell you. I might have.<br/>21 I don't know.</p> <p>22 Q. Is she a collector specifically of<br/>23 your work or --</p> <p>24 A. No, no, no, no. She collects.</p> <p>25 Q. Why is it then that you chose to</p>                      | <p style="text-align: center;">203</p> <p style="text-align: center;">Cariou</p> <p>1<br/>2 Q. Oh, and you did this as a courtesy<br/>3 to her?</p> <p>4 A. Yeah.</p> <p>5 Q. I'm sorry. Okay. I thought it was<br/>6 the other way around.</p> <p>7 A. No.</p> <p>8 Q. Understood.</p> <p>9 Now, there are two other individuals<br/>10 on the next line, Laurent Le Moing and David<br/>11 Hazan?</p> <p>12 A. Those are two people who retouch the<br/>13 pictures, you know, by hand. You know, when you<br/>14 print, when you do a print it's never perfect,<br/>15 you need to -- and that's what they do. And<br/>16 they're two friends of mine and they did that on<br/>17 every print.</p> <p>18 Q. Every print that appears in the<br/>19 Yes Rasta book?</p> <p>20 A. Yeah.</p> <p>21 Q. Did you pay them for their services?</p> <p>22 A. No.</p> <p>23 Q. Was the touch-up work that was<br/>24 required to the images that appear in the<br/>25 Yes Rasta work, would you describe that as</p>   |
| <p style="text-align: center;">202</p> <p style="text-align: center;">Cariou</p> <p>1<br/>2 recognize her or acknowledge her in this<br/>3 particular publication --</p> <p>4 A. Because she --</p> <p>5 Q. Let me finish -- in this particular<br/>6 publication?</p> <p>7 A. Sorry. Because at that time I was<br/>8 seeing her a lot I think and her son that I'm<br/>9 close to, and they were extremely supportive.</p> <p>10 Q. Richard Foulster we've already heard<br/>11 about today. Who is Jessica Palazzo?</p> <p>12 A. His wife.</p> <p>13 Q. And she also assisted with this<br/>14 project it says for their persistence and<br/>15 beautiful prints?</p> <p>16 A. Well, she was more like his -- how<br/>17 do you say -- to be nice, what's the proper<br/>18 term?</p> <p>19 MR. BROOKS: Courtesy.</p> <p>20 A. Courtesy. To put courtesy.</p> <p>21 Q. I'm not sure I understand how that<br/>22 fits with the production of the photographs.<br/>23 You said that Mr. --</p> <p>24 A. Well, she -- they both were running<br/>25 the lab called a small darkroom.</p> | <p style="text-align: center;">204</p> <p style="text-align: center;">Cariou</p> <p>1<br/>2 substantial?</p> <p>3 A. No, no. It was really little.</p> <p>4 Q. Who is Tom Palmer and why are you<br/>5 thanking him for being part of the project?</p> <p>6 A. Tom Palmer is the man who took the<br/>7 prints, the photographic prints, and made the<br/>8 film to be able to print it that way. He was<br/>9 part of the -- you know, when you make a book at<br/>10 some point you end up with a box of prints,<br/>11 those prints have to be transformed to go on the<br/>12 plant.</p> <p>13 Q. So the image has to be transformed<br/>14 to fit the size of the book or the formatting --</p> <p>15 A. The format, in order to go on the<br/>16 huge machine. And that's what he did, you know,<br/>17 he took the print and made it a technical thing<br/>18 that you need to do in order to reproduce a<br/>19 book.</p> <p>20 Q. And that's done electronically?</p> <p>21 A. It is now. Before it was not.<br/>22 Before it was films that -- I mean it's<br/>23 complicated.</p> <p>24 Q. But at the time of the Yes Rasta<br/>25 book though it was done --</p> |



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| <p style="text-align: center;">205</p> <p>1 Cariou</p> <p>2 A. It was manually. He did it</p> <p>3 manually, yeah.</p> <p>4 Q. So he manipulated the image to fit</p> <p>5 the book?</p> <p>6 A. Yeah.</p> <p>7 Q. When the book was being put together</p> <p>8 by Powerhouse did you have any input as to how</p> <p>9 the images would be ordered in the book, or did</p> <p>10 they decide that?</p> <p>11 A. Oh, no, no, no. I did it. I did</p> <p>12 it with Paul Ritter, which is on the first</p> <p>13 paragraph of the agreement. He's an art</p> <p>14 director. And so we did the mock-up together</p> <p>15 for a long time actually, trying to find the</p> <p>16 proper rhythm, and I did -- I went to the plant</p> <p>17 when they printed it, so on and so forth. I was</p> <p>18 all along the way.</p> <p>19 Q. Was there something about the</p> <p>20 ordering of the images that is why they ended up</p> <p>21 being in that particular order, or was it just a</p> <p>22 visual like how it looked as you flipped through</p> <p>23 the book?</p> <p>24 A. It's both actually when you think</p> <p>25 about it. There is obviously a visual thing</p> | <p style="text-align: center;">207</p> <p>1 Cariou</p> <p>2 Q. This was just more hemp vegetation</p> <p>3 that you wanted to sort of create like -- almost</p> <p>4 like I think of it like wrapping paper, it's</p> <p>5 like a repetition of pattern?</p> <p>6 A. Exactly.</p> <p>7 MS. BART: Now, if we could get the</p> <p>8 jacket, I'm going to mark the jacket next.</p> <p>9 (Defendant's Exhibit 10, photocopy</p> <p>10 of inside jacket of Yes Rasta, was marked</p> <p>11 for identification, as of this date.)</p> <p>12 Q. Mr. Cariou, I'm handing you what's</p> <p>13 been marked as Defendant's Exhibit 10, which is</p> <p>14 a photocopy of the inside jacket, the text on</p> <p>15 the inside jacket of Yes Rasta.</p> <p>16 Do you have that in front of you?</p> <p>17 A. Yes.</p> <p>18 Q. Did you contribute any of the text</p> <p>19 that appears on either the front of the inside</p> <p>20 jacket or the back?</p> <p>21 A. Hold on one second.</p> <p>22 (Witness looks at exhibit.)</p> <p>23 A. No.</p> <p>24 Q. The biographical material on the</p> <p>25 back side, is that something that you wrote or</p> |
| <p style="text-align: center;">206</p> <p>1 Cariou</p> <p>2 about that man after that man after landscape</p> <p>3 and so and so. But there's also what each</p> <p>4 picture says and how you want to bring it to --</p> <p>5 it's almost like a movie. You know, there's a</p> <p>6 slow start and then there's action and then it</p> <p>7 goes down. That's the way I would describe</p> <p>8 that.</p> <p>9 Q. And what was sort of the movie that</p> <p>10 was playing in your head while you were putting</p> <p>11 this together?</p> <p>12 A. God knows.</p> <p>13 Q. Okay. Now, on the inside cover of</p> <p>14 Yes Rasta we see a color image of hemp, which is</p> <p>15 a departure from the black and white images that</p> <p>16 appear in the book itself.</p> <p>17 Who decided that that would be sort</p> <p>18 of the inside jacket cover?</p> <p>19 A. Me.</p> <p>20 Q. And you decided to use color for a</p> <p>21 specific reason?</p> <p>22 A. Yeah, I thought it looked nice. It</p> <p>23 was visually appealing, you know. It was</p> <p>24 like -- and then knowing that the rest is black</p> <p>25 and white was interesting to me.</p>         | <p style="text-align: center;">208</p> <p>1 Cariou</p> <p>2 someone else wrote?</p> <p>3 A. No, someone else wrote it.</p> <p>4 Q. Did you get an opportunity to review</p> <p>5 it before it was published when you looked at</p> <p>6 the mock-up?</p> <p>7 A. Yeah, yeah.</p> <p>8 Q. And you were satisfied with the text</p> <p>9 of the jacket cover?</p> <p>10 A. Yeah.</p> <p>11 Q. And you feel that it accurately</p> <p>12 depicts the book that you were attempting to put</p> <p>13 together?</p> <p>14 A. Yeah.</p> <p>15 Q. Do you know if -- Mr. Henzell wrote</p> <p>16 the piece that's in quotes, correct?</p> <p>17 A. Yeah.</p> <p>18 Q. That's written by him?</p> <p>19 A. Mm-hmm, yes.</p> <p>20 Q. Did anyone ever -- I think we</p> <p>21 covered this, so I'll move on.</p> <p>22 Did anyone ever write a review or a</p> <p>23 critique of Yes Rasta?</p> <p>24 A. Yeah.</p> <p>25 Q. And who did that?</p>   |



**ESQUIRE**

an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| <p style="text-align: center;">225</p> <p>1 Cariou</p> <p>2 MR. BROOKS: Yes, as a courtesy to</p> <p>3 you. We went out of our way and got</p> <p>4 documents that you apparently haven't</p> <p>5 looked at them yet.</p> <p>6 MS. BART: Oh, we've looked at them.</p> <p>7 MR. BROOKS: You haven't.</p> <p>8 MS. BART: Mr. Brooks, you've asked</p> <p>9 me to move this deposition along, and so</p> <p>10 far your obstreperous remarks have done</p> <p>11 nothing but slow us down. Just stop it.</p> <p>12 It's not necessary.</p> <p>13 You want to talk about this --</p> <p>14 MR. BROOKS: I'll take it under</p> <p>15 advisement.</p> <p>16 MS. BART: Thank you very much.</p> <p>17 That's all you had to say at the</p> <p>18 beginning.</p> <p>19 MR. BROOKS: Thank you. I need you</p> <p>20 to tell me what I have to say.</p> <p>21 BY MS. BART:</p> <p>22 Q. Mr. Cariou, I have to apologize</p> <p>23 for these rude and entirely unprofessional</p> <p>24 interruptions.</p> <p>25 A. Don't forget, he's on my team.</p>        | <p style="text-align: center;">227</p> <p>1 Cariou</p> <p>2 I probably didn't want to have a</p> <p>3 little print, because when you do a deluxe</p> <p>4 edition you usually include a print, and I</p> <p>5 didn't want to include a print in the book.</p> <p>6 And we didn't know if there was a</p> <p>7 market for it anyway.</p> <p>8 MR. BROOKS: I want to caution the</p> <p>9 witness don't guess. If you know the</p> <p>10 answer to a question, tell her.</p> <p>11 If you don't know just don't guess</p> <p>12 as to what might have happened.</p> <p>13 MS. BART: Okay. Enough coaching.</p> <p>14 BY MS. BART:</p> <p>15 Q. Is there a reason why you wouldn't</p> <p>16 want to include a copy of the print, of a print?</p> <p>17 A. Yeah, I think it's silly.</p> <p>18 Q. Prior to November of 2008 did you</p> <p>19 have any plans to make any derivative works of</p> <p>20 Yes Rasta?</p> <p>21 A. Yeah, the show coming up in New York</p> <p>22 where I would make big prints for -- with</p> <p>23 Christiane Celle.</p> <p>24 MR. BROOKS: For who?</p> <p>25 A. Christiane Celle.</p> |
| <p style="text-align: center;">226</p> <p>1 Cariou</p> <p>2 Q. Well, I'm sorry for that.</p> <p>3 If you'll look please, Mr. Cariou,</p> <p>4 to the rider on the Powerhouse agreement, which</p> <p>5 appears on C7 at the bottom.</p> <p>6 A. Yeah.</p> <p>7 Q. Do you see that?</p> <p>8 A. Yeah.</p> <p>9 Q. Rider A says that you're going to --</p> <p>10 that the publisher may at its option work with</p> <p>11 the proprietor to produce a limited or deluxe</p> <p>12 edition of Yes Rasta?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. Did you ever work to produce a</p> <p>15 limited or deluxe edition of Yes Rasta?</p> <p>16 A. No, we never did.</p> <p>17 Q. Is there a reason why you did not do</p> <p>18 that?</p> <p>19 A. I couldn't tell you exactly why, but</p> <p>20 we didn't do it.</p> <p>21 Q. Did you ever discuss it and then</p> <p>22 just decide not to do it?</p> <p>23 A. That's -- I would have to -- you</p> <p>24 know, I would have to ask Dan Power. I don't</p> <p>25 know. I don't know why we didn't do it.</p> | <p style="text-align: center;">228</p> <p>1 Cariou</p> <p>2 MR. BROOKS: I don't know if he got</p> <p>3 it.</p> <p>4 (Clarification by reporter.)</p> <p>5 (Record read.)</p> <p>6 BY MS. BART:</p> <p>7 Q. Other than making big prints -- and</p> <p>8 this would be of some of the images from</p> <p>9 Yes Rasta?</p> <p>10 A. Yeah.</p> <p>11 Q. Other than that did you have any</p> <p>12 other plans at any time between the period 2000</p> <p>13 and 2008 to make derivative works of the images?</p> <p>14 A. Between 2000 and 2008?</p> <p>15 Q. November of 2008, yes.</p> <p>16 A. No.</p> <p>17 Q. Now, if you look at paragraph 26</p> <p>18 of the Powerhouse agreement it says that this</p> <p>19 agreement will be valid for an initial period of</p> <p>20 10 years. Has there been any indication from</p> <p>21 Powerhouse as to whether they would renew this</p> <p>22 publishing agreement for Yes Rasta?</p> <p>23 A. I don't know.</p> <p>24 Q. There's been no discussions?</p> <p>25 A. No, no discussions.</p>  |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



Patrick Cariou

January 12, 2010

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



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| <p style="text-align: center;">237</p> <p>1 Cariou</p> <p>2 A. A few people that I didn't like very</p> <p>3 much, so I didn't sell them the prints.</p> <p>4 Q. You didn't like them as people?</p> <p>5 A. As people.</p> <p>6 Q. You met with them?</p> <p>7 A. No. I knew who they were and I</p> <p>8 wasn't interested for them to get.</p> <p>9 Q. So who -- can you give me the names</p> <p>10 of the people that called you?</p> <p>11 A. No, I couldn't remember.</p> <p>12 Q. How did you know them?</p> <p>13 A. Through our, you know, through</p> <p>14 people.</p> <p>15 Q. Your professional affiliations?</p> <p>16 A. Yeah.</p> <p>17 Q. When you say a few, is that less</p> <p>18 than five?</p> <p>19 A. Yeah, it's less than five.</p> <p>20 Q. And approximately when did they call</p> <p>21 you, did they call you during the exhibition or</p> <p>22 at some point afterwards?</p> <p>23 A. At some point afterwards.</p> <p>24 Q. And so there was no other interest</p> <p>25 in your work after the Gallery 213 exhibition?</p>  | <p style="text-align: center;">239</p> <p>1 Cariou</p> <p>2 that correct?</p> <p>3 A. Yeah.</p> <p>4 Q. And the only place that I might do</p> <p>5 that, as an interested person, to be able to</p> <p>6 contact you, is through the website that you</p> <p>7 maintain, correct?</p> <p>8 A. I don't even maintain this website.</p> <p>9 You know, it was made like eight years ago, and</p> <p>10 I don't -- I think that the e-mail on the</p> <p>11 website goes to my website, to my mailbox.</p> <p>12 But yeah, I guess it's a way to</p> <p>13 contact me if you want to.</p> <p>14 Q. But when you say it's been up for</p> <p>15 eight years and you don't really maintain it,</p> <p>16 yet what we do see are all of your subsequent</p> <p>17 projects and books, you know, the Polynesian,</p> <p>18 Trench Town Love?</p> <p>19 A. Polynesian was done after.</p> <p>20 Trench Town Love was done in 2000.</p> <p>21 Q. Right.</p> <p>22 A. And the few pictures you can see of</p> <p>23 Gypsies are the first, the very first one of the</p> <p>24 project, so.</p> <p>25 Q. Maybe I didn't make myself clear,</p> |
| <p style="text-align: center;">238</p> <p>1 Cariou</p> <p>2 MR. BROOKS: Objection to the form.</p> <p>3 You can answer.</p> <p>4 A. Well, it wasn't -- the thing is it</p> <p>5 was all made really clear they were not for</p> <p>6 sale, they were not available to buy. So people</p> <p>7 who went to the show didn't even try to buy</p> <p>8 them. They knew they were not for sale.</p> <p>9 Q. But you did get some expressions of</p> <p>10 interest notwithstanding that?</p> <p>11 A. Yeah.</p> <p>12 Q. And those handful of people, less</p> <p>13 than five, were the only inquiries you got --</p> <p>14 A. Yeah.</p> <p>15 Q. -- as a result of the Gallery 213</p> <p>16 exhibition?</p> <p>17 A. Absolutely.</p> <p>18 Q. You've said that during the period</p> <p>19 2000 to until you had the conversations with</p> <p>20 Ms. Celle you were not represented by a gallery</p> <p>21 at that time, is that correct?</p> <p>22 A. Yeah.</p> <p>23 Q. So the only place that someone could</p> <p>24 approach you about the possible purchase of one</p> <p>25 of your prints was to contact you directly, is</p> | <p style="text-align: center;">240</p> <p>1 Cariou</p> <p>2 and I apologize, it's getting late in the day,</p> <p>3 is that what I was trying to say is that you are</p> <p>4 adding new content to your website?</p> <p>5 A. No.</p> <p>6 Q. No?</p> <p>7 A. No, I have not since the day it's</p> <p>8 been up I have not add one picture.</p> <p>9 MS. BART: Can we mark that exhibit,</p> <p>10 please, the website.</p> <p>11 We're going to mark as the next</p> <p>12 exhibit -- I think we're up to 11 -- your</p> <p>13 website.</p> <p>14 (Defendant's Exhibit 11, printout of</p> <p>15 Patrick Cariou website, was marked for</p> <p>16 identification, as of this date.)</p> <p>17 Q. Mr. Cariou, I'm handing you what's</p> <p>18 been marked as Defendant's Exhibit 11. And this</p> <p>19 is a printout of the entirety of your web page.</p> <p>20 And as you know, when you click on</p> <p>21 the images of your web page the way it's</p> <p>22 designed is it travels, the images travel to</p> <p>23 the right.</p> <p>24 A. Yeah.</p> <p>25 Q. So in order to capture all of the</p>                           |



**ESQUIRE**  
an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| <p style="text-align: center;">241</p> <p>1 Cariou</p> <p>2 images that are on your web page we had to</p> <p>3 figure a way to -- in other words, there wasn't</p> <p>4 a piece of paper long enough to capture them, so</p> <p>5 that's why it seems so long.</p> <p>6 A. Okay.</p> <p>7 Q. All right. So would you take a look</p> <p>8 through this and tell me if this looks like the</p> <p>9 information that's on your website?</p> <p>10 (Witness looks through exhibit.)</p> <p>11 A. Yeah, it is.</p> <p>12 Q. Did you select the content that</p> <p>13 would be posted on the website?</p> <p>14 A. Yes, I did.</p> <p>15 Q. And one of the things that you</p> <p>16 selected was -- I'm trying to find, I believe</p> <p>17 it's in the back -- to describe the Yes Rasta</p> <p>18 book is the Henzell essay, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And you posted it in its original</p> <p>21 form as it appears in the book?</p> <p>22 A. Yeah, correct.</p> <p>23 MR. BROOKS: Could you give us the</p> <p>24 pages for that?</p> <p>25 THE WITNESS: It's at the very end.</p> | <p style="text-align: center;">243</p> <p>1 Cariou</p> <p>2 Q. Is it maintained -- is the web page</p> <p>3 maintained by Powerhouse or is it --</p> <p>4 (Nonverbal response.)</p> <p>5 Q. No? It's just something that you</p> <p>6 started and that's it?</p> <p>7 A. Yeah, exactly.</p> <p>8 Q. Now, a little bit earlier we talked</p> <p>9 about the advertising that had been done for</p> <p>10 the book, and your counsel pointed out to us</p> <p>11 information that was posted to -- pointed out</p> <p>12 that there are in fact productions of</p> <p>13 interviews, and I asked you a question whether</p> <p>14 there were any others and you said no?</p> <p>15 MR. BROOKS: Excuse me. The word is</p> <p>16 review, it's not interview.</p> <p>17 MS. BART: Reviews. And I believe</p> <p>18 there's also testimony about an interview</p> <p>19 with Vogue Magazine, which is also</p> <p>20 produced in here.</p> <p>21 So I'm going to mark as the next</p> <p>22 exhibit, Exhibit 12 --</p> <p>23 MR. BROOKS: I'm not saying there</p> <p>24 isn't, but I'm still looking at 11 to see</p> <p>25 the images from Yes Rasta.</p> |
| <p style="text-align: center;">242</p> <p>1 Cariou</p> <p>2 MS. BART: We just printed it as it</p> <p>3 comes off the Internet. It's at the end.</p> <p>4 MR. BROOKS: I see.</p> <p>5 BY MS. BART:</p> <p>6 Q. And you also selected the images</p> <p>7 that appear in this document for Yes Rasta,</p> <p>8 which I'm trying to find at this point in time,</p> <p>9 is that correct?</p> <p>10 A. Yeah.</p> <p>11 Q. Is there a reason why you chose the</p> <p>12 particular images that appear for Yes Rasta on</p> <p>13 your website?</p> <p>14 A. That was my mood of the day.</p> <p>15 Q. Do you monitor -- I'm done with that</p> <p>16 exhibit for right now, Mr. Cariou.</p> <p>17 Do you monitor your website for the</p> <p>18 number of hits that you get?</p> <p>19 A. Not at all.</p> <p>20 Q. Not at all?</p> <p>21 So you have no way of knowing, for</p> <p>22 example, the number of hits that took place</p> <p>23 after you posted the information about</p> <p>24 Yes Rasta?</p> <p>25 A. I have no idea.</p>   | <p style="text-align: center;">244</p> <p>1 Cariou</p> <p>2 I don't actually see any, but maybe</p> <p>3 I'm missing them. You asked him about</p> <p>4 images from Yes Rasta?</p> <p>5 MS. BART: Yes.</p> <p>6 MR. BROOKS: And I don't see any,</p> <p>7 but I could be missing them.</p> <p>8 Are there any? I don't see any.</p> <p>9 MS. BART: I just mentioned this</p> <p>10 to Dara, so we're going to correct the</p> <p>11 record.</p> <p>12 All they are are the images that go</p> <p>13 to the right, so perhaps it was during the</p> <p>14 production period.</p> <p>15 What I would like to do to keep the</p> <p>16 deposition going is supplement the record</p> <p>17 with the pictures that trail off to the</p> <p>18 right.</p> <p>19 MR. BROOKS: From Yes Rasta?</p> <p>20 MS. BART: Yes.</p> <p>21 MR. BROOKS: And you're going to</p> <p>22 supplement the exhibit?</p> <p>23 MS. BART: Yes.</p> <p>24 MR. BROOKS: That's fine.</p> <p>25 Is this 12 now?</p>   |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

|   |  |
|---|--|
| <p style="text-align: center;">245</p> <p>1 Cariou</p> <p>2 MS. BART: Yes.</p> <p>3 (Defendant's Exhibit 12, interviews</p> <p>4 and/or articles, was marked for</p> <p>5 identification, as of this date.)</p> <p>6 Q. Mr. Cariou, the court reporter is</p> <p>7 handing you what's been marked as Defendant's</p> <p>8 Exhibit 12. These are materials that were in</p> <p>9 your production that appear to be interviews</p> <p>10 and/or articles that came out about Yes Rasta.</p> <p>11 It's not clear to me – is that</p> <p>12 correct what we put together for you in this</p> <p>13 exhibit, if you take a look at it?</p> <p>14 A. Hold on.</p> <p>15 MR. BROOKS: Take your time. Look</p> <p>16 through it.</p> <p>17 (Witness looks through exhibit.)</p> <p>18 A. Yeah.</p> <p>19 Q. Why don't we, if we could please,</p> <p>20 let's go to the first page which has been marked</p> <p>21 C218, and at the bottom right-hand corner it</p> <p>22 says Vogue Hommes International. I think it's</p> <p>23 spring edition?</p> <p>24 A. Yeah.</p> <p>25 Q. I guess that's spring-summer</p> | <p style="text-align: center;">246</p> <p>1 Cariou</p> <p>2 edition, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And this C218, C219 through 220,</p> <p>5 that is the interview and corresponding images</p> <p>6 that appeared in the Vogue interview?</p> <p>7 A. Yes.</p> <p>8 Q. The middle image which appears on</p> <p>9 C219 is actually from the Polynesian project,</p> <p>10 correct?</p> <p>11 A. It's actually a picture of me, of</p> <p>12 myself getting tattooed.</p> <p>13 Q. In your armpit?</p> <p>14 A. Yeah.</p> <p>15 Q. Did it hurt?</p> <p>16 I'm sorry, I just had to ask.</p> <p>17 A. Yes. I passed out eight times on</p> <p>18 that one.</p> <p>19 Q. Did you submit these particular</p> <p>20 images to Vogue to accompany this or are these</p> <p>21 images that they selected?</p> <p>22 A. I brought them a choice and they did</p> <p>23 whatever they had to do.</p> <p>24 Q. If you'll turn now to page C221?</p> <p>25 A. 221, yeah.</p>  |
| <p style="text-align: center;">247</p> <p>1 Cariou</p> <p>2 Q. This comes from TurntableLab.com,</p> <p>3 and it's an image for or a place where you can</p> <p>4 purchase your book. And I see the print date is</p> <p>5 9/11/2009?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. And it's being offered for sale for</p> <p>8 \$35. Now, was this a book that was being</p> <p>9 distributed through Turntable or Powerhouse, or</p> <p>10 do you not know?</p> <p>11 A. I don't know. I have no idea.</p> <p>12 Q. Have you ever seen the review that's</p> <p>13 there dated 9/13/2006?</p> <p>14 A. Yeah, I've seen that one. I like it</p> <p>15 though.</p> <p>16 Q. And what is it that you like about</p> <p>17 it?</p> <p>18 A. Well, he said that it's the best</p> <p>19 photography book ever seen on Rasta community.</p> <p>20 That's not bad for a review.</p> <p>21 Q. And it says in the last line</p> <p>22 beautiful photography any way you scrutinize it,</p> <p>23 an essential tribute to Rasta culture for those</p> <p>24 interested.</p> <p>25 Again, it's a correct statement</p>            | <p style="text-align: center;">248</p> <p>1 Cariou</p> <p>2 about what the book is about, the Rasta culture?</p> <p>3 A. Yeah.</p> <p>4 Q. Turning to the next page of this</p> <p>5 composite exhibit, it's C222. And this is</p> <p>6 aStore.Amazon.com.</p> <p>7 MR. BROOKS: Where does it say that?</p> <p>8 MS. BART: Down at the bottom where</p> <p>9 it was printed at the bottom it says</p> <p>10 aStore.Amazon.Rastafari.</p> <p>11 BY MS. BART:</p> <p>12 Q. Is this a piece from the Internet</p> <p>13 from Amazon -- I see it says it's powered by</p> <p>14 Amazon.com at the upper right-hand corner?</p> <p>15 A. I guess so. I'm not familiar with</p> <p>16 that one.</p> <p>17 Q. And it says that new or used copies</p> <p>18 of this book are available from \$6.77?</p> <p>19 A. Yeah, I don't know anything about</p> <p>20 that one.</p> <p>21 Q. And had you not seen the review or</p> <p>22 the sort of product description that's here</p> <p>23 before?</p> <p>24 A. Let me --</p> <p>25 (Witness looks at exhibit.)</p> |



Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| 249  | 251   |
| <p>1 Cariou</p> <p>2 A. No, I've seen this review before.</p> <p>3 I don't know where, but I've seen this review</p> <p>4 before.</p> <p>5 Q. Now, we have attached to that it</p> <p>6 looks like page 2 of 3 on C223, at the top of</p> <p>7 the page it says the Library Journal?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. And it says this particular author</p> <p>10 Joan Levin from Chicago writes that the book is</p> <p>11 about the 100 black and white photographs,</p> <p>12 mostly closeups of stern mystical men within a</p> <p>13 tropical landscape, is that an accurate</p> <p>14 statement about your book?</p> <p>15 A. Yeah, that's one way to describe it.</p> <p>16 Q. And also in it it says -- it refers</p> <p>17 to the Henzell essay as depicting the</p> <p>18 Rastafarian culture as a Spiritual society</p> <p>19 living simply, independently and in harmony with</p> <p>20 the natural environment.</p> <p>21 And that language we've seen from</p> <p>22 your complaint, in your complaint as well,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. Now, there's a customer review here,</p> | <p>1 Cariou</p> <p>2 A. It is an accurate quote from me.</p> <p>3 Q. Did you give an interview to High</p> <p>4 Times?</p> <p>5 A. Through a phone call I think, yeah.</p> <p>6 Q. And was that published?</p> <p>7 A. I think it was, yeah.</p> <p>8 Q. Do you have a copy of that?</p> <p>9 A. No.</p> <p>10 Q. What about the Newsday review, do</p> <p>11 you have a copy of that, which is the second one</p> <p>12 from the top?</p> <p>13 A. I don't keep any review.</p> <p>14 Q. So you have no copies of any of</p> <p>15 these?</p> <p>16 A. No.</p> <p>17 Q. Okay. And about midway down it says</p> <p>18 there's a quote attributed to you in something</p> <p>19 called The Fader?</p> <p>20 A. Yeah.</p> <p>21 Q. What is The Fader?</p> <p>22 A. The Fader was a pop-culture magazine</p> <p>23 which closed down I think a couple years ago.</p> <p>24 MR. BROOKS: Can you say that again?</p> <p>25 MS. BART: Pop-culture magazine.</p>  |
| 250  | 252   |
| <p>1 Cariou</p> <p>2 do you know who did this customer review?</p> <p>3 A. No idea.</p> <p>4 Q. On page C225 it says check out --</p> <p>5 the title of this page is Check Out the Latest</p> <p>6 Media Coverage of Powerhouse Books, it's been</p> <p>7 updated September 2002.</p> <p>8 And in it it describes certain press</p> <p>9 that has -- it's taken snippets from various</p> <p>10 press about your Yes Rasta book, is that</p> <p>11 correct, do you see that there?</p> <p>12 A. It is correct.</p> <p>13 Q. Now, if you look part of the way</p> <p>14 down it says -- let's see, it looks like it's</p> <p>15 three quotes from the bottom?</p> <p>16 A. Okay.</p> <p>17 Q. It's written by a publication called</p> <p>18 High Times and it says ganja -- quote, ganja is</p> <p>19 very important to Rasta life but it's only one</p> <p>20 part, Cariou says, I was most impressed with the</p> <p>21 organic lifestyle and the strength of the</p> <p>22 people?</p> <p>23 A. Yes.</p> <p>24 Q. And that's an accurate quote from</p> <p>25 you?</p>  | <p>1 Cariou</p> <p>2 BY MS. BART:</p> <p>3 Q. And it's a quote by you.</p> <p>4 Jamaicans in general hate having</p> <p>5 their pictures taken, so to me they bless</p> <p>6 me. They gave me their confidence. It</p> <p>7 wasn't easy. Every time it was a battle.</p> <p>8 Every second of my time spent in Jamaica</p> <p>9 was a battle.</p> <p>10 Is that an accurate quote?</p> <p>11 A. Yes, it is.</p> <p>12 Q. The descriptions that you've given</p> <p>13 to us earlier today suggest that you actually</p> <p>14 got on fairly well with the Rastafarians that</p> <p>15 you photographed?</p> <p>16 A. Yeah, absolutely.</p> <p>17 Q. And I didn't understand that to be a</p> <p>18 battle to get --</p> <p>19 A. Because in between one Rasta to</p> <p>20 another you have Rude Boys, the other Jamaican</p> <p>21 people, the gangsters.</p> <p>22 And every step of the way they're</p> <p>23 going to make you pay and make sure it's painful</p> <p>24 to get there.</p> <p>25 Q. I see. And I did notice in some of</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

| 253   | 255  |
|---|--|
| <p>1 Cariou</p> <p>2 your production that you actually have started</p> <p>3 some photographs about the Rude Boys?</p> <p>4 A. Mm-hmm.</p> <p>5 Q. Is that a culture that you're now</p> <p>6 focusing on?</p> <p>7 A. Well, Trenched -- I mean part of</p> <p>8 Trench Town Love is about the Rude Boys. You</p> <p>9 know, it's downtown Kingston, it's much more</p> <p>10 urban, and it's a whole different vibe.</p> <p>11 Q. And was that part of the payoff for</p> <p>12 letting you get to take pictures of the</p> <p>13 Rastafarians?</p> <p>14 A. It's just, you know, Jamaica is</p> <p>15 hectic and it's, you know, it could be a violent</p> <p>16 culture. And to survive you have to fight your</p> <p>17 way in. So, yeah.</p> <p>18 And the same time I did enjoy my</p> <p>19 time with the Rastas, but I had to move around</p> <p>20 too.</p> <p>21 Q. To stay away from the Rude Boys?</p> <p>22 A. No, to go see someone else, you</p> <p>23 know, simply.</p> <p>24 Q. I'm sorry, I don't understand.</p> <p>25 A. I'm in one place, I have to go on</p>              | <p>1 Cariou</p> <p>2 Bates Number C245 --</p> <p>3 A. Mm-hmm, yeah.</p> <p>4 Q. -- through 253?</p> <p>5 A. Okay.</p> <p>6 Q. Yes?</p> <p>7 A. Yes.</p> <p>8 Q. And so can you show me on this</p> <p>9 report what the total sales have been over the</p> <p>10 life of Yes Rasta since Powerhouse has been</p> <p>11 publishing your book?</p> <p>12 (Witness looks at exhibit.)</p> <p>13 Q. If you look at C252?</p> <p>14 A. 252 or 253?</p> <p>15 Q. It gives you like a summary?</p> <p>16 A. If we take 252 it's 2,630 books.</p> <p>17 Q. Oh, I see. I think that 251 and 253</p> <p>18 are a spreadsheet that must go like this, it</p> <p>19 must go this way, laterally.</p> <p>20 So Yes Rasta, if you go across the</p> <p>21 line, where are you seeing the total -- 2,630?</p> <p>22 A. Yeah.</p> <p>23 Q. And for a total sales of \$80,154?</p> <p>24 A. Yeah.</p> <p>25 Q. Is that correct?</p>   |
| <p>1 Cariou</p> <p>2 the other side of the island because I have to</p> <p>3 meet another Rasta that I know of. In between</p> <p>4 it's not going to be easy, just by -- just the</p> <p>5 fact of driving in Jamaica is complicated.</p> <p>6 Q. Yes.</p> <p>7 A. You know, and so on and so forth,</p> <p>8 and finding food and, you know, et cetera,</p> <p>9 et cetera.</p> <p>10 Q. Has anyone -- and forgive me if I've</p> <p>11 asked you this question before -- has anyone</p> <p>12 contacted you through this website about the</p> <p>13 possible purchase of any images?</p> <p>14 A. No.</p> <p>15 MS. BART: Let's mark this as the</p> <p>16 next exhibit, please.</p> <p>17 (Defendant's Exhibit 13, sales</p> <p>18 records, was marked for identification, as</p> <p>19 of this date.)</p> <p>20 Q. Mr. Cariou, I'm handing you what's</p> <p>21 been marked as Defendant's Exhibit 13. And I</p> <p>22 believe these are the sales records to which</p> <p>23 your counsel referred to previously, is that</p> <p>24 correct?</p> <p>25 And for the record, they bear</p> | <p>1 Cariou</p> <p>2 A. Yes.</p> <p>3 Q. Now, looking at this document does</p> <p>4 this refresh your recollection as to -- remember</p> <p>5 I asked you earlier about the channels of</p> <p>6 distribution where the book was sold -- we see</p> <p>7 Barnes super, Barnes small?</p> <p>8 A. Yeah, I can read Amazon, MusicLand,</p> <p>9 Tower, yeah. But no, it doesn't refresh my</p> <p>10 memory. I don't have any memory about that.</p> <p>11 Q. Okay. Do you know whether based on</p> <p>12 the way the royalty statements you've received</p> <p>13 in the past, does this tell you who has sold</p> <p>14 your books and how many?</p> <p>15 A. Who has sold my book? No, I have no</p> <p>16 idea.</p> <p>17 Q. And would we be able to get that</p> <p>18 information from Powerhouse?</p> <p>19 A. I suppose so.</p> <p>20 Q. If you look at the document that's</p> <p>21 marked C253?</p> <p>22 A. Yeah.</p> <p>23 Q. This is a royalty report.</p> <p>24 Now, this document, which is dated</p> <p>25 as of December 2007, says the total books sold</p> |



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| <p style="text-align: center;">257</p> <p>1 Cariou</p> <p>2 are 2,338. Do you see that?</p> <p>3 A. No.</p> <p>4 Q. It's way at the bottom.</p> <p>5 MR. BROOKS: On the last page.</p> <p>6 Q. On this page.</p> <p>7 A. Yeah, okay, total books sold.</p> <p>8 3,453 or 5,791?</p> <p>9 Q. Is the total?</p> <p>10 A. Yeah, total books sold, 5,791.</p> <p>11 Q. Do you see the document where it</p> <p>12 says sales last period, it's four or five boxes</p> <p>13 down, and it says 391 sold below cost?</p> <p>14 A. Yeah.</p> <p>15 Q. And there we have a list price</p> <p>16 of \$60?</p> <p>17 A. List price, yeah.</p> <p>18 Q. See that right underneath it?</p> <p>19 A. Yeah, yeah.</p> <p>20 Q. So what this chart is telling us is</p> <p>21 that there have been 391 that have been sold</p> <p>22 below cost, correct?</p> <p>23 A. Probably, yeah.</p> <p>24 Q. Okay. And what you made for that</p> <p>25 group is \$293.25, correct?</p>  | <p style="text-align: center;">259</p> <p>1 Cariou</p> <p>2 total amount --</p> <p>3 A. Me too.</p> <p>4 Q. You need to exercise that audit</p> <p>5 right.</p> <p>6 A. Yeah.</p> <p>7 Q. So is the total that you received to</p> <p>8 date \$8,087.75, and what we're seeing on the</p> <p>9 prior page for the \$80,154 was actually the</p> <p>10 gross sales as opposed to the amount that you've</p> <p>11 made?</p> <p>12 A. Yeah, that's -- definitely, the</p> <p>13 80,000 is the gross sales.</p> <p>14 Q. And do you know when -- because we</p> <p>15 see here this is a document that's dated</p> <p>16 October 2009, and it's showing the list price of</p> <p>17 the book at \$60, but when you look at the web</p> <p>18 page for Powerhouse it lists it for \$100 a book,</p> <p>19 do you know when the price increased?</p> <p>20 A. I have no idea. I haven't talked to</p> <p>21 them in a while. Otherwise --</p> <p>22 MR. BROOKS: Okay, you answered.</p> <p>23 You have no idea.</p> <p>24 A. Okay.</p> <p>25 Q. Is there a reason why you haven't</p> |
| <p style="text-align: center;">258</p> <p>1 Cariou</p> <p>2 A. Correct, I guess, yeah.</p> <p>3 Q. And the trade sales up at the top</p> <p>4 are \$6,033.60, and direct sales, is that direct</p> <p>5 sales would be off of their website?</p> <p>6 A. I don't know what is direct sales.</p> <p>7 Q. So you don't know if those came off</p> <p>8 of the website sales for Powerhouse?</p> <p>9 A. I have no idea.</p> <p>10 MR. BROOKS: Holly, when you make a</p> <p>11 copy of this exhibit for everyone would</p> <p>12 you mind -- and we should have done</p> <p>13 this -- white out or black out his Social</p> <p>14 Security number?</p> <p>15 MS. BART: Oh, goodness, yes. Let's</p> <p>16 all do that right now.</p> <p>17 Mr. Cariou, may I please have that</p> <p>18 copy that you are holding?</p> <p>19 MR. BROOKS: When you make a copy</p> <p>20 of it make it of a document without the</p> <p>21 number.</p> <p>22 (Discussion off the record.)</p> <p>23 BY MS. BART:</p> <p>24 Q. So the total -- I'm just trying to</p> <p>25 understand how much you've received -- is the</p> | <p style="text-align: center;">260</p> <p>1 Cariou</p> <p>2 spoken with them for a while?</p> <p>3 A. I was finishing up my Gypsy book and</p> <p>4 it takes a lot of travel.</p> <p>5 Q. I can imagine.</p> <p>6 Has anyone ever contacted you</p> <p>7 through the PatrickCariou.com website about this</p> <p>8 lawsuit?</p> <p>9 A. Contacted me through -- I received a</p> <p>10 mail through my mailbox, but not through my</p> <p>11 website. I mean I don't even know if my website</p> <p>12 works as far as --</p> <p>13 Q. The link?</p> <p>14 A. Yeah. Actually there is a link</p> <p>15 between the e-mail address for the website which</p> <p>16 goes directly to the mailbox I use.</p> <p>17 So I've, yeah, actually been</p> <p>18 contacted.</p> <p>19 Q. And who has contacted you?</p> <p>20 A. It was an organization from</p> <p>21 somewhere in -- where was it -- Anguilla I</p> <p>22 think.</p> <p>23 Q. And what was the subject of the</p> <p>24 inquiry?</p> <p>25 A. It was a letter of protest against</p>                                     |



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">261</p> <p>1 Cariou</p> <p>2 the Canal Zone show that I read briefly.</p> <p>3 Q. And do you still have that e-mail?</p> <p>4 A. Yeah, probably, if I look through</p> <p>5 it. But yeah.</p> <p>6 RQ MS. BART: And we ask for the</p> <p>7 production.</p> <p>8 MR. BROOKS: It was produced by</p> <p>9 Mr. Prince.</p> <p>10 MS. BART: You've seen it?</p> <p>11 MR. BROOKS: It was produced in</p> <p>12 Mr. Prince's document production.</p> <p>13 MS. BART: I've seen that one,</p> <p>14 but –</p> <p>15 MR. BROOKS: That's the same one.</p> <p>16 THE WITNESS: Yeah, that's the one</p> <p>17 I'm talking about.</p> <p>18 MS. BART: How do you know if you've</p> <p>19 not seen it?</p> <p>20 BY MS. BART:</p> <p>21 Q. Have you seen the letter that</p> <p>22 Mr. Prince produced?</p> <p>23 A. Yeah.</p> <p>24 Q. And you're saying it's the same one?</p> <p>25 A. Yeah.</p>  | <p style="text-align: center;">263</p> <p>1 Cariou</p> <p>2 what happened.</p> <p>3 (Defendant's Exhibit 14, printout</p> <p>4 of Internet page, was marked for</p> <p>5 identification, as of this date.)</p> <p>6 Q. Defendant's Exhibit 14 has been</p> <p>7 handed to you by the court reporter.</p> <p>8 When you click the link on your</p> <p>9 web page this is the Internet page on</p> <p>10 www.Powerhouse.com to which it takes you.</p> <p>11 A. Great.</p> <p>12 Q. And if you look, there's an image of</p> <p>13 the Yes Rasta book there?</p> <p>14 A. Mm-hmm.</p> <p>15 Q. And right underneath it it says</p> <p>16 artist book slash portraiture slash monograph?</p> <p>17 A. Mm-hmm.</p> <p>18 Q. Would you agree with the</p> <p>19 characterization of this particular book?</p> <p>20 A. Absolutely.</p> <p>21 Q. And the monograph refers to the</p> <p>22 essay by Mr. Henzell, correct?</p> <p>23 A. No, the monograph refers to the fact</p> <p>24 that I'm the author of the book. It refers to</p> <p>25 the fact that I'm the only one who took pictures</p> |
| <p style="text-align: center;">262</p> <p>1 Cariou</p> <p>2 Q. And do you recall when you received</p> <p>3 the letter of protest?</p> <p>4 A. I think February, something like</p> <p>5 that.</p> <p>6 Q. Of 2009?</p> <p>7 A. Of 2009, yeah.</p> <p>8 Q. Now, on your website there is a link</p> <p>9 back to Powerhouse, www.PowerhouseBooks.com?</p> <p>10 A. Really?</p> <p>11 Q. Yes. Yes, there is.</p> <p>12 A. Wow.</p> <p>13 MR. BROOKS: Where is that?</p> <p>14 MS. BART: If you click on</p> <p>15 Yes Rasta.</p> <p>16 MR. BROOKS: Well, I don't see it on</p> <p>17 the exhibit.</p> <p>18 MS. BART: It's a link and then it</p> <p>19 takes you to Powerhouse Books.</p> <p>20 MR. BROOKS: Well, that's what</p> <p>21 you're saying. I don't see it on the</p> <p>22 exhibit, just like I didn't see the –</p> <p>23 MS. BART: And we told you that was</p> <p>24 a mistake and we're correcting it.</p> <p>25 I apologize for it. I don't know</p> | <p style="text-align: center;">264</p> <p>1 Cariou</p> <p>2 in that book. In photo books it's called</p> <p>3 monography when a photographer has his own book.</p> <p>4 Q. Now, if you look just below that,</p> <p>5 the ISBN number, it lists \$100?</p> <p>6 A. Mm-hmm, yes.</p> <p>7 Q. Now you see where we got the number,</p> <p>8 but you don't know when the price went from \$60</p> <p>9 to \$100?</p> <p>10 A. No idea.</p> <p>11 Q. From December to January 2010?</p> <p>12 A. No idea.</p> <p>13 MR. BROOKS: From December what?</p> <p>14 MS. BART: Let me get the document</p> <p>15 out.</p> <p>16 BY MS. BART:</p> <p>17 Q. I'm sorry, October 1st, 2009, which</p> <p>18 appears in Exhibit 13 on page C253, the book is</p> <p>19 listed with a list price of \$60?</p> <p>20 A. Yeah, on that, yeah.</p> <p>21 Q. But here it's listed for a hundred.</p> <p>22 Have you ever seen the description</p> <p>23 of your book before on Yes Rasta?</p> <p>24 And perhaps this will help you</p> <p>25 remember where you saw that prior description</p>                    |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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



Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">265</p> <p>1 Cariou<br/>2 that was on the other web page.<br/>3 A. Yeah, I just realized it.<br/>4 Q. Now?<br/>5 A. Yeah.<br/>6 Q. Okay. So that was one that was<br/>7 written by Powerhouse.<br/>8 And did you participate in the<br/>9 writing of this particular description?<br/>10 A. No.<br/>11 Q. Do you want to take a minute to read<br/>12 this -- I guess we can read it into the record<br/>13 since it's so short. It's described as:<br/>14 With a penchant for adventure it is<br/>15 no wonder photographer Patrick Cariou,<br/>16 whose first book <i>Surfers</i> drew tidal waves<br/>17 of praise, journeyed to Jamaica, a land<br/>18 which he calls, quote, pure madness and<br/>19 one of the most dangerous places on earth<br/>20 that is not at war. There he entered the<br/>21 secluded world of the Rastafarians, a<br/>22 world culture and religion closed to<br/>23 outsiders. Cariou slowly gained their<br/>24 trust and they began to let him take their<br/>25 picture. With bold black and white</p>  | <p style="text-align: center;">267</p> <p>1 Cariou<br/>2 language, it was just posted?<br/>3 A. I must have read it once quickly and<br/>4 liked it and said yeah, that's fine, and that<br/>5 was it, you know.<br/>6 Q. And so this was written in or about<br/>7 2002 when the book was first published?<br/>8 A. Yeah.<br/>9 Q. Now, if you look --<br/>10 MR. BROOKS: The book was published<br/>11 in 2000.<br/>12 MS. BART: What did I say?<br/>13 MR. BROOKS: 2002.<br/>14 MS. BART: I meant 2000.<br/>15 BY MS. BART:<br/>16 Q. If you will look back at Defendant's<br/>17 Exhibit 14 you will see in all caps that it says<br/>18 limited availability, please inquire, and then<br/>19 there's a phone number that's given.<br/>20 Do you see that there, right<br/>21 underneath the title?<br/>22 A. Yeah.<br/>23 Q. Do you know why people who want to<br/>24 purchase this book have to call as opposed to<br/>25 being able to just purchase it?</p>  |
| <p style="text-align: center;">266</p> <p>1 Cariou<br/>2 portraits and landscapes Cariou indelibly<br/>3 captured the strict separatist<br/>4 jungle-dwelling fruit-of-the-land<br/>5 lifestyle popularized by Reggae legends<br/>6 Bob Marley, Peter Tosh, and Burning Spear<br/>7 in never-before-seen images until now. In<br/>8 <i>Yes Rasta</i>, the phrase spoken by true<br/>9 Rastafari when greeting each other,<br/>10 Cariou's direct classical photographs<br/>11 reveal men whose style and attitude are as<br/>12 distinctive as their dreadlocks, men who<br/>13 have left the modern world of Babylon in<br/>14 pursuit of their own independence, men<br/>15 whose lives are intertwined with the<br/>16 tropical landscape and whose rituals,<br/>17 symbols, philosophies, religion, medicine,<br/>18 agriculture, family structure, and<br/>19 remarkable strength make the definitive<br/>20 statement of self-reliance.<br/>21 Do you think that that is an<br/>22 accurate description of your book?<br/>23 A. Yeah, it is.<br/>24 Q. This was not something though that<br/>25 you had an opportunity to comment on the</p> | <p style="text-align: center;">268</p> <p>1 Cariou<br/>2 A. In a bookstore?<br/>3 Q. Or clicking on the website?<br/>4 A. Because they probably have only a<br/>5 few boxes left, I would say. That would be --<br/>6 I think that's what it is.<br/>7 Q. It's not tied in any way then to the<br/>8 lawsuit?<br/>9 A. Oh, no.<br/>10 Q. Do you know if this page on the<br/>11 Powerhouse website has always described the<br/>12 number of available copies as limited<br/>13 availability?<br/>14 A. It must have been, yeah.<br/>15 Q. But you don't --<br/>16 A. I mean I don't know when they<br/>17 started to do that. But you're going to have to<br/>18 ask them about that because I have no idea<br/>19 about, you know -- I'm busy, I have things to<br/>20 do, I'm not with them all the time, you know.<br/>21 Q. And you don't know how many copies<br/>22 Powerhouse still has available for sale?<br/>23 A. No idea.<br/>24 MS. BART: Let's mark as the next<br/>25 exhibit this document, please.</p> |



**ESQUIRE**  
an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| <p style="text-align: center;">269</p> <p>1 Cariou</p> <p>2 (Defendant's Exhibit 15, exchanges</p> <p>3 and commentary of Perry Henzell draft, was</p> <p>4 marked for identification, as of this</p> <p>5 date.)</p> <p>6 Q. Mr. Cariou, the court reporter has</p> <p>7 handed you what's been marked as Defendant's</p> <p>8 Exhibit 15. This is a composite exhibit of</p> <p>9 documents that were in your document production</p> <p>10 showing various exchanges and commentary of the</p> <p>11 draft.</p> <p>12 And I think when I asked you earlier</p> <p>13 I asked whether or not you had participated in</p> <p>14 commenting in any way on the draft of the</p> <p>15 document, and you said no, and I wondered if</p> <p>16 this document changes your answer?</p> <p>17 A. No, it does not. I am aware of the</p> <p>18 document. I've been aware of the document like</p> <p>19 a couple days, but I had no idea like that Perry</p> <p>20 Henzell and Powerhouse were communicating on</p> <p>21 that matter.</p> <p>22 Q. For example, on C315 we see a bunch</p> <p>23 of handwriting, it looks to me on 7/12/2000?</p> <p>24 A. 315, yeah.</p> <p>25 Q. That's not your handwriting?</p> | <p style="text-align: center;">271</p> <p>1 Cariou</p> <p>2 have an opportunity to look through Defendant's</p> <p>3 Exhibit 15 and confirm that none of the</p> <p>4 handwritten notes are yours?</p> <p>5 A. No, none of them is not.</p> <p>6 MS. BART: Let's mark as the next</p> <p>7 exhibit Defendant's Exhibit 16.</p> <p>8 (Defendant's Exhibit 16, letter</p> <p>9 from Craig Cohen, was marked for</p> <p>10 identification, as of this date.)</p> <p>11 MS. BART: Does he have that in</p> <p>12 front of him?</p> <p>13 MR. BROOKS: He has it.</p> <p>14 BY MS. BART:</p> <p>15 Q. I've handed you what's been marked</p> <p>16 as Defendant's Exhibit 16 and ask you if you</p> <p>17 have ever seen this document before?</p> <p>18 A. No, I have not.</p> <p>19 Q. So this letter is not a letter from</p> <p>20 you?</p> <p>21 A. No.</p> <p>22 Q. This is a letter from someone at</p> <p>23 Powerhouse?</p> <p>24 A. It's a letter from Craig Cohen.</p> <p>25 Q. And how did you obtain this</p> |
| <p style="text-align: center;">270</p> <p>1 Cariou</p> <p>2 A. No, not at all.</p> <p>3 Q. So as you look through this document</p> <p>4 none of the edits to this, to the Henzell essay,</p> <p>5 came from you, is that correct?</p> <p>6 A. Yeah, correct.</p> <p>7 Q. But you were satisfied with the end</p> <p>8 product?</p> <p>9 A. Yeah, absolutely.</p> <p>10 Q. And, for example, on 326 the</p> <p>11 handwritten notes there are not yours?</p> <p>12 A. None of those is mine.</p> <p>13 MR. BROOKS: Here's 326.</p> <p>14 A. Yeah.</p> <p>15 Q. Will you just take a second while</p> <p>16 the court reporter marks the next exhibit and</p> <p>17 just make sure that none of those handwritten</p> <p>18 notations are yours?</p> <p>19 A. Okay.</p> <p>20 MR. HAYES: Can we just take a</p> <p>21 two-minute break?</p> <p>22 (Recess taken: 5:10 p.m.)</p> <p>23 (Proceedings resumed: 5:14 p.m.)</p> <p>24 BY MS. BART:</p> <p>25 Q. Mr. Cariou, during the break did you</p>   | <p style="text-align: center;">272</p> <p>1 Cariou</p> <p>2 document, it was produced by your counsel?</p> <p>3 A. By talking to Powerhouse I guess.</p> <p>4 Q. So this didn't come from your</p> <p>5 records?</p> <p>6 A. No.</p> <p>7 Q. This is something you obtained from</p> <p>8 Powerhouse?</p> <p>9 MR. BROOKS: I obtained.</p> <p>10 MS. BART: Well, you as the</p> <p>11 collective you.</p> <p>12 BY MS. BART:</p> <p>13 Q. On page C352 there's a list of names</p> <p>14 and addresses, some people have businesses</p> <p>15 associated with their names, do you know what</p> <p>16 this list is?</p> <p>17 A. No. No idea.</p> <p>18 Q. Do you know any of the people that</p> <p>19 are on this list?</p> <p>20 A. Sure. I know -- do I know them</p> <p>21 personally or do I know their name?</p> <p>22 Q. No, personally?</p> <p>23 We see Herve Morel on there?</p> <p>24 A. Yeah. I knew Irving Penn. He just</p> <p>25 died two months ago. It's actually a list of</p>                    |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |   |
|---|---|
| <p style="text-align: center;">273</p> <p>1 Cariou</p> <p>2 famous photographers, that's what it is.</p> <p>3 Q. And do you know why this list was</p> <p>4 compiled?</p> <p>5 A. No idea.</p> <p>6 Q. Do you know whether or not any</p> <p>7 information relating to Yes Rasta was sent to</p> <p>8 any of the individuals on this document?</p> <p>9 A. I really don't know. I don't think</p> <p>10 so. No, I really don't know.</p> <p>11 Q. Turning then to the next page of</p> <p>12 this document, which is how it was produced to</p> <p>13 us, there's something there that says it's C353</p> <p>14 and 354?</p> <p>15 A. Yeah.</p> <p>16 Q. And there is a piece about</p> <p>17 Yes Rasta, which is not the same as the one that</p> <p>18 was by Henry.</p> <p>19 Is this background material that was</p> <p>20 provided to Mr. Henzell?</p> <p>21 A. Could you please repeat the</p> <p>22 question? I didn't understand.</p> <p>23 Q. Do you know if this information was</p> <p>24 provided to Mr. Henzell or was this an early</p> <p>25 draft?</p> | <p style="text-align: center;">275</p> <p>1 Cariou</p> <p>2 culture?</p> <p>3 A. I'm just reading it as --</p> <p>4 MR. BROOKS: No, no. Just answer</p> <p>5 her question. Do you know?</p> <p>6 A. Can you ask me the question again,</p> <p>7 please?</p> <p>8 Q. Yes, of course.</p> <p>9 Did you know in November of 1999</p> <p>10 that Powerhouse Books was, quote, looking for a</p> <p>11 specialist's view of Jamaican reality and Rasta</p> <p>12 culture, closed quote?</p> <p>13 A. No.</p> <p>14 Q. Did Powerhouse Books give you the</p> <p>15 idea for Yes Rasta?</p> <p>16 A. No.</p> <p>17 Q. And so how is it that Yes Rasta is</p> <p>18 looking for a specialist's view in 1990?</p> <p>19 MR. BROOKS: Objection. He's never</p> <p>20 seen this document before.</p> <p>21 A. A specialist's view --</p> <p>22 MR. BROOKS: Hold on. He's never</p> <p>23 seen the document.</p> <p>24 MS. BART: Don't coach this witness,</p> <p>25 Mr. Brooks.</p>  |
| <p style="text-align: center;">274</p> <p>1 Cariou</p> <p>2 A. That's an early draft. That's</p> <p>3 Mr. Henzell writing.</p> <p>4 Q. I see. So all of this is his?</p> <p>5 A. Yeah.</p> <p>6 MR. BROOKS: Excuse me, what do you</p> <p>7 mean by all of it? The last two pages?</p> <p>8 MS. BART: Yes. I had already</p> <p>9 previously noted it as 353 and 354, but</p> <p>10 thank you for pointing that out.</p> <p>11 Let's mark this as the next exhibit,</p> <p>12 please.</p> <p>13 (Defendant's Exhibit 17, document</p> <p>14 dated November 9, 1999, was marked for</p> <p>15 identification, as of this date.)</p> <p>16 Q. I've handed you a document bearing</p> <p>17 Bates Number C342, and it's dated November 9,</p> <p>18 1999?</p> <p>19 A. Mm-hmm, yes.</p> <p>20 Q. Have you ever seen this document</p> <p>21 before?</p> <p>22 A. No.</p> <p>23 Q. Did you understand that in November</p> <p>24 of 1999 Powerhouse Books was looking for a</p> <p>25 specialist's view of Jamaican reality and Rasta</p>                                   | <p style="text-align: center;">276</p> <p>1 Cariou</p> <p>2 MR. BROOKS: He has never seen the</p> <p>3 document.</p> <p>4 MS. BART: I understand that. Just</p> <p>5 let me continue.</p> <p>6 BY MS. BART:</p> <p>7 Q. Did you understand at that point</p> <p>8 in time that Powerhouse Books was looking for</p> <p>9 exactly the same book that you ended up</p> <p>10 producing?</p> <p>11 A. No, that's not what it says.</p> <p>12 Q. Well, it says we're looking for a</p> <p>13 specialist's view of Jamaican reality and Rasta</p> <p>14 culture.</p> <p>15 A. Yeah, someone being able to write</p> <p>16 text. To write text. I might have not come up</p> <p>17 with Pery Henzell at that point.</p> <p>18 Q. I see. So this is a vitae of what</p> <p>19 you were looking for for the essay for the book?</p> <p>20 MR. BROOKS: Objection.</p> <p>21 A. Exactly.</p> <p>22 MR. BROOKS: He wasn't looking for</p> <p>23 it. He's never seen this document.</p> <p>24 Q. Did you ever give to Powerhouse</p> <p>25 Books any input about what the essay should look</p> |



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|   |  |
|---|--|
| <p style="text-align: center;">277</p> <p>1 Cariou</p> <p>2 like or what you thought the contents should</p> <p>3 contain?</p> <p>4 A. Yes, I thought Perry Henzell was the</p> <p>5 guy, the ultimate, and I was totally convinced</p> <p>6 that I would get him, and I did.</p> <p>7 MS. BART: Let's mark this as the</p> <p>8 next exhibit.</p> <p>9 (Defendant's Exhibit 18, document,</p> <p>10 was marked for identification, as of this</p> <p>11 date.)</p> <p>12 Q. The court reporter has handed you</p> <p>13 what's been marked as Defendant's Exhibit 18.</p> <p>14 Have you ever seen this document</p> <p>15 before?</p> <p>16 A. No.</p> <p>17 Q. This came from your production. You</p> <p>18 don't know what this is at all?</p> <p>19 A. No, not at all.</p> <p>20 Q. And you've not seen it before?</p> <p>21 A. No.</p> <p>22 MS. BART: At this time I'd like to</p> <p>23 supplement what was previously marked as I</p> <p>24 believe Defendant's Exhibit 11 to include</p> <p>25 the specific pages from the website for</p>                                 | <p style="text-align: center;">279</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. You can set that aside or give it to</p> <p>4 the court reporter.</p> <p>5 Mr. Cariou, in your description of</p> <p>6 your work you have talked about doing this for a</p> <p>7 long period of time. How long have you been a</p> <p>8 professional photographer?</p> <p>9 A. About 24 years.</p> <p>10 Q. And did you take any special</p> <p>11 schooling to become a professional photographer?</p> <p>12 A. No.</p> <p>13 Q. Do you have a college education?</p> <p>14 A. No.</p> <p>15 Q. Would you consider yourself to be</p> <p>16 a self-trained photographer?</p> <p>17 A. No, I actually started as an</p> <p>18 assistant. I was assisting some of the, you</p> <p>19 know, greatest photographers at that time.</p> <p>20 Q. And who were you assistant to?</p> <p>21 A. Peter Limberg, Paulo Roversi, you</p> <p>22 know, major fashion photographers.</p> <p>23 Q. And do you consider yourself</p> <p>24 primarily to be a fashion photographer?</p> <p>25 A. No.</p> |
| <p style="text-align: center;">278</p> <p>1 Cariou</p> <p>2 Yes Rasta, so I will hand this to the</p> <p>3 witness and ask counsel to just add this</p> <p>4 to the packet for Exhibit 11.</p> <p>5 (Discussion off the record.)</p> <p>6 MR. BROOKS: So what are we calling</p> <p>7 this? Are we calling this 11A?</p> <p>8 MS. BART: No, we're just adding it</p> <p>9 to 11. We just said on the record that I</p> <p>10 was going to ask everyone to supplement it</p> <p>11 by just adding it to it.</p> <p>12 Mr. Brooks, you asked earlier about</p> <p>13 the link, and it's order now when you</p> <p>14 click on Yes Rasta it takes you to the</p> <p>15 page with Powerhouse.</p> <p>16 MR. BROOKS: Okay.</p> <p>17 MS. BART: And that was right on the</p> <p>18 first page of Defendant's Exhibit 11.</p> <p>19 BY MS. BART:</p> <p>20 Q. Mr. Cariou, the only question I have</p> <p>21 about those -- I'd asked you this before -- but</p> <p>22 those are the photographs that appear on your</p> <p>23 web page?</p> <p>24 A. Yeah.</p> <p>25 Q. For Yes Rasta?</p> | <p style="text-align: center;">280</p> <p>1 Cariou</p> <p>2 Q. How would you describe your</p> <p>3 profession as a photographer?</p> <p>4 A. I'm a portraitist.</p> <p>5 Q. That is your specialty?</p> <p>6 A. That's what I do, yeah.</p> <p>7 Q. So whether it's for your own books</p> <p>8 or whether it's for fashion, that is your style</p> <p>9 of photography?</p> <p>10 A. Yes.</p> <p>11 Q. And you learned that trade through</p> <p>12 other specialists or experts in the area of</p> <p>13 portraiture?</p> <p>14 A. Well, you know, I developed my own</p> <p>15 style over the years. You know, they taught me</p> <p>16 a lot on photography but, you know, and then</p> <p>17 after that I had to develop my own thing.</p> <p>18 Q. Your website shows that you've done</p> <p>19 photographic work for a travel magazine, is that</p> <p>20 correct?</p> <p>21 A. Yes, it's correct.</p> <p>22 Q. And is it Conde Nast Travel that you</p> <p>23 did a spread for?</p> <p>24 A. Yeah.</p> <p>25 Q. And that was of Jamaica or it was</p>          |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |  |
|--|--|
| <p style="text-align: center;">281</p> <p>1 Cariou<br/>2 some tropical area?<br/>3 A. No, it was in Greece. Greece and<br/>4 Cuba. I did a lot of different trips for them.<br/>5 Q. But those are the only ones relating<br/>6 to travel or there are other travel trips that<br/>7 you've done for them?<br/>8 A. You mean for travel and leisure?<br/>9 Q. Yes.<br/>10 A. I did quite a bit of trips for them.<br/>11 I went to the Maldives, I went to Tunisia, I<br/>12 went to Cuba, I went to a few other places.<br/>13 Q. And those were freelance<br/>14 assignments?<br/>15 A. Yeah.<br/>16 Q. And the focus there though was not<br/>17 on portraiture, it was on the places that they<br/>18 were wanting to showcase in their magazine?<br/>19 A. Absolutely.<br/>20 Q. For what publications have you done<br/>21 photographic work?<br/>22 A. Well, I worked for -- I did work for<br/>23 French Vogue. I worked for Italian Vogue. I<br/>24 worked for Mademoiselle when it was still alive.<br/>25 I worked for The Fader. I worked for so many of</p> | <p style="text-align: center;">283</p> <p>1 Cariou<br/>2 A. Yeah, I have a Polynesian project<br/>3 I'm working on.<br/>4 Q. And when did you start working on<br/>5 the Polynesian project?<br/>6 A. Oh, a long time ago. It must have<br/>7 been -- the first time I went there was in the<br/>8 early '90s, like '89 or '90.<br/>9 Q. And has anyone agreed to publish<br/>10 your Polynesian works?<br/>11 A. It's not done yet.<br/>12 Q. So it's still in --<br/>13 A. It's still in the process of.<br/>14 Q. Other than the images or the prints<br/>15 of the Yes Rasta images have you sold any other<br/>16 prints of your images of any of the photography<br/>17 work you've done?<br/>18 A. Yes, I have.<br/>19 Q. Can you tell me what images you've<br/>20 sold?<br/>21 A. I couldn't tell you which images I<br/>22 sold, but there is -- where is the list of --<br/>23 I don't know -- that's something I can't provide<br/>24 to you now, but I've sold a few prints of<br/>25 different projects to Mr. Girard.</p> |
| <p style="text-align: center;">282</p> <p>1 Cariou<br/>2 them actually.<br/>3 I worked for Vibe Magazine. I<br/>4 worked for German Marie Claire and Spanish --<br/>5 yeah, I worked for Elle.<br/>6 MR. BROOKS: E-L-L-E.<br/>7 A. And so on and so forth. I worked<br/>8 for quite a bit of magazines.<br/>9 Q. Approximately how much of your<br/>10 annual revenues income is derived from freelance<br/>11 assignments for magazines?<br/>12 A. I stopped commercial photography a<br/>13 few years ago now. I'm just doing my personal<br/>14 photography.<br/>15 Q. I see. So these were all -- the<br/>16 French Vogue, the Italian Vogue, Mademoiselle,<br/>17 Fader, all of that was before what year?<br/>18 A. Before -- we're in 2010 -- I would<br/>19 say before 2004.<br/>20 Q. And so at this point in time you<br/>21 were your doing projects like Trench Town Love,<br/>22 I think you had the gypsies?<br/>23 A. Yeah, the Gypsies is the one.<br/>24 Q. Do you have any other projects<br/>25 you're working on?</p>                                | <p style="text-align: center;">284</p> <p>1 Cariou<br/>2 Q. Were you looking for a particular<br/>3 document like your web page?<br/>4 A. No, no -- well, I wanted to have the<br/>5 name, the exact name of the person, you know,<br/>6 who bought two Rasta prints.<br/>7 Q. It's right there.<br/>8 A. Yeah, he got four different other<br/>9 prints from me.<br/>10 Q. Mr. Girard did?<br/>11 A. Yeah.<br/>12 Q. And have you sold any other prints<br/>13 to Mr. Girard or anyone else?<br/>14 A. I might have sold a few Surfer<br/>15 prints. I have sold a few Surfer prints.<br/>16 Q. And were any of the Surfer prints,<br/>17 were those sold again to Mr. Girard?<br/>18 A. No, no, to different people.<br/>19 Q. To people that you know?<br/>20 A. Yeah.<br/>21 Q. Is your view with the Surfer prints<br/>22 the same as Yes Rasta, you only sell them if you<br/>23 like the person?<br/>24 A. Up until the moment I'm ready to be<br/>25 out in the world and say, you know, that's -- my</p>                        |



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

Patrick Cariou

January 12, 2010

|  |   |
|--|---|
| <p style="text-align: center;">285</p> <p>1 Cariou</p> <p>2 conception is -- and I have produced three books</p> <p>3 of portraits, the Gypsies is the fourth one, and</p> <p>4 that's the end of a circle when that particular</p> <p>5 body of work on portraiture is ready to be out</p> <p>6 in the world.</p> <p>7 Then I'll go to landscape or I'll</p> <p>8 go to, you know, still life or different type of</p> <p>9 photography.</p> <p>10 But for the past 20 years I've been</p> <p>11 doing serious portraiture, but I don't -- I'm</p> <p>12 not in a rush. I never really thought of, in</p> <p>13 essence, recognition. I like things to slowly,</p> <p>14 you know --</p> <p>15 Q. Germinate?</p> <p>16 A. -- mature.</p> <p>17 Q. Mature?</p> <p>18 A. Yeah.</p> <p>19 Q. And by that you mean your work or</p> <p>20 your style to mature?</p> <p>21 A. No, the pictures that are done</p> <p>22 already to mature. You don't look at that book</p> <p>23 now the same way you were looking at it when it</p> <p>24 comes out, when it came out, and you will not</p> <p>25 look at that book in 20 years the way you look</p> | <p style="text-align: center;">287</p> <p>1 Cariou</p> <p>2 someone else. We'll see.</p> <p>3 Q. Are you talking to other people</p> <p>4 about that?</p> <p>5 A. Yeah, yeah.</p> <p>6 Q. And are you in active negotiations</p> <p>7 for that publishing, the publishing of the Gypsy</p> <p>8 book?</p> <p>9 A. Sort of. I'm still working a little</p> <p>10 bit on the layout. There's still things that</p> <p>11 I'm not completely happy with, so -- I'm talking</p> <p>12 to people.</p> <p>13 Q. And what companies or individuals,</p> <p>14 publishers --</p> <p>15 MR. BROOKS: I don't think that's</p> <p>16 relevant.</p> <p>17 MS. BART: Well, I think it is</p> <p>18 relevant to show -- it is relevant because</p> <p>19 it shows that he still has a viable</p> <p>20 commercial career.</p> <p>21 So I'd like to know who he's</p> <p>22 speaking to. It's my last --</p> <p>23 MR. BROOKS: I'm not going to let</p> <p>24 him speak to people that he doesn't have</p> <p>25 contracts with yet. I'm not going to let</p>          |
| <p style="text-align: center;">286</p> <p>1 Cariou</p> <p>2 at it now.</p> <p>3 You know, things change around,</p> <p>4 aesthetics change, people change. And that's</p> <p>5 why I've never been in a rush to sell prints</p> <p>6 or -- whenever I could, you know.</p> <p>7 Q. And what changed for you in 2008</p> <p>8 that caused you to be open to the possibility of</p> <p>9 Ms. Celle representing you, like you were ready?</p> <p>10 A. The completion of Gypsies, the fact</p> <p>11 that I have spent eight years doing the Gypsy</p> <p>12 book. It's done. It's not published yet, but</p> <p>13 there is the mock-up and all the pictures are</p> <p>14 done.</p> <p>15 And those four books will be my</p> <p>16 four books of portraits, and then I'll go on</p> <p>17 something else. You know, and that was the</p> <p>18 time --</p> <p>19 Q. I see. It was the completion of the</p> <p>20 books?</p> <p>21 A. Yeah, that was the completion of</p> <p>22 those four books.</p> <p>23 Q. And is Powerhouse publishing the</p> <p>24 Gypsy book?</p> <p>25 A. Maybe. I'm not sure. It could be</p>                        | <p style="text-align: center;">288</p> <p>1 Cariou</p> <p>2 him do it. It's confidential.</p> <p>3 MR. HAYES: So you're directing him</p> <p>4 not to answer?</p> <p>5 MR. BROOKS: Yes.</p> <p>6 CQ MS. BART: Let's certify that</p> <p>7 question, please.</p> <p>8 BY MS. BART:</p> <p>9 Q. Mr. Cariou, we're really not trying</p> <p>10 to pry into your personal business, we're trying</p> <p>11 to understand your profession.</p> <p>12 Can you tell me if these publishers</p> <p>13 with whom you're actively engaged in dialogue</p> <p>14 are recognized publishing houses?</p> <p>15 A. Yes, they are.</p> <p>16 Q. And are they international in scope?</p> <p>17 A. Yes, they are.</p> <p>18 Q. Has your Surfer collection ever been</p> <p>19 displayed, exhibited in a gallery?</p> <p>20 A. It was displayed with the Rastas in</p> <p>21 Paris in Gallery 213, yeah.</p> <p>22 Q. So it was --</p> <p>23 A. Yeah, it was a dual thing.</p> <p>24 Q. Have you exhibited any images from</p> <p>25 the Surfer book in any other --</p> |



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

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

|  |   |
|--|---|
| <p style="text-align: center;">289</p> <p style="text-align: center;">Cariou</p> <p>1 A. No.</p> <p>2 Q. No museum?</p> <p>3 A. No.</p> <p>4 Q. What about Trench Town Love, have</p> <p>5 any of the images from that book --</p> <p>6 A. Trench Town Love has been exhibited</p> <p>7 in a museum last summer in Paris.</p> <p>8 Q. Which museum?</p> <p>9 A. It's called La Villette, and the</p> <p>10 exhibition was called Creole Factory.</p> <p>11 Q. Creole?</p> <p>12 A. Creole Factory.</p> <p>13 Q. And when was the Trench Town -- when</p> <p>14 were those exhibited in La Villette?</p> <p>15 A. Last summer.</p> <p>16 Q. And for how long?</p> <p>17 A. For two months.</p> <p>18 Q. Was that a one-person exhibition or</p> <p>19 were you --</p> <p>20 A. No.</p> <p>21 Q. Let me finish.</p> <p>22 A. Sorry.</p> <p>23 Q. Or were you part of a bigger</p> <p>24 collection?</p> <p>25</p>  | <p style="text-align: center;">290</p> <p style="text-align: center;">Cariou</p> <p>1 A. It was a group show. It was a huge</p> <p>2 group show.</p> <p>3 Q. Was there a particular genre of work</p> <p>4 that was being exhibited as part of that show?</p> <p>5 A. Yeah. It was all based on the fact</p> <p>6 of being Creole. That was the theme of the</p> <p>7 exhibition. So you had photographs from 80 or</p> <p>8 sculpture from -- it was all about the islands</p> <p>9 basically.</p> <p>10 Q. The islands?</p> <p>11 And the Yes Rasta was not part of</p> <p>12 that?</p> <p>13 A. No.</p> <p>14 Q. And the focus on the Creole that is</p> <p>15 it was focusing on that sort of ethnicity, that</p> <p>16 sort of genre?</p> <p>17 A. Yeah.</p> <p>18 Q. That sort of culture, if you will?</p> <p>19 A. Exactly.</p> <p>20 Q. Have you ever been interviewed for</p> <p>21 your Trench Town Love works?</p> <p>22 A. No, I don't think so.</p> <p>23 Q. Surfer, were you interviewed as part</p> <p>24 of Surfer?</p> <p>25</p>                    |
| <p style="text-align: center;">291</p> <p style="text-align: center;">Cariou</p> <p>1 A. I might have. Yeah, for Surfer I</p> <p>2 might have.</p> <p>3 Q. And do you know what publications</p> <p>4 you were interviewed in?</p> <p>5 A. I don't remember. That was quite a</p> <p>6 bit ago, you know.</p> <p>7 Q. Have you had the Surfer images</p> <p>8 appraised or valued by anyone?</p> <p>9 A. No.</p> <p>10 Q. Same question for Trench Town Love?</p> <p>11 A. No.</p> <p>12 MS. BART: I have just a few more</p> <p>13 questions, but if you don't mind I'd like</p> <p>14 to just step outside with Mr. Hayes for</p> <p>15 one second and then I think we can wrap</p> <p>16 this up.</p> <p>17 THE WITNESS: Sure.</p> <p>18 (Recess taken: 5:41 p.m.)</p> <p>19 (Proceedings resumed: 5:46 p.m.)</p> <p>20 BY MS. BART:</p> <p>21 Q. I only have a couple more questions</p> <p>22 and we can call it a day, Mr. Cariou, save for</p> <p>23 the certified questions.</p> <p>24 Have you spoken with any of the</p> <p>25</p> | <p style="text-align: center;">292</p> <p style="text-align: center;">Cariou</p> <p>1 Rastafarians whose images appear in the</p> <p>2 Yes Rasta photos about the Canal Zone</p> <p>3 exhibition?</p> <p>4 A. No, I have not.</p> <p>5 Q. And have you spoken to them about</p> <p>6 this lawsuit?</p> <p>7 A. No, I have not.</p> <p>8 Q. If you are successful on your claims</p> <p>9 do you intend to share any portion of your</p> <p>10 recovery with the Rastafarians whose images</p> <p>11 appear in the Yes Rasta book?</p> <p>12 MR. BROOKS: He's not answering that</p> <p>13 question. I direct him not to answer.</p> <p>14 CQ MS. BART: Let's certify that</p> <p>15 question as well.</p> <p>16 I'd also like to have a proffer now</p> <p>17 as to why you won't let him answer that</p> <p>18 question?</p> <p>19 MR. BROOKS: It's irrelevant.</p> <p>20 MS. BART: I think it's highly</p> <p>21 relevant.</p> <p>22 MR. BROOKS: You think it is and I</p> <p>23 think it's not, that's why.</p> <p>24 MS. BART: I'm finished with my</p> <p>25</p> |



A-1577



Christiane Celle

January 26, 2010

|   |   |
|---|---|
| <p style="text-align: center;">1</p> <p>UNITED STATES DISTRICT COURT<br/>SOUTHERN DISTRICT OF NEW YORK</p> <p>-----x<br/>PATRICK CARIOU, Plaintiff, Index No.:<br/>vs. 08 CIV 11327 (DAB)<br/>RICHARD PRINCE, GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN, and RIZZOLI INTERNATIONAL PUBLICATIONS, INC., Defendants.<br/>-----x</p> <p style="text-align: center;">DEPOSITION OF CHRISTIANE CELLE<br/>New York, New York<br/>Tuesday, January 26, 2010</p> <p>Reported by:<br/>Bryan Nilsen, RPR<br/>JOB NO. 307077</p> | <p style="text-align: center;">3</p> <p>1<br/>2 APPEARANCES:<br/>3<br/>4 SCHNADER HARRISON SEGAL &amp; LEWIS LLP<br/>5 Attorneys for Plaintiff<br/>6 140 Broadway, Suite 3100<br/>7 New York, New York 10005-1101<br/>8 BY: DANIEL J. BROOKS, ESQ.<br/>9 BY: ERIC A. BODEN, ESQ.<br/>10 PHONE: (212)973-8000<br/>11 EMAIL: dbrooks@schnader.com<br/>12<br/>13 WITHERS BERGMAN LLP<br/>14 Attorneys for Defendants Gagorian Gallery, Inc.,<br/>15 and Lawrence Gagorian<br/>16 430 Park Avenue, 10th Floor<br/>17 New York, New York 10022-3505<br/>18 BY: DARA HAMMERMAN, ESQ.<br/>19 PHONE: (212)848-9800<br/>20 EMAIL: dara.hammerman@withers.us.com<br/>21<br/>22<br/>23<br/>24<br/>25</p> |
| <p style="text-align: center;">2</p> <p>1<br/>2<br/>3<br/>4<br/>5<br/>6 January 26, 2010<br/>7 10:00 a.m.<br/>8<br/>9<br/>10 Deposition of CHRISTIANE CELLE, held<br/>11 at the offices of Schnader Harrison Segal<br/>12 &amp; Lewis, LLP, 140 Broadway, New York,<br/>13 New York, pursuant to Subpoena, before<br/>14 Bryan Nilsen, RPR, a Notary Public of<br/>15 the State of New York.<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>  | <p style="text-align: center;">4</p> <p>1<br/>2 APPEARANCES (Cont'd.)<br/>3<br/>4 HANLY CONROY BIERSTEIN SHERIDAN FISHER &amp; HAYES LLP<br/>5 Attorneys for Defendant Richard Prince<br/>6 112 Madison Avenue<br/>7 New York, New York 10016-7416<br/>8 BY: STEVEN M. HAYES, ESQ.<br/>9 PHONE: (212)784-6400<br/>10 EMAIL: shayes@hanlyconroy.com<br/>11<br/>12<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>   |

|  |   |
|--|---|
| <p style="text-align: center;">5</p> <p>1</p> <p>2</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED,</p> <p>5 by and among the attorneys for the</p> <p>6 respective parties herein, that filing and</p> <p>7 sealing be and the same are hereby waived.</p> <p>8</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that all objections, except as to the form</p> <p>11 of the question, shall be reserved to the</p> <p>12 time of the trial.</p> <p>13</p> <p>14 IT IS FURTHER STIPULATED AND AGREED</p> <p>15 that the within deposition may be sworn to</p> <p>16 and signed before any officer authorized</p> <p>17 to administer an oath, with the same force</p> <p>18 and effect as if signed and sworn to</p> <p>19 before the Court.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p style="text-align: center;">7</p> <p>1 Celle</p> <p>2 to prepare for today's deposition?</p> <p>3 A. I only met Mr. Brooks yesterday.</p> <p>4 Q. And did you meet with Mr. Brooks</p> <p>5 alone or was anyone else there?</p> <p>6 A. Just alone.</p> <p>7 Q. And did you talk to Mr. Brooks about</p> <p>8 the deposition?</p> <p>9 A. We talk about, yes, what, you know,</p> <p>10 the deposition will look like and, you know,</p> <p>11 detail of question you will ask me, and if I</p> <p>12 don't understand to ask again and, you know,</p> <p>13 like that.</p> <p>14 Q. How long was the meeting?</p> <p>15 A. About one hour, yesterday.</p> <p>16 Q. And just so I'm clear, was anyone</p> <p>17 else present?</p> <p>18 A. No.</p> <p>19 Q. And did you look at any documents?</p> <p>20 A. I only look at my -- like my e-mail</p> <p>21 document.</p> <p>22 Q. E-mail. You looked at an e-mail or</p> <p>23 multiple e-mails?</p> <p>24 A. There was a few pages.</p> <p>25 Q. I see.</p>    |
| <p style="text-align: center;">6</p> <p>1 Celle</p> <p>2 CHRISTIANE CELLE, called as a</p> <p>3 witness, having been duly sworn by a</p> <p>4 Notary Public, was examined and testified</p> <p>5 as follows:</p> <p>6 THE COURT REPORTER: Please state</p> <p>7 your name and address for the record.</p> <p>8 THE WITNESS: Christiane Celle,</p> <p>9 129 Lafayette Street, New York, New York</p> <p>10 10013.</p> <p>11 EXAMINATION BY</p> <p>12 MR. HAYES:</p> <p>13 Q. Ms. Celle, my name is Steve Hayes.</p> <p>14 I represent Richard Prince in this case. I'm</p> <p>15 going to be asking you some questions today.</p> <p>16 And Dara Hammerman, representing the</p> <p>17 Gagorian defendants, may also ask you questions.</p> <p>18 If I ask you a question at any time</p> <p>19 you don't understand, please tell me and I'll</p> <p>20 rephrase it, okay?</p> <p>21 A. Okay.</p> <p>22 Q. If you don't hear it, please tell me</p> <p>23 and I'll rephrase it as well.</p> <p>24 A. Thank you.</p> <p>25 Q. First, what did you do, if anything,</p> | <p style="text-align: center;">8</p> <p>1 Celle</p> <p>2 A. Like three pages.</p> <p>3 Q. Okay. And can you tell me as best</p> <p>4 you can recall what you said to Mr. Brooks and</p> <p>5 what he said to you during that meeting?</p> <p>6 MR. BROOKS: Objection. I'm</p> <p>7 representing her.</p> <p>8 MR. HAYES: Oh, you're asserting a</p> <p>9 privilege. I didn't know that.</p> <p>10 MR. BROOKS: That's okay.</p> <p>11 BY MR. HAYES:</p> <p>12 Q. I'd like to ask you, if you could,</p> <p>13 could you tell me briefly your educational</p> <p>14 background?</p> <p>15 Did you attend college after --</p> <p>16 did you attend school after high school?</p> <p>17 A. No, I graduate and I start traveling</p> <p>18 the world. That's what I did.</p> <p>19 Q. And you currently own an art</p> <p>20 gallery, correct?</p> <p>21 A. Yes.</p> <p>22 Q. How long have you had the art</p> <p>23 gallery?</p> <p>24 A. I opened the gallery last -- in</p> <p>25 2008, in April. April 2008.</p> |

Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 9   | 11  |
| 1 Celle   | 1 Celle   |
| 2 Q. And I'd like to get a brief                    | 2 New York.   |
| 3 description -- not to take too much time -- of    | 3 Q. New York, you said in the State of             |
| 4 your work history after you graduated school and  | 4 what?   |
| 5 before you started the gallery.                   | 5 A. Albany is where I registered my                |
| 6 A. Right. So I graduated school in                | 6 company. Albany, New York.                        |
| 7 late '78 I believe, yeah. I travel. I grew up     | 7 Q. Oh, it was registered in the                   |
| 8 in the South of France, so I travel -- I lived    | 8 State of New York, but you registered in Albany?  |
| 9 in Paris. I lived in Washington D.C. I lived      | 9 A. Yes.   |
| 10 in New York.                                     | 10 Q. Going back for a moment to 1989, I            |
| 11 I always work in retail basically.               | 11 think you said you developed a retail concept    |
| 12 And I moved to New York definitely in 1984. I    | 12 for a store or a company in Paris?               |
| 13 was a fashion stylist from '84 to '89, so I work | 13 A. Yes.  |
| 14 with a lot of photographer in fashion.           | 14 Q. What was that?                                |
| 15 And then in '89 I moved back to                  | 15 A. The company was called Charles                |
| 16 Paris, developed a retail concept for a company  | 16 Chevignon. They were a really big company in     |
| 17 in France.                                       | 17 France doing men's clothing, women's and         |
| 18 And in 1992 I moved to St. Barths to             | 18 children. And I developed for them the whole     |
| 19 open my first retail store called Calypso. And   | 19 concept, and it was called Chevignon Trading     |
| 20 when I met my husband in '93 and having my first | 20 Post.  |
| 21 child in '94 I moved back definitely in New York | 21 Q. And Chevignon Trading Post, was that          |
| 22 in '95 where I developed my retail company that  | 22 a line of clothing?                              |
| 23 I sold in 2007.                                  | 23 A. It was -- no, it was based on the             |
| 24 Q. Okay. The company Calypso, what               | 24 home, interior design, furniture. I developed    |
| 25 business was that in?                            | 25 a license with a company called Fremaux Delorme, |
| 10  | 12  |
| 1 Celle   | 1 Celle   |
| 2 A. It was a fashion company.                      | 2 F-R-E-M-A-U-X, D-E-L-O-R-M-E.                     |
| 3 Women fashion and children.                       | 3 Q. And then I think you said you                  |
| 4 Q. And did you develop your own fashion           | 4 started up in the fashion business in New York    |
| 5 lines?  | 5 in 1996, is that correct?                         |
| 6 A. Yes, I did.                                    | 6 A. I started being a fashion stylist --           |
| 7 Q. Was that a retail store or was it a            | 7 I move in New York in '84, worked two years for   |
| 8 manufacturing business or both?                   | 8 a jewelry company called Reminiscence, and in     |
| 9 A. It was both actually.                          | 9 '86 I started to be a fashion stylist until '89.  |
| 10 Q. Were you the designer of the line?            | 10 Q. Until '89 when you went to Paris?             |
| 11 A. I had a designer. I was just not a            | 11 A. When I moved back to France, yeah.            |
| 12 designer.  | 12 Q. And then you went from France to              |
| 13 Q. And you told me I think that that             | 13 St. Barths?                                      |
| 14 business was started in St. Barths?              | 14 A. Yes, correct.                                 |
| 15 A. Yes.  | 15 Q. And St. Barths to the United States?          |
| 16 Q. And that was in 1992?                         | 16 A. Correct.                                      |
| 17 A. 1992.   | 17 Q. And you came back to the                      |
| 18 Q. And did you have a location -- so             | 18 United States in ninety --                       |
| 19 you had your entire operation was in St. Barths, | 19 A. '95 back and forth, but full-time in          |
| 20 that is to say the design and the store?         | 20 '96.   |
| 21 A. No. The first store was opened in             | 21 Q. And sometime in '96 or after you              |
| 22 St. Barths in '92. And when I moved to New York  | 22 started in the fashion business in New York or   |
| 23 I reopen a New York company I believe in '96 in  | 23 restarted?                                       |
| 24 the State of Albany. And that's where I started  | 24 A. Sorry. Immediately I signed a lease           |
| 25 my business. So everything was located in        | 25 I think in '96 in New York. I opened a shop in   |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 13   | 15   |
| <p>1 Celle</p> <p>2 the Hamptons, so.</p> <p>3 Q. Is that also called Calypso?</p> <p>4 A. It was called Calypso, yeah.</p> <p>5 Q. Did that sell the same type of</p> <p>6 clothing you sold in St. Barths?</p> <p>7 A. Same type of things, yeah.</p> <p>8 Q. And did you design that clothing or</p> <p>9 was it designed by somebody else?</p> <p>10 A. At the time, I was not designing.</p> <p>11 I started design in '97 I believe.</p> <p>12 Q. And did you design the clothes or</p> <p>13 did you have someone else design them?</p> <p>14 A. At the beginning I did design them</p> <p>15 with a young assistant.</p> <p>16 Q. Did you subsequently hire a</p> <p>17 designer, a lead designer?</p> <p>18 A. Sorry?</p> <p>19 Q. Did you subsequently hire a designer</p> <p>20 to design clothes for you?</p> <p>21 A. Yes, I did.</p> <p>22 Q. Who was that?</p> <p>23 A. At the time it was Joelle Klein.</p> <p>24 Q. Is Mr. Klein here in New York, do</p> <p>25 you know?</p>         | <p>1 Celle</p> <p>2 A. Just related to art, and more than</p> <p>3 art, especially photography, mainly photography.</p> <p>4 Q. Was there a particular reason why</p> <p>5 you decided to start that business with an</p> <p>6 emphasis on photography?</p> <p>7 A. My passion was always photography.</p> <p>8 I collect photography books. So I've been for</p> <p>9 many years amassing a lot of books.</p> <p>10 And because I left Calypso I had a</p> <p>11 clause of noncompetition for a few years, so I</p> <p>12 knew I would not do fashion. And my second, you</p> <p>13 know, love was photography, and I'm married to a</p> <p>14 photographer too, so.</p> <p>15 Q. You're married to a photographer,</p> <p>16 what's his name?</p> <p>17 A. Antoine Verglas.</p> <p>18 Q. Could you spell it?</p> <p>19 A. A-N-T-O-I-N-E, V-E-R-G-L-A-S.</p> <p>20 Q. And is he a commercial photographer</p> <p>21 or fine art photographer or both?</p> <p>22 A. Commercial.</p> <p>23 Q. So prior to the opening of the</p> <p>24 photography and art bookstore in October of '08</p> <p>25 you had no involvement in the art business</p> |
| 14   | 16   |
| <p>1 Celle</p> <p>2 A. It's a lady. Joelle, she's still in</p> <p>3 New York.</p> <p>4 Q. And then you had the business until</p> <p>5 2007?</p> <p>6 A. In 2007 I sold 51 percent of the</p> <p>7 company. And I sold back the rest in -- sorry,</p> <p>8 I have to remember -- in June 2009.</p> <p>9 Q. There came a time when you went into</p> <p>10 art business --</p> <p>11 MR. BROOKS: 2009 or 2008?</p> <p>12 A. No, officially June 2009.</p> <p>13 The rest of the stake of the</p> <p>14 company.</p> <p>15 Q. And there came a time when you</p> <p>16 started involvement in the art business in</p> <p>17 New York?</p> <p>18 A. Okay. The first -- I resigned from</p> <p>19 Calypso in April 2008. And I opened the first</p> <p>20 really business connected to the art business in</p> <p>21 October 2008, and it was an art bookstore.</p> <p>22 Q. Where was that located?</p> <p>23 A. 189 Lafayette Street.</p> <p>24 Q. And it sold books just relating to</p> <p>25 art?</p> | <p>1 Celle</p> <p>2 before, correct?</p> <p>3 A. What happened is immediately when I</p> <p>4 left Calypso in April 2008, you know, I started</p> <p>5 getting really active. I signed a lease for a</p> <p>6 space I believe in May, and I already started</p> <p>7 contacting different artists.</p> <p>8 The bookstore was my first step, but</p> <p>9 my main thing was the gallery.</p> <p>10 I also signed a lease for a gallery</p> <p>11 at 255 Centre in the same time period. I think</p> <p>12 I signed a lease for 255 Centre where the</p> <p>13 gallery will be probably May or June, I can't</p> <p>14 recall exactly.</p> <p>15 Q. May or June of 2008?</p> <p>16 A. Yes.</p> <p>17 Q. And did you subsequently open a</p> <p>18 gallery at 255 Centre?</p> <p>19 A. I did.</p> <p>20 Q. Do you still have the bookstore at</p> <p>21 189 Lafayette?</p> <p>22 A. Yes, I do.</p> <p>23 Q. So you have two locations at the</p> <p>24 present time?</p> <p>25 A. Actually I have another, a third one</p>   |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 17   | 19  |
| <p>1 Celle</p> <p>2 at 424 Broome Street.</p> <p>3 Q. The location at 189 Lafayette, is</p> <p>4 that still a bookstore?</p> <p>5 A. Yes, bookstore with photography book</p> <p>6 only.</p> <p>7 Q. Do you exhibit artists there at all?</p> <p>8 A. No.</p> <p>9 Q. The space at 255 Centre, that is a</p> <p>10 gallery space?</p> <p>11 A. Gallery space, yeah.</p> <p>12 Q. And what type of work do you exhibit</p> <p>13 there?</p> <p>14 A. At the 424 space I do a lot of</p> <p>15 event, book signing. Right now I have actually</p> <p>16 a show that's drawing-painting, it's mixed</p> <p>17 media, when 424 is photography only.</p> <p>18 Q. 424 Broome is photography only?</p> <p>19 A. Only, yes.</p> <p>20 Q. The space at 255 Centre, is there a</p> <p>21 drawing-painting show there now?</p> <p>22 A. Right now, yeah, mixed media.</p> <p>23 Q. And who are the artists?</p> <p>24 A. Jody, J-O-D-Y, Morlock,</p> <p>25 M-O-R-L-O-C-K.</p>  | <p>1 Celle</p> <p>2 A. My husband is partner.</p> <p>3 Q. In all three?</p> <p>4 A. Yes.</p> <p>5 Q. And it's basically 50/50?</p> <p>6 A. Exactly, yeah.</p> <p>7 Q. Day to day who runs the art</p> <p>8 galleries, you or you and your husband?</p> <p>9 A. Only me.</p> <p>10 Q. And the 424 Broome space, that show</p> <p>11 is only photography?</p> <p>12 A. It's only photography, yes, correct.</p> <p>13 Q. And you've had that space open for</p> <p>14 how long?</p> <p>15 A. That one I open in April 2009.</p> <p>16 Q. And do you presently have a show</p> <p>17 there?</p> <p>18 A. Yes.</p> <p>19 Q. Who is showing?</p> <p>20 A. Right now I have it's called</p> <p>21 Bande-A-Part, B-A-N-D-E-A-P-A-R-T.</p> <p>22 Q. And can you give me an English</p> <p>23 translation of that?</p> <p>24 A. Yes. I mean actually it's a French</p> <p>25 word that really doesn't translate too much.</p>  |
| 18   | 20  |
| <p>1 Celle</p> <p>2 Q. And what type of work does</p> <p>3 Ms. Morlock do?</p> <p>4 A. Ms. Morlock does, first of all,</p> <p>5 photography, and then she does a little painting</p> <p>6 or tattoos on top of them. Then she does a lot</p> <p>7 of oil paintings. She does sculpture and she</p> <p>8 does drawings.</p> <p>9 Q. So the photo-based work is a photo</p> <p>10 upon which she in turn paints or makes some</p> <p>11 other marks of some kind?</p> <p>12 A. It looks like, yeah, like tattoos on</p> <p>13 paintings.</p> <p>14 Q. And do you know the process, does</p> <p>15 she use oil paint or what does she do to affix</p> <p>16 those tattoos to the photographs?</p> <p>17 A. On those photos in particular, there</p> <p>18 are only two in the show, I'm not sure what she</p> <p>19 used.</p> <p>20 Q. And do you know the source of the</p> <p>21 photographs?</p> <p>22 A. No, I don't.</p> <p>23 Q. These three spaces, so-called</p> <p>24 gallery spaces, if that's okay, do you own them</p> <p>25 entirely yourself or do you have partners?</p> | <p>1 Celle</p> <p>2 It's all the bands from the '60s, '70s, and</p> <p>3 '80s. It's underground music.</p> <p>4 And the show actually the title</p> <p>5 Bande-A-Part came because there is a book to,</p> <p>6 you know, to assist the show. Because what I'm</p> <p>7 trying to do is have, you know, book signing and</p> <p>8 shows together.</p> <p>9 Q. And the photographers who are</p> <p>10 showing in this show, they're one photographer</p> <p>11 or more than one?</p> <p>12 A. There are nine photographers.</p> <p>13 Q. Nine photographers?</p> <p>14 A. Yes.</p> <p>15 MR. BROOKS: You're talking about</p> <p>16 the current show?</p> <p>17 MR. HAYES: The current show, yes.</p> <p>18 BY MR. HAYES:</p> <p>19 Q. And the subject matter of the</p> <p>20 current show is a single band photographed or</p> <p>21 multiple bands photographed?</p> <p>22 A. Multiple bands, New York</p> <p>23 underground.</p> <p>24 Q. From the '60s --</p> <p>25 A. 60s, 70s, 80s, yes.</p> |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| <p>21</p> <p>1 Celle</p> <p>2 Q. The space at 424 Broome, you've told</p> <p>3 us that it's only a photography space, does it</p> <p>4 specialize in any particular type of photography</p> <p>5 or has it been giving shows of different types</p> <p>6 of photography?</p> <p>7 A. So far I have been doing different</p> <p>8 type of photography. It's true that when the</p> <p>9 gallery started I had something really in mind</p> <p>10 which was more travel-oriented photography. But</p> <p>11 things evolved.</p> <p>12 Q. Evolved into being more general?</p> <p>13 A. I think evolved because sometimes a</p> <p>14 show you want doesn't happen or, you know, you</p> <p>15 have to kind of tweak it around, and you have</p> <p>16 once a great opportunity that not necessarily</p> <p>17 are what you were expecting but such a great</p> <p>18 opportunity that you have to do the show.</p> <p>19 Q. At the present time do you have both</p> <p>20 male and female photographers?</p> <p>21 A. That's interesting. Yes, I do.</p> <p>22 Q. And do you have any other point of</p> <p>23 emphasis for the gallery, if travel is not the</p> <p>24 point of emphasis at the moment, do you have any</p> <p>25 other point of emphasis in terms of what the</p> | <p>23</p> <p>1 Celle</p> <p>2 hearing this correctly, the name of the show is</p> <p>3 Samburu?</p> <p>4 A. The Samburu, yeah.</p> <p>5 Q. What does that mean?</p> <p>6 A. It's the warrior in North Kenya.</p> <p>7 When you go to Kenya -- I've been a few years</p> <p>8 ago, in the north there is a tribe that are not</p> <p>9 the Masai, and they're called Samburu. So</p> <p>10 they're warriors. So it's a show about the</p> <p>11 civilization.</p> <p>12 Q. So it's about the warriors in</p> <p>13 North Kenya?</p> <p>14 A. Yes.</p> <p>15 Q. And that show lasted for how long?</p> <p>16 A. That show I believe six weeks.</p> <p>17 I don't really remember, but I guess six weeks.</p> <p>18 Q. I'm just looking for approximations.</p> <p>19 A. Yeah.</p> <p>20 Q. And if you can recall, what shows</p> <p>21 did you have after that?</p> <p>22 A. After that I had the surf show.</p> <p>23 Q. And the surf show is surfing-related</p> <p>24 photography?</p> <p>25 A. Yes. It was a group show actually.</p> |
| <p>22</p> <p>1 Celle</p> <p>2 gallery shows or doesn't show?</p> <p>3 A. So far, besides the rock-and-roll</p> <p>4 show that I have right now, most of the</p> <p>5 photographers exhibit in connection with the</p> <p>6 traveling.</p> <p>7 Q. So you opened the space in April</p> <p>8 of '09, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And since that time to the present</p> <p>11 how many shows have you had?</p> <p>12 A. April -- sorry, I don't remember by</p> <p>13 heart.</p> <p>14 Q. Take your time.</p> <p>15 A. In the 424 or in the whole --</p> <p>16 Q. Well, let's start with 424.</p> <p>17 A. Okay. So my first one was the</p> <p>18 Samburu. Samburu is photography from North</p> <p>19 Kenya, so that was the first one, S-A-M-B-U-R-U.</p> <p>20 And you want the name of the</p> <p>21 photographer too?</p> <p>22 Q. Please.</p> <p>23 A. Lyle Owerko, L-Y-L-E, O-W-E-R-K-O.</p> <p>24 That was my first show.</p> <p>25 Q. By the way, pardon me for not</p>  | <p>24</p> <p>1 Celle</p> <p>2 Q. And who was in the group show, if</p> <p>3 you recall?</p> <p>4 A. In the group show I had Tony,</p> <p>5 T-O-N-Y, Caramanico, C-A-R-A-M-A-N-I-C-O.</p> <p>6 I had Jean-Philippe Piter,</p> <p>7 P-I-T-E-R.</p> <p>8 Q. Jean-Philippe Piter?</p> <p>9 A. Yes.</p> <p>10 Q. Okay?</p> <p>11 A. I had Jean-Philippe Piter, Tony</p> <p>12 Caramanico. I had Antoine Verglas, my husband,</p> <p>13 because he does kind of underwater photography.</p> <p>14 A-N-T-O-I-N-E, V-E-R-G-L-A-S.</p> <p>15 Then I had a gentleman called</p> <p>16 Burton, B-U-R-T-O-N, Machen, M-A-C-H-E-N. He</p> <p>17 does sky and beach and everything.</p> <p>18 I'm missing somebody -- oh, yes,</p> <p>19 I have one more from Hawaii, Wayne Lewin,</p> <p>20 W-A-Y-N-E, and Lewin is L-E-W-I-N.</p> <p>21 I'm sure I forgot a few of them.</p> <p>22 Q. And how long did the surf show last</p> <p>23 approximately?</p> <p>24 A. I think it last a long time, all</p> <p>25 summer, like mid May, June, July.</p>    |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 25   | 27  |
| 1 Celle  | 1 Celle   |
| 2 Q. That would take us then into the              | 2 And those collages were in turn                 |
| 3 summer of '09?                                   | 3 photographed and exhibited?                     |
| 4 A. Yes.  | 4 A. Yes, definitely.                             |
| 5 Q. And since the summer of '09 to the            | 5 Q. And then in addition to the -- I             |
| 6 present before the current show have you had any | 6 apologize for the mispronunciation -- Fournier? |
| 7 other shows?                                     | 7 A. Vincent Fournier.                            |
| 8 A. Can you repeat the question?                  | 8 Q. Vincent Fournier.                            |
| 9 Q. Sure. Between the ending of the               | 9 Were there any other shows before               |
| 10 surf show and your current show at 424 Broome   | 10 the present show?                              |
| 11 have you had any other shows?                   | 11 A. Yes, there was.                             |
| 12 A. Yes, I did.                                  | 12 At that location only you mean?                |
| 13 Q. What shows were there?                       | 13 Q. At the moment just that location,           |
| 14 A. I had Vincent Fournier,                      | 14 yes.   |
| 15 V-I-N-C-E-N-T, F-O-U-R-N-I-E-R.                 | 15 A. Yes.  |
| 16 Q. And that was a solo show?                    | 16 Q. Just to kind of keep it organized.          |
| 17 A. It's a solo show. And it's about             | 17 A. Bande-A-Part, the one right now, it         |
| 18 all places around the world where astronaut     | 18 was Bande-A-Part. And I'm trying not to forget |
| 19 trains.   | 19 anybody, which I might.                        |
| 20 Q. So photographs that were American            | 20 With all the location, you know,               |
| 21 astronauts trained, Russian astronauts trained? | 21 because I have a location in the Hamptons and  |
| 22 A. Actually, yeah, Russia astronaut,            | 22 St. Barths, so it's -- they might have another |
| 23 French, yeah, all around the world, China.      | 23 one. I might remember, if you don't mind,      |
| 24 Q. Black and white or color?                    | 24 later. I might forget somebody.                |
| 25 A. Color.                                       | 25 Q. So as of the moment would it be             |
| 26   | 28  |
| 1 Celle  | 1 Celle   |
| 2 Q. The surf show, was that surfers from          | 2 fair to say that that gallery is a general      |
| 3 around the world?                                | 3 photography gallery?                            |
| 4 A. There was a collage, a surfer                 | 4 A. Yes.   |
| 5 from Montauk, photograph from Hawaii, from       | 5 Q. Then I will turn now to the 255              |
| 6 St. Barths, and from California, but always like | 6 Centre Street space. That is also a gallery?    |
| 7 surf and beach related. We call it Sea, Surf     | 7 A. It's a gallery.                              |
| 8 and Sun. That was the title actually.            | 8 Q. And that opened in '08?                      |
| 9 Q. Sea, Surf and Sun?                            | 9 A. It opened in '09.                            |
| 10 A. Yes.   | 10 Q. Sorry.                                      |
| 11 Q. And when you say collage, you mean           | 11 And when in '09 did it open?                   |
| 12 different photographs of different places?      | 12 A. It opened June '09.                         |
| 13 A. Yeah. One of the artists had                 | 13 Q. And since June '09 can you just tell        |
| 14 traveled for 20 years, and during his travel he | 14 me how many exhibitions have you had there?    |
| 15 had made some journal, like this journal --     | 15 A. Well, a lot. We had a lot of                |
| 16 MR. BROOKS: Journal.                            | 16 different things. The first one was painting,  |
| 17 A. -- journals, yeah, a collage of              | 17 photography. You need the name of the painter? |
| 18 different photographs and writing. And the show | 18 Q. Please.                                     |
| 19 was actually a photograph of the surf journals. | 19 A. Jeannie, J-E-A-N-N-I-E, Weissglass,         |
| 20 Q. So his journals were collage                 | 20 W-E-I-S-S, and glass, G-L-A-S-S. That was my   |
| 21 journals?                                       | 21 really first show there.                       |
| 22 A. Yes.   | 22 Then there was -- so many things.              |
| 23 Q. Consisting of writing and pictures?          | 23 There was a lot of actually book signing and   |
| 24 A. A lot of everything.                         | 24 shows. We had Christoff Hoenenberg book        |
| 25 Q. A lot of everything.                         | 25 signing. I have to spell it for you maybe,     |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| <p>29</p> <p>1 Celle</p> <p>2 Christoff Hoenenberg, H-O-E-N-E-N-B-E-R-G.</p> <p>3 He had a book signing and a show</p> <p>4 about when Andy Warhol died, because he made</p> <p>5 that beautiful book about the funerals of</p> <p>6 Andy Warhol. So we did a show and book signing.</p> <p>7 We had Patrick Demarchelier book</p> <p>8 signing and mini show. When I say mini show</p> <p>9 it's because we do so many events, you know,</p> <p>10 that we don't leave that show for four weeks.</p> <p>11 We had a Vanity Fair party for</p> <p>12 Risko, illustrator. It's R-I-S-K-O.</p> <p>13 We had Ron Gallela show and book</p> <p>14 signing. Ron Gallela, G-A-L-L-E-L-A.</p> <p>15 My God, I'm forgetting some.</p> <p>16 We had a Vogue -- Grace Coddington,</p> <p>17 C-O-D-D-I-N-G-T-O-N, book signing, about her cat</p> <p>18 book. She did a book about cats. She loves</p> <p>19 cats.</p> <p>20 We did also the Christo,</p> <p>21 C-H-R-I-S-T-O, and Wilkinson book signing called</p> <p>22 Walking Thunder.</p> <p>23 Q. Is this the Christo?</p> <p>24 A. Yes. It's actually, the son, Cyril</p> <p>25 Christo.</p> | <p>31</p> <p>1 Celle</p> <p>2 any kind of a specialization or a concentration</p> <p>3 of the kind of artists it handles or the subject</p> <p>4 matter, or is it a general gallery?</p> <p>5 A. No, it's general. But, for example,</p> <p>6 right now I have a different thing happening,</p> <p>7 but I have a big show coming for Gian Paolo</p> <p>8 Barbieri about Madagascar, Tahiti, and the</p> <p>9 Seychelles. So it's a black and white show.</p> <p>10 He's a gentleman who is in his late -- closer to</p> <p>11 70 I will say, and who has been doing traveling</p> <p>12 photography for years. So that's one of the</p> <p>13 next shows happening.</p> <p>14 I have something different called a</p> <p>15 Asylum, A-S-Y-L-I-U-M. It's a book signing and</p> <p>16 a show by a gentleman called Chris Payne.</p> <p>17 Q. And what is that about?</p> <p>18 A. That's about -- he's a gentleman who</p> <p>19 works about 6 years doing a repertoire of all</p> <p>20 the mental institution in America. So it's</p> <p>21 photography of old buildings that are completely</p> <p>22 abandoned. So it's very interesting.</p> <p>23 And MIT publish a book, so we had a</p> <p>24 book signing I think in October or November and</p> <p>25 the show is going to happen in April or May.</p> |
| <p>30</p> <p>1 Celle</p> <p>2 Q. Okay.</p> <p>3 A. Same thing, I'm forgetting a few,</p> <p>4 but --</p> <p>5 Q. Okay. So the painter that you first</p> <p>6 talked about, that was Jeannie Weissglass?</p> <p>7 A. Yes, correct.</p> <p>8 Q. And she's a painter?</p> <p>9 A. She's a painter.</p> <p>10 Q. What kind of work does she do, oil?</p> <p>11 A. Yeah, she does oil and she does</p> <p>12 drawing. And we did a catalog for her that I</p> <p>13 still have.</p> <p>14 Q. Does she do collage work?</p> <p>15 A. No collage.</p> <p>16 Q. Is it correct that all the others</p> <p>17 were book signings or shows or mini shows</p> <p>18 relating to photographers?</p> <p>19 A. Yes.</p> <p>20 Q. And have you had shows -- I know the</p> <p>21 original space you use as a bookstore. Have you</p> <p>22 had shows at that space?</p> <p>23 A. At the 189, no, it's too small.</p> <p>24 Q. Too small, okay.</p> <p>25 Does the space at 255 Centre have</p>   | <p>32</p> <p>1 Celle</p> <p>2 Q. Do you know Patrick Cariou, who is</p> <p>3 the plaintiff in this lawsuit?</p> <p>4 A. Yes, I do.</p> <p>5 Q. And how did you first come to know</p> <p>6 Patrick Cariou?</p> <p>7 A. I heard about Patrick Cariou years</p> <p>8 ago when the surfer book came out. He had a</p> <p>9 book called Surfer. And a friend of mine at the</p> <p>10 time was his assistant on part of the trip in</p> <p>11 Hawaii. He was a photographer assistant.</p> <p>12 And I heard about the project, and</p> <p>13 when the book came out I bought the book.</p> <p>14 Q. And the name of assistant who's your</p> <p>15 friend is?</p> <p>16 A. Yes, Thierry, T-H-I-E-R-R-Y,</p> <p>17 Des Fontaines, D-E-S, F-O-N-T-A-I-N-E-S.</p> <p>18 Q. Do you know where Mr. Des Fontaines</p> <p>19 resides now?</p> <p>20 A. Yes. Where he is now?</p> <p>21 Q. Yes.</p> <p>22 A. Oh, yes, definitely. He's in</p> <p>23 Brazil.</p> <p>24 Q. Do you know where in Brazil?</p> <p>25 A. He's a photographer -- oh, yes.</p>  |



Christiane Celle

January 26, 2010

|  |  |
|--|--|
| <p style="text-align: center;">33</p> <p>1 Celle</p> <p>2 I keep contact.</p> <p>3 Q. Where?</p> <p>4 A. Rio.</p> <p>5 Q. Okay. And so you had heard about</p> <p>6 Mr. Cariou?</p> <p>7 A. Yes.</p> <p>8 Q. And what happened next in terms of</p> <p>9 your having any contact with him?</p> <p>10 A. I mean I heard when the book was --</p> <p>11 I bought the book. When I open the bookstore,</p> <p>12 you know, I had in mind to carry a lot of books,</p> <p>13 new books and out-of-print books. I bought</p> <p>14 right away Surfer actually. I find a copy</p> <p>15 somewhere online that was signed actually.</p> <p>16 And, you know, I find out about all</p> <p>17 the other books that he did. So I find out</p> <p>18 about Yes Rasta.</p> <p>19 I was trying to get a book called</p> <p>20 Trench Town Love, but I don't think I could find</p> <p>21 that one. Or sometime the price was really</p> <p>22 high. That's how I really, you know, get to</p> <p>23 know more his work. But I never met him.</p> <p>24 Q. So you found out about him you said</p> <p>25 about his work, is that by going online?</p>  | <p style="text-align: center;">35</p> <p>1 Celle</p> <p>2 Q. Did you sell them?</p> <p>3 A. Yes.</p> <p>4 Q. All of them?</p> <p>5 A. Frequently, yes, I sold them. And</p> <p>6 actually what's interesting is Powerhouse didn't</p> <p>7 have any more, so I went online and I bought a</p> <p>8 few online also.</p> <p>9 Q. Do you know how many copies of</p> <p>10 Yes Rasta you sold out of your store?</p> <p>11 A. Probably in all combined, in all my</p> <p>12 store, I won't tell you exactly, no. But I know</p> <p>13 it's selling, you know, basically in different</p> <p>14 store.</p> <p>15 Q. Is it more than a dozen, less than a</p> <p>16 dozen?</p> <p>17 A. More than a dozen.</p> <p>18 Q. More than a hundred?</p> <p>19 A. Less than a hundred.</p> <p>20 Q. And have you sold copies of the</p> <p>21 Surfer book or any other books by him in the</p> <p>22 bookstore?</p> <p>23 A. Only a few because they are hard to</p> <p>24 find and they are very expensive.</p> <p>25 Q. You had to buy them online?</p>  |
| <p style="text-align: center;">34</p> <p>1 Celle</p> <p>2 A. When I wanted to open the bookstore</p> <p>3 I started researching a lot of photographer</p> <p>4 books, you know, editor. And I mean I had</p> <p>5 Surfer at home, I didn't have the Yes Rasta.</p> <p>6 But when I start looking at, you</p> <p>7 know, what kind of book he did, I came up upon</p> <p>8 Rasta. And as I see Trench Town on the website,</p> <p>9 he had a black website with there was a lot of</p> <p>10 documentation about all the work he did.</p> <p>11 Q. So you went to Mr. Cariou's website?</p> <p>12 A. Yes.</p> <p>13 Q. And is that where you found out</p> <p>14 about Yes Rasta?</p> <p>15 A. Yes. It's even where I found out</p> <p>16 his address or e-mail address I think, because I</p> <p>17 wanted to contact him.</p> <p>18 Q. And when you first opened the</p> <p>19 bookshop you carried one or more copies of the</p> <p>20 Surfer book?</p> <p>21 A. Yes. I had two copies and then I</p> <p>22 contacted Powerhouse, the company who made the</p> <p>23 book, to get some Yes Rasta, and I got a few.</p> <p>24 Q. And you offered them for sale?</p> <p>25 A. Yes.</p> | <p style="text-align: center;">36</p> <p>1 Celle</p> <p>2 A. Online because they're already from</p> <p>3 170 to 300 dollars, so I can't really mark up on</p> <p>4 those books.</p> <p>5 Q. By the way, do you have any records</p> <p>6 as to how many copies of Yes Rasta you sold?</p> <p>7 A. We have that because we keep</p> <p>8 bookkeeping of all the sales.</p> <p>9 Q. So if I was to leave a space in the</p> <p>10 deposition could you just insert the number for</p> <p>11 me?</p> <p>12 A. Yes, of course.</p> <p>13 Q. Thank you. I appreciate that.</p> <p>14 TO BE FURNISHED: _____</p> <p>15 _____</p> <p>16 Q. By the way, you've been selling</p> <p>17 the books by Mr. Cariou out of the space on</p> <p>18 Lafayette Street, also out of any other space?</p> <p>19 A. Lafayette, St. Barths, because I</p> <p>20 have a space in St. Barths, and also East</p> <p>21 Hampton. That's the three space basically.</p> <p>22 Q. So you actually have three</p> <p>23 galleries -- you have the gallery in New York?</p> <p>24 A. Yes.</p> <p>25 Q. You have a gallery in St. Barths?</p> |

Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 37  | 39  |
| 1 Celle   | 1 Celle   |
| 2 A. Yes.   | 2 work.   |
| 3 Q. And a gallery in East Hampton?                 | 3 And I was in the Hamptons, I                      |
| 4 A. Yeah, the gallery is small in                  | 4 remember, you know, I was preparing my gallery.   |
| 5 East Hampton, very small.                         | 5 And I had in mind to open the gallery. I had      |
| 6 Q. And the one in East Hampton, what              | 6 signed a lease, but I knew I could not open a     |
| 7 kind of work does that show?                      | 7 gallery in three months. It was a long project.   |
| 8 A. It's mainly a bookstore because it's           | 8 So I was planning for spring 2009.                |
| 9 very tiny. And work, last year we had mainly      | 9 And I looked at his e-mail contact                |
| 10 surfing-oriented work.                           | 10 or his website and I sent him an e-mail, you     |
| 11 Q. What's the address in East Hampton?           | 11 know, asking if he would be interested to do a   |
| 12 A. It's 23 Newtown Lane.                         | 12 show with me.                                    |
| 13 Q. And how long have you had that                | 13 Q. And did he respond to that?                   |
| 14 store?   | 14 A. He did respond to that, yeah. Yeah.           |
| 15 A. I open it -- I don't know the dates           | 15 Q. And subsequent to that e-mail, you            |
| 16 exactly. Last year 2009 was my first season, so  | 16 e-mailed him and he e-mailed back, did you have  |
| 17 I probably opened April.                         | 17 further contacts with Mr. Cariou about a show or |
| 18 Q. And the store in St. Barths, the              | 18 in general?                                      |
| 19 gallery in St. Barths, what does that show?      | 19 A. Later on, yes. Once he answer me              |
| 20 A. That one opened in November 2008.             | 20 that, yes, we have to talk, or I can't remember  |
| 21 And my first show was Andy Warhol, show of Andy  | 21 what he answer me, but, you know, he wanted to   |
| 22 Warhol Polaroid, and also surfer show, same      | 22 engage the conversation.                         |
| 23 artist Tony Caramanico, the collage.             | 23 Then I remember him coming to                    |
| 24 Q. And the Andy Warhol you were selling          | 24 New York after that. We had drink or lunch at    |
| 25 the Polaroids?                                   | 25 Cafe Select. He came -- I can't recall if it's   |
| 38  | 40  |
| 1 Celle   | 1 Celle   |
| 2 A. Yes.   | 2 September or October, but he came in New York.    |
| 3 Q. And did you obtain them from the               | 3 Q. September or October of 2008?                  |
| 4 Andy Warhol Foundation or from where?             | 4 A. 2008. He came to see me, and we                |
| 5 A. Yes, it was done with a gentleman              | 5 went to Cafe Select. It's a little cafe close     |
| 6 called Tim Hunt from the foundation, and Fergus   | 6 to Broome Street. We had lunch.                   |
| 7 McCaffrey -- I might have to spell that for you,  | 7 And, you know, I explained to him                 |
| 8 F-E-R-G-U-S, McCaffrey, C-A-F-F-R-E-Y.            | 8 that I was interested to do a show and I had two  |
| 9 And this was a partnership with                   | 9 things in mind. I had the Rasta for New York      |
| 10 that person. And we got everything from the      | 10 City for probably spring. And I was also         |
| 11 foundation. And the person in charge was         | 11 interested in his Surfer photographs for         |
| 12 Tim Hunt. He's the director.                     | 12 St. Barths or East Hampton. I was not really     |
| 13 Q. Going back to the chronology of your          | 13 sure.  |
| 14 contact with Mr. Cariou.                         | 14 Q. And what did Mr. Cariou say to you            |
| 15 A. Yeah.   | 15 at lunch about that idea or those ideas?         |
| 16 Q. So what I understand is that first            | 16 A. He was very interested. He told me            |
| 17 you were aware of his Surfer book and you bought | 17 that he had a show before at Marion de Beaupre   |
| 18 one copy?  | 18 in France -- Marion de Beaupre, it's             |
| 19 A. Yes.  | 19 B-E-A-U-P-R-E -- and he'd be interested.         |
| 20 Q. And then you subsequently bought              | 20 I asked him where the prints are of              |
| 21 perhaps another copy for your bookstore?         | 21 his photographs, because I always ask that first |
| 22 A. I had one copy for years that                 | 22 question to know if people are organized.        |
| 23 belonged to me personally. And when I was        | 23 He told me everything was in                     |
| 24 looking for photographer books and what to do    | 24 New York because he had lived in New York for    |
| 25 I came upon his work and I discovered the Rasta  | 25 the past 12 years and he had his own printer in  |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 41  | 43   |
| <p>1 Celle</p> <p>2 New York and the prints were in New York.</p> <p>3 So I told him that I was seriously</p> <p>4 interested. We had a conversation. He was</p> <p>5 there actually a few days. We talk about</p> <p>6 photography. He told me that he had been</p> <p>7 collecting books about photography for years.</p> <p>8 We talked about his favorite</p> <p>9 photographer, that it was Mary Ellen Mark, a</p> <p>10 wonderful woman. And he was here for a short</p> <p>11 time, but he said, well, if you go to Paris call</p> <p>12 me, you know.</p> <p>13 So later on I went to Paris</p> <p>14 actually, not for him, for personal reason. And</p> <p>15 we also had another -- I call him again, I say</p> <p>16 I'm very interested, I'd love to do the show.</p> <p>17 So we also had coffee in the morning</p> <p>18 at Cafe del Esplanade.</p> <p>19 Q. This is in Paris?</p> <p>20 A. Yes. That's where I live in Paris.</p> <p>21 Q. Do you recall when that was?</p> <p>22 A. I knew it was for sure after</p> <p>23 September-October. I don't -- I mean if you</p> <p>24 need to know I can look maybe in my agenda.</p> <p>25 But it was shortly after his visit,</p>         | <p>1 Celle</p> <p>2 Rasta in the portrait of people.</p> <p>3 And then I remember there was some</p> <p>4 landscape, but there was a lot of marijuana</p> <p>5 everywhere, so I remember I have two teenagers</p> <p>6 so I was like maybe I have to be easy on that.</p> <p>7 But, you know, I really like the</p> <p>8 project and, you know, I show him a few things</p> <p>9 that I like in the book. But nothing was like</p> <p>10 settled and we didn't choose the photo that day,</p> <p>11 you know.</p> <p>12 Q. And you also looked at the Surfer</p> <p>13 book at the same time?</p> <p>14 A. We did.</p> <p>15 Q. And did you talk about putting</p> <p>16 certain of the Surfer prints in the show?</p> <p>17 A. Yes, the Surfer actually I ask him</p> <p>18 and he told me that will be easy because he had</p> <p>19 some copies also in New York. I was trying to</p> <p>20 see when can I get them but, you know, he was --</p> <p>21 what I remember also is at the time -- I think</p> <p>22 the reason also he was in New York, he was</p> <p>23 preoccupied because he had done a project about</p> <p>24 gypsy work and he was trying to find somebody to</p> <p>25 help him to edit the gypsy work to turn it into</p> |
| 42  | 44   |
| <p>1 Celle</p> <p>2 I had to do a trip in France, so I took</p> <p>3 advantage to meet him. And we talk again, and I</p> <p>4 was trying to pressure him to have an agreement</p> <p>5 and say yes, because I was really planning for a</p> <p>6 show in April probably, my opening of the</p> <p>7 gallery, because with construction I knew it</p> <p>8 would take at least six months.</p> <p>9 So I would have loved to have maybe</p> <p>10 a commitment or something.</p> <p>11 Q. So go back for a moment to the lunch</p> <p>12 meeting, was there a discussion there about any</p> <p>13 financial terms?</p> <p>14 A. Oh, yes. Yes.</p> <p>15 Q. What was that discussion?</p> <p>16 A. The discussion was I was telling him</p> <p>17 usually the photographer give me all the prints,</p> <p>18 I don't pay for the prints, that's their</p> <p>19 responsibility, but I do all the framing, and</p> <p>20 then we split 50 percent each.</p> <p>21 Q. Did you discuss what photographs</p> <p>22 would be in the show?</p> <p>23 A. We had a copy of the book. I had a</p> <p>24 copy of both books actually. We went through</p> <p>25 some of them. I was very interested in for the</p> | <p>1 Celle</p> <p>2 a book.</p> <p>3 Q. Prior to the time you had your</p> <p>4 first contact with Mr. Cariou had you seen the</p> <p>5 Yes Rasta book?</p> <p>6 A. I've seen the Rasta book, yes.</p> <p>7 Q. Before then?</p> <p>8 A. Before that, yeah.</p> <p>9 Q. So is there anything else at the</p> <p>10 lunch conversation that you haven't told us</p> <p>11 about that you and Mr. Cariou discussed?</p> <p>12 A. No. Basically I was, you know, the</p> <p>13 gallery trying to, you know, pursue the artist</p> <p>14 to do a show. And he was interested. He wanted</p> <p>15 to do a show. So it was a matter of, you know,</p> <p>16 when I will be ready, when he will be ready.</p> <p>17 And, you know, he was interested.</p> <p>18 Q. Did you discuss with him doing a</p> <p>19 solo show or a group show, or how did that --</p> <p>20 A. It was a solo show. And we were</p> <p>21 planning April or May if the gallery will be</p> <p>22 ready.</p> <p>23 Q. Of 2009?</p> <p>24 A. 2009.</p> <p>25 Q. And did you discuss how long the</p>   |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 45   | 47   |
| <p>1 Celle</p> <p>2 show would last?</p> <p>3 A. I don't remember if we discussed</p> <p>4 that. But usually it's a month or six weeks</p> <p>5 that I know.</p> <p>6 Q. And the proposal to make it a solo</p> <p>7 show, was that your proposal or his?</p> <p>8 A. It was my proposal.</p> <p>9 Q. And why did you propose that?</p> <p>10 A. Because I thought the material was</p> <p>11 very strong in the book. I thought about also</p> <p>12 the timing, you know, like this is a subject</p> <p>13 that you think about people going out, and it's</p> <p>14 not a winter show, it's like surfing. It's a</p> <p>15 summer show.</p> <p>16 And I usually do solo show most of</p> <p>17 the time. And because, as I said, I really</p> <p>18 loved the material in the book, I thought, you</p> <p>19 know, it was worthy. And also because of the</p> <p>20 subject, I knew I had a lot of people in the</p> <p>21 entertainment business that will be very</p> <p>22 attracted to that.</p> <p>23 Q. And the Surfer photographs you</p> <p>24 talked about doing, were they portrait-type</p> <p>25 photographs as well?</p> | <p>1 Celle</p> <p>2 A. He was supposed to come before</p> <p>3 Christmas because I was telling him that the</p> <p>4 time was running, and after Christmas I felt</p> <p>5 like, wow, Christmas, you know, everybody --</p> <p>6 nobody don't do anything.</p> <p>7 So I wanted to pressure him to try</p> <p>8 to come before the end of the year so to give me</p> <p>9 really the material and we could pick together</p> <p>10 the show.</p> <p>11 Because I didn't know if he had</p> <p>12 everything printed, we might have to print extra</p> <p>13 thing, and then you need the framing. So, you</p> <p>14 know, it's time consuming.</p> <p>15 You know, I wanted him to commit.</p> <p>16 And he told me that he will probably come back</p> <p>17 in November.</p> <p>18 Q. Come back in November of '08?</p> <p>19 A. Of 2008. November-December he will</p> <p>20 come back.</p> <p>21 Q. And did he come back in November</p> <p>22 of 2008?</p> <p>23 A. No.</p> <p>24 Q. When did he next come back or when</p> <p>25 did you next have contact with him?</p> |
| 46   | 48   |
| <p>1 Celle</p> <p>2 A. Yes, portrait of surfers. I mean</p> <p>3 beautiful image of like some of them -- one is</p> <p>4 Joel Trudeau, as a young surfer, who is now like</p> <p>5 in his 30s, but he had photographed him in</p> <p>6 probably 2000. So it was a very, you know, it</p> <p>7 was a long, long project.</p> <p>8 Q. So the idea was to do a show of</p> <p>9 portraits by Patrick Cariou?</p> <p>10 A. It was -- the Surfer I couldn't do</p> <p>11 portraits only because he had a lot of beautiful</p> <p>12 photos of the surfer in the wave, so it was</p> <p>13 mixed.</p> <p>14 Q. And then back to, if I could, the</p> <p>15 meeting in Paris -- which I understand was the</p> <p>16 next meeting after the lunch meeting in</p> <p>17 New York?</p> <p>18 A. Yes.</p> <p>19 Q. What was discussed there?</p> <p>20 A. What was discussed there was that he</p> <p>21 will try to come before the end of the year in</p> <p>22 New York to get all the prints together.</p> <p>23 Q. Before the end of 2008?</p> <p>24 A. Yes.</p> <p>25 Q. Okay, go ahead.</p>   | <p>1 Celle</p> <p>2 A. I saw Patrick actually recently</p> <p>3 I think because he came to do his deposition</p> <p>4 he told me.</p> <p>5 Q. From the time that you had this</p> <p>6 meeting in Paris -- which was sometime in the</p> <p>7 fall of 2008, correct?</p> <p>8 A. Yes.</p> <p>9 Q. When did you next speak to him?</p> <p>10 A. When I next saw him after that --</p> <p>11 I'm trying to -- I think I saw him once.</p> <p>12 Yeah, I think he came in New York --</p> <p>13 yeah, he came in New York because of this</p> <p>14 situation we are here today.</p> <p>15 Q. Because of the lawsuit?</p> <p>16 A. Yes.</p> <p>17 In the summer maybe. I can't</p> <p>18 remember.</p> <p>19 Q. Summer of '09, 2009?</p> <p>20 A. I can't remember. He came in 2009.</p> <p>21 I know he came to the gallery because he saw my</p> <p>22 show, but I can't remember what time exactly it</p> <p>23 was. I think it was in the spring. I think the</p> <p>24 gallery was open.</p> <p>25 Q. The gallery was open in the spring</p>                                 |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| <p style="text-align: center;">49</p> <p>1                   Celle</p> <p>2 of 2009?</p> <p>3       A. Yeah.</p> <p>4       Q. He came to your show?</p> <p>5       A. I think when he came the gallery</p> <p>6 was already running and open.</p> <p>7           And ironically, I think the show</p> <p>8 that was on, I cannot remember now because, you</p> <p>9 know, I say to him, oh, it could have been you,</p> <p>10 like as a joke, and it was actually a work</p> <p>11 called the Samburu, which is very similar in a</p> <p>12 way but, you know, it's made in Kenya. So I</p> <p>13 opened my first show with that work.</p> <p>14           So I think he probably came</p> <p>15 April-May because that show was on I remember.</p> <p>16       Q. And he was at your gallery for how</p> <p>17 long a period of time, do you recall?</p> <p>18       A. I think he just came to visit and</p> <p>19 to look at what I've done. And, you know, he</p> <p>20 thought the gallery looks great, and he told me</p> <p>21 right now he was in a certain situation and,</p> <p>22 you know.</p> <p>23       Q. Certain situation meaning this</p> <p>24 litigation?</p> <p>25       A. Yeah.</p>   | <p style="text-align: center;">51</p> <p>1                   Celle</p> <p>2       Q. His personal collection of</p> <p>3 photography books?</p> <p>4       A. Yeah, some -- I mean his books, I</p> <p>5 don't know if it's his whole collection, but</p> <p>6 it's part of his collection.</p> <p>7       Q. So the idea is you would sell part</p> <p>8 of his collection for him?</p> <p>9       A. Yes.</p> <p>10       Q. Was there a discussion about</p> <p>11 financial terms of the sale of the collection?</p> <p>12       A. Of the collection?</p> <p>13       Q. Yes.</p> <p>14       A. I wanted to go through the books,</p> <p>15 and honestly this came out of the blue, and I</p> <p>16 didn't have much time. So right now I'm like</p> <p>17 going through them to see what's interesting,</p> <p>18 because we have a few hundred books, and it's</p> <p>19 time consuming work.</p> <p>20       Q. I understand.</p> <p>21           Can you tell me again, what was the</p> <p>22 date of that meeting when he brought the books?</p> <p>23       A. I remember it was before his</p> <p>24 deposition, because he told me I'm here for my</p> <p>25 deposition. But not a long time ago. Like</p> |
| <p style="text-align: center;">50</p> <p>1                   Celle</p> <p>2       Q. And how long a discussion did you</p> <p>3 have with him at that time, if you recall, a few</p> <p>4 minutes, longer, less?</p> <p>5       A. You know, not long because it's not</p> <p>6 like he called me and he say I'm coming to see</p> <p>7 you, let's sit down. He was just there. One</p> <p>8 day he called me and he said I'm in New York,</p> <p>9 and he stopped by. So it was not an organized</p> <p>10 meeting, you know.</p> <p>11       Q. Have you seen him since then?</p> <p>12       A. I saw him actually recently. And he</p> <p>13 told me he was doing his deposition.</p> <p>14       Q. Where did you see him?</p> <p>15       A. He came to visit me at the office.</p> <p>16       Q. And how long was that visit?</p> <p>17       A. How long was that visit? He came to</p> <p>18 bring me some books that, you know, he asked me</p> <p>19 if I would be interested to sell for him. And I</p> <p>20 say yes. So he stayed the whole day. He showed</p> <p>21 me all his books. And I have the books, now I</p> <p>22 have to go through them.</p> <p>23       Q. What books are they?</p> <p>24       A. They are very old vintage collection</p> <p>25 of like very, very old books.</p> | <p style="text-align: center;">52</p> <p>1                   Celle</p> <p>2 probably a week ago or -- yeah, probably a week</p> <p>3 ago or two weeks ago, you know.</p> <p>4       Q. Between the time that you had time</p> <p>5 with him in Paris -- was that lunch or coffee,</p> <p>6 I'm sorry?</p> <p>7       A. Yes.</p> <p>8       Q. Lunch?</p> <p>9       A. Coffee.</p> <p>10       Q. Between the time you had coffee with</p> <p>11 him in Paris and the time he came to see your</p> <p>12 show in the spring of '09 --</p> <p>13       A. Yeah.</p> <p>14       Q. -- did you speak to Mr. Cariou at</p> <p>15 all?</p> <p>16       A. When did I speak to him? No, I</p> <p>17 think we e-mail. We e-mail because, you know --</p> <p>18 but I don't think, you know -- I left messages</p> <p>19 for him but he not always return his, you know.</p> <p>20           I left -- I know I left one or two</p> <p>21 messages occasionally, but he never really, you</p> <p>22 know, call me back.</p> <p>23       Q. So from the fall of '09 to the</p> <p>24 spring of -- from the fall of '08 to the spring</p> <p>25 of '09 you didn't speak to him, he may have sent</p>                              |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 53   | 55  |
| <p>1 Celle</p> <p>2 e-mails --</p> <p>3 A. I think we e-mailed, yeah, because</p> <p>4 we had some e-mail when the lawsuit happened.</p> <p>5 So I know I knew about that because he e-mailed</p> <p>6 me something.</p> <p>7 Q. Do you have copies of those e-mails</p> <p>8 still?</p> <p>9 A. Yeah.</p> <p>10 Q. Do you have them with you today?</p> <p>11 A. Yes. Do you want them now?</p> <p>12 Q. Please.</p> <p>13 MR. BROOKS: I have them.</p> <p>14 MR. HAYES: Okay. Before you do</p> <p>15 that, I appreciate you doing that, let me</p> <p>16 just mark as an exhibit -- off the record.</p> <p>17 (Discussion off the record.)</p> <p>18 MR. HAYES: I'd like to mark as</p> <p>19 Defendant's Deposition Exhibit 1 a</p> <p>20 single-page document which contains I</p> <p>21 believe an e-mail exchange which is in</p> <p>22 French.</p> <p>23 And the top line says from Patrick</p> <p>24 Cariou, and at the bottom -- well, the</p> <p>25 third line down has a date on it</p>  | <p>1 Celle</p> <p>2 it begins with the line 2008/8/28, Christiane</p> <p>3 Celle, and it says bonjour Patrick?</p> <p>4 A. Mm-hmm, correct.</p> <p>5 Q. And that one continues down to the</p> <p>6 bottom of the page and then ends with your name</p> <p>7 Christiane?</p> <p>8 A. Yes, the whole thing, correct.</p> <p>9 Q. And then his response up above</p> <p>10 starts from Patrick Cariou, it says Bonjour,</p> <p>11 Christiane, and ends with Patrick and a cell</p> <p>12 number?</p> <p>13 A. Yes.</p> <p>14 Q. Okay, great.</p> <p>15 So starting with the first e-mail</p> <p>16 from you to him, could you please translate for</p> <p>17 me -- I think there's one, two, three, four,</p> <p>18 five, six paragraphs as I count them, one of the</p> <p>19 paragraphs being just one line, do you see that?</p> <p>20 A. Here?</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. So could you translate the first</p> <p>24 paragraph for me?</p> <p>25 A. The first here?</p>   |
| 54   | 56  |
| <p>1 Celle</p> <p>2 August 28, 2008.</p> <p>3 (Defendant's Exhibit 1, e-mail</p> <p>4 exchange, was marked for identification,</p> <p>5 as of this date.)</p> <p>6 Q. Can you take a look at what's been</p> <p>7 marked as Defendant Celle Exhibit 1?</p> <p>8 This document appears to be an</p> <p>9 e-mail exchange first from you to Mr. Cariou and</p> <p>10 then Mr. Cariou to you, is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And e-mail exchanges typically start</p> <p>13 at the top with the most recent, the latest, and</p> <p>14 then go down to the earliest, is that correct</p> <p>15 here as well?</p> <p>16 A. I'm sorry --</p> <p>17 Q. And take your time to read it.</p> <p>18 A. Yes.</p> <p>19 Q. Is it correct -- again, I'm just</p> <p>20 trying to make sure I understand the document</p> <p>21 correctly -- that there are two e-mails here,</p> <p>22 one from you to Mr. Cariou and one from him back</p> <p>23 to you?</p> <p>24 A. Yes, correct.</p> <p>25 Q. And the first one from you to him,</p> | <p>1 Celle</p> <p>2 Q. Yes, please.</p> <p>3 A. Hello, Patrick. I am Christiane</p> <p>4 Celle. We never met, but I know your</p> <p>5 photograph. I live in New York for the last</p> <p>6 20 years with a little break living in</p> <p>7 St. Barths where I started a company called</p> <p>8 Calypso. Then I met Antoine Verglas who is a</p> <p>9 photographer that you know maybe. We have two</p> <p>10 kids 14 and 12, and we are living together since</p> <p>11 then.</p> <p>12 Continue?</p> <p>13 Q. That's perfect.</p> <p>14 Now, just so the record is clear,</p> <p>15 that's the end of that first paragraph, right?</p> <p>16 A. Yes.</p> <p>17 Q. Could you please translate for me</p> <p>18 the second paragraph?</p> <p>19 A. Of course.</p> <p>20 I created Calypso in 1992 in</p> <p>21 St. Barths, and I sold it in 2007. I decided to</p> <p>22 change work and do a gallery in New York. The</p> <p>23 first show will be in November. You should go</p> <p>24 online and look at Vincent Fournier. He's</p> <p>25 having a show right now in Paris at Acte Deux</p> |

Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 57  | 59  |
| <p>1 Celle</p> <p>2 and one in Tokyo in October.</p> <p>3 Q. And that's the end of the second</p> <p>4 paragraph, right?</p> <p>5 A. Yes.</p> <p>6 Q. The show that was planned -- I'm</p> <p>7 going to ask you to go through the rest of them,</p> <p>8 but before I do that, the show that you're</p> <p>9 referring to for Mr. Fournier, that was supposed</p> <p>10 to be at which space and when?</p> <p>11 A. Okay, this show was supposed to be</p> <p>12 in 2008. But I signed the lease in June, but</p> <p>13 because of a huge problem in the building, you</p> <p>14 know, that I took at 255 Centre, I could not</p> <p>15 open the gallery until the spring 2009.</p> <p>16 So that Vincent Fournier happened</p> <p>17 but in 2009 October, a year later.</p> <p>18 Q. And that's the show you told us</p> <p>19 about earlier?</p> <p>20 A. Yes, with the moon, the astronaut.</p> <p>21 Q. Thank you.</p> <p>22 Could you, on the third paragraph,</p> <p>23 please translate that?</p> <p>24 A. Yes.</p> <p>25 Will you be interested about talking</p>  | <p>1 Celle</p> <p>2 Q. That's the fourth paragraph, right?</p> <p>3 A. That's this one, yes.</p> <p>4 Q. Go ahead.</p> <p>5 A. Thierry was my boyfriend in New York</p> <p>6 during many years. It's actually '84 to '89.</p> <p>7 Voila.</p> <p>8 If you could give me a phone number</p> <p>9 where I would be happy to call you. And my</p> <p>10 name.</p> <p>11 Q. So at that point you were proposing</p> <p>12 the possibilities of a show, which would be a</p> <p>13 surf-photograph-oriented show?</p> <p>14 A. At the time, you know, we are</p> <p>15 talking about that, yeah.</p> <p>16 Q. And the idea is that you would do a</p> <p>17 joint show with Mr. Cariou and Tony -- I'll call</p> <p>18 him Tony C. because I mispronounced his last</p> <p>19 name?</p> <p>20 A. At that time, yes, correct.</p> <p>21 Q. And Tony C's work -- what is his</p> <p>22 full name again?</p> <p>23 A. Tony Caramanico.</p> <p>24 Q. And Mr. Caramanico's work is</p> <p>25 photography?</p> |
| 58  | 60  |
| <p>1 Celle</p> <p>2 about a possibility of expo, an exhibition in</p> <p>3 New York. I will also have a gallery that's</p> <p>4 opening in St. Barths, Gustavia is the town.</p> <p>5 And I'm starting with a show of Tony C., it's my</p> <p>6 surfer that you never heard about. And he's</p> <p>7 doing print with his diaries. Diaries is the</p> <p>8 journal. The theme is surf.</p> <p>9 He's almost 60 and was a big</p> <p>10 longboard champion. He did the longboard</p> <p>11 competition. I was thinking also that I could</p> <p>12 show you work and Tony work and some of your</p> <p>13 surf photographs.</p> <p>14 I also wanted to know if you were</p> <p>15 interested or if you had an exclusive with</p> <p>16 somebody.</p> <p>17 Voila.</p> <p>18 Q. That's the one-line paragraph?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Keep going, please.</p> <p>21 A. I also note Thierry Des Fontaines</p> <p>22 that was your assistant for a small period or</p> <p>23 short moment is living now in Brazil and he has</p> <p>24 a website if you want to look. He's devoted his</p> <p>25 time to sport photography.</p> | <p>1 Celle</p> <p>2 A. Yeah, it's the surf journal and</p> <p>3 transfer into photography.</p> <p>4 Q. So it's collage which has been</p> <p>5 rephotographed?</p> <p>6 A. Yes.</p> <p>7 Q. Okay, great.</p> <p>8 And so that was your idea for the</p> <p>9 show at that point?</p> <p>10 A. At that moment, yes.</p> <p>11 Q. And then going above to the top</p> <p>12 of the document, which would now be what I</p> <p>13 understand to be Mr. Cariou's response to you,</p> <p>14 correct?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. And that appears to be dated</p> <p>17 August 28th, that is the same date as your</p> <p>18 e-mail, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And could you please, starting with</p> <p>21 bonjour Christiane --</p> <p>22 A. Yes.</p> <p>23 Q. -- translate that for us?</p> <p>24 A. Hello, Christiane. Thank you very</p> <p>25 much for the interest that, you know, you are</p>  |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 61   | 63  |
| <p>1 Celle</p> <p>2 calling to my work. I know all the people you</p> <p>3 are naming in your e-mail. I don't have a</p> <p>4 gallery and I will be interested by a show. The</p> <p>5 book Surfer is sold out for a long time, but</p> <p>6 there should be a reprint this year. I also</p> <p>7 have another book that I'm trying -- I'm just</p> <p>8 finishing after ten years. It's about gypsies.</p> <p>9 Maybe this will be interesting for you. Best.</p> <p>10 Q. And your e-mail to Mr. Cariou does</p> <p>11 not make any reference to Yes Rasta, does it?</p> <p>12 A. Not on this one.</p> <p>13 Q. But by that time you hadn't seen</p> <p>14 Yes Rasta, correct?</p> <p>15 A. I think I had seen Yes Rasta</p> <p>16 because, you know, I always had been on his --</p> <p>17 I already had been on his website to get his</p> <p>18 number.</p> <p>19 Q. And his response also does not refer</p> <p>20 to Yes Rasta?</p> <p>21 A. No.</p> <p>22 Q. And subsequent to this e-mail you</p> <p>23 had additional e-mail correspondence with him?</p> <p>24 A. I call him right away because I</p> <p>25 wanted his phone because it's difficult to have</p>                     | <p>1 Celle</p> <p>2 the photographer for everywhere because, you</p> <p>3 know, things change, unfortunately.</p> <p>4 Q. Sure.</p> <p>5 A. At the time, I don't recall, you</p> <p>6 know.</p> <p>7 Q. So these e-mails are dated August 28</p> <p>8 of 2008 and you met at Cafe Select in September</p> <p>9 or October of '08, right?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. And so this conversation you just</p> <p>12 described happened sometime in between?</p> <p>13 A. Yes.</p> <p>14 Q. Did you have any other conversations</p> <p>15 with Mr. Cariou in between?</p> <p>16 A. I don't think so because, you know,</p> <p>17 I know I called him later at the end of the</p> <p>18 year. Because one day somebody told me that</p> <p>19 there was a show at Gagosian and there was</p> <p>20 picture from the, you know, the Rasta book.</p> <p>21 So I left a message to him to call</p> <p>22 me back, but he didn't.</p> <p>23 Q. I'll get to that in a moment.</p> <p>24 A. Yeah.</p> <p>25 Q. Thank you. I just want to keep the</p> |
| 62   | 64  |
| <p>1 Celle</p> <p>2 a conversation. And, you know, I call him and</p> <p>3 I remember having, you know, the website and</p> <p>4 going around the website and telling him what I</p> <p>5 was interested.</p> <p>6 I remember that he was mentioning</p> <p>7 also his new work Gypsies. And I was telling</p> <p>8 him that to do Gypsies would be more interesting</p> <p>9 when the book came out, because it's more</p> <p>10 interesting when the show has a book.</p> <p>11 And I was telling him that because</p> <p>12 my next gallery was going to open soon in</p> <p>13 St. Barths, you know, I was interested in the</p> <p>14 Surfer, but I'll be interested for spring</p> <p>15 eventually of the Rasta.</p> <p>16 Q. Does this -- by the way, does this</p> <p>17 e-mail talk about opening -- having the show in</p> <p>18 St. Barths?</p> <p>19 A. I think at that time it was a mixed</p> <p>20 show. So I think it was probably St. Barths.</p> <p>21 I don't recall.</p> <p>22 Q. You don't recall whether it was</p> <p>23 going to be St. Barths or New York?</p> <p>24 A. I mean I know right now I try to</p> <p>25 do -- when I get a photographer I try to sign</p> | <p>1 Celle</p> <p>2 chronology straight.</p> <p>3 So we have the exchange of e-mails?</p> <p>4 A. Yeah.</p> <p>5 Q. We have the telephone conversation</p> <p>6 you described to us?</p> <p>7 A. Yes.</p> <p>8 Q. And then we have the meeting at Cafe</p> <p>9 Select in New York?</p> <p>10 A. Yes.</p> <p>11 Q. And the meeting in Paris?</p> <p>12 A. Yes.</p> <p>13 Q. And then you left him a message at</p> <p>14 the end of December?</p> <p>15 A. When I --</p> <p>16 Q. I don't mean to put words in your</p> <p>17 mouth. Sometime in December, is that --</p> <p>18 A. I can't remember if it's November or</p> <p>19 December, but it's before Christmas because I</p> <p>20 know I left the 17th of December, so it's before</p> <p>21 the 17th of December.</p> <p>22 Q. And your best recollection is he</p> <p>23 didn't respond to that message?</p> <p>24 A. No.</p> <p>25 Q. And the next time you had any verbal</p>   |



Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 65  | 67  |
| <p>1 Celle</p> <p>2 contact with him was he when he came to see your</p> <p>3 show in the spring of '09?</p> <p>4 A. Yes, because I received an e-mail I</p> <p>5 think in January, those e-mails, you know, about</p> <p>6 informing that he has a lawsuit.</p> <p>7 I'm trying to remember.</p> <p>8 I don't think I saw him before that.</p> <p>9 Q. In the conversations either at Cafe</p> <p>10 Select or the cafe in Paris had there been any</p> <p>11 start day set for a show?</p> <p>12 A. I keep thinking spring, because at</p> <p>13 the time when I met him, probably September or</p> <p>14 October, I knew already that the gallery will</p> <p>15 not be open by the end of the year.</p> <p>16 Because for a reason that building</p> <p>17 at 255 Centre, okay, I took a building -- I took</p> <p>18 a space that was huge and that didn't have a</p> <p>19 certificate of occupancy for years. And before</p> <p>20 me it was an electrician, it was not a retail</p> <p>21 store. So it was like a showroom.</p> <p>22 And when I start getting approval</p> <p>23 from the City of New York I had so many problem.</p> <p>24 So I started the construction I think around</p> <p>25 September-October, but I really open in June.</p> | <p>1 Celle</p> <p>2 A. Yeah, we had a discussion of size of</p> <p>3 print.</p> <p>4 Q. What was that?</p> <p>5 A. We had, you know, discussed to do</p> <p>6 very big format because, you know, in New York</p> <p>7 people have big apartment. So nothing less than</p> <p>8 30 by 40 and then going up.</p> <p>9 We discussed about price too because</p> <p>10 I wanted to know, you know, in the past what it</p> <p>11 was, you know, the background. But he never --</p> <p>12 for example, in the Surfer he had sold some</p> <p>13 photography.</p> <p>14 The Rasta he had not done a show</p> <p>15 with it, so he was trusting me, and I was also</p> <p>16 new on that. But I was basing my price in the</p> <p>17 market, you know, according to what the book</p> <p>18 was. And I think the first price were in the</p> <p>19 \$3,000 up to 15 or 20. But we never set up like</p> <p>20 real on paper any size.</p> <p>21 Q. It was a verbal discussion --</p> <p>22 A. Yes.</p> <p>23 Q. -- about what the price points might</p> <p>24 be for different sizes?</p> <p>25 A. From 3,000 to 15 or 20 for really</p>   |
| 66  | 68  |
| <p>1 Celle</p> <p>2 There was so many problems.</p> <p>3 So I knew already that I could not</p> <p>4 do a show until spring. So my thinking was,</p> <p>5 you know, to try to work something for him</p> <p>6 April-May. It was always spring.</p> <p>7 Q. It was always spring?</p> <p>8 A. Yeah.</p> <p>9 Q. Would it be fair to say that the</p> <p>10 discussions were general?</p> <p>11 A. Yes.</p> <p>12 Q. And you had discussed he would</p> <p>13 provide the prints and you would frame them and</p> <p>14 you would split any sales price?</p> <p>15 A. Yes, correct.</p> <p>16 Q. Did you discuss how many prints</p> <p>17 would be in the show?</p> <p>18 A. I mean I had an idea because</p> <p>19 according to the space I wanted around like</p> <p>20 between 30 and 40 prints, you know, because I</p> <p>21 was trying to map out the Vincent Fournier at</p> <p>22 the time, and that's what I was figuring out</p> <p>23 that I could fit in the space.</p> <p>24 Q. Did you have a discussion of the</p> <p>25 sizes of the prints?</p>   | <p>1 Celle</p> <p>2 big format.</p> <p>3 Q. And in line with that, did you</p> <p>4 discuss with Mr. Cariou the sales he made of any</p> <p>5 prints prior to that discussion?</p> <p>6 A. No. The only thing he told me that</p> <p>7 he had sold Surfer through Marion de Beaupre in</p> <p>8 Paris, and he was selling, you know, privately</p> <p>9 to a hotel, you know.</p> <p>10 Q. You said to a hotel?</p> <p>11 A. Yeah. He actually -- I can mention</p> <p>12 that because a gentleman came to my store called</p> <p>13 Robert Novogratz, N-O-V-O-G-R-A-T-Z. He's a</p> <p>14 really famous decorator that I know. And Robert</p> <p>15 had come to my bookstore looking for kind of new</p> <p>16 things and -- you know.</p> <p>17 And he had come around Yes Rasta and</p> <p>18 Surfer, and Robert had, you know, gotten both</p> <p>19 books. And I said to him, I'm trying to do a</p> <p>20 show with this photographer. And Robert said,</p> <p>21 I'm doing that big hotel in New Jersey, I would</p> <p>22 love to get some photo of him.</p> <p>23 And because I was not representing</p> <p>24 Patrick at the time, I say, well, maybe you</p> <p>25 should contact him directly, because, you know.</p> |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 69   | 71  |
| <p>1 Celle</p> <p>2 So I think he contacted him. And</p> <p>3 when Patrick came in New York in the Cafe Select</p> <p>4 he mentioned that thank you for referring</p> <p>5 Robert, I'm doing some photographs for him for</p> <p>6 the hotel.</p> <p>7 Q. And did he say what price they were</p> <p>8 going to be at?</p> <p>9 A. No. And I felt, you know, I didn't</p> <p>10 want to be indiscreet because for me I was</p> <p>11 thinking I'm not his agent. You know, I would</p> <p>12 love to but, you know.</p> <p>13 And Robert Novogratz the decorator</p> <p>14 is also a great client of mine, you know, he</p> <p>15 buys things from me. So I knew that if I was</p> <p>16 referring he will send me clients for something</p> <p>17 else, you know. It's a favor I did to him,</p> <p>18 but --</p> <p>19 Q. Did Mr. Cariou say anything to you</p> <p>20 in words or substance about having sold his</p> <p>21 prints primarily in the past to people that he</p> <p>22 liked or felt good about or friends?</p> <p>23 A. He didn't give me the detail, but he</p> <p>24 told me that he had sold prints in the past and</p> <p>25 mentioned the Robert Novogratz hotel.</p> | <p>1 Celle</p> <p>2 week after I immediately called him.</p> <p>3 Q. So end of August, early September?</p> <p>4 A. Yes.</p> <p>5 Q. You then had the meeting with him in</p> <p>6 Cafe Select in September-October approximately</p> <p>7 of '08?</p> <p>8 A. Yes.</p> <p>9 Q. You then had the meeting in Paris</p> <p>10 sometime later in the fall?</p> <p>11 A. Yes, correct.</p> <p>12 Q. You left him a message in December?</p> <p>13 A. End of November, December. I can't</p> <p>14 recall exactly.</p> <p>15 Q. And that's the one he didn't respond</p> <p>16 to, correct?</p> <p>17 A. He didn't respond. I just asked him</p> <p>18 to call me back, you know. I didn't give any</p> <p>19 detail.</p> <p>20 Q. Just please call me?</p> <p>21 A. I say can you call me back, because</p> <p>22 I was thinking if I say anything he might be</p> <p>23 freaking out. I say just call me back, I need</p> <p>24 to talk to you.</p> <p>25 Q. And when was the next contact after</p>   |
| 70   | 72  |
| <p>1 Celle</p> <p>2 Q. And did he give you any statement as</p> <p>3 to what the price points of the prior sales had</p> <p>4 been?</p> <p>5 A. I mean when I say to him like the</p> <p>6 small one, I was referring to the -- I can't</p> <p>7 remember -- it was to the probably 30 by 40, and</p> <p>8 that was in the 3,000 to 5,000, you know,</p> <p>9 according to the market and something similar,</p> <p>10 and he was in that price range.</p> <p>11 Q. He was agreeing to the price range?</p> <p>12 A. Yes.</p> <p>13 Q. But did he say anything to you about</p> <p>14 what he sold prints for in the past?</p> <p>15 A. No.</p> <p>16 Q. Just so I make sure I have the</p> <p>17 chronology down, what I understand is we have</p> <p>18 the e-mail exchange in August of '08?</p> <p>19 A. Mm-hmm.</p> <p>20 Q. You had a phone conversation with</p> <p>21 him sometime after that, probably in September,</p> <p>22 is that correct?</p> <p>23 A. I think after that, when he gave me</p> <p>24 his cell I call him right away. I don't know if</p> <p>25 it's the same day, but that same week or the</p>   | <p>1 Celle</p> <p>2 that you had with Mr. Cariou?</p> <p>3 A. Like contact physically seeing him</p> <p>4 you mean?</p> <p>5 Q. Well, let's say physically seeing</p> <p>6 him, yes, that was when he came to your gallery</p> <p>7 for the show, right?</p> <p>8 A. I think that's it, yeah, in the</p> <p>9 spring.</p> <p>10 Q. Spring of '09?</p> <p>11 A. I think in the spring he was just</p> <p>12 here and he told me he was here for a lawsuit.</p> <p>13 Q. And so between the time you saw him</p> <p>14 in Paris and the time he came to the gallery</p> <p>15 show did you speak to him over the telephone at</p> <p>16 all?</p> <p>17 A. I don't think so.</p> <p>18 Q. And so what was the next contact</p> <p>19 that you had with him, if any, before you met</p> <p>20 him at the show in spring of '09, did you get</p> <p>21 any e-mails from him or send him any e-mails?</p> <p>22 A. I know in January he sent me an</p> <p>23 e-mail telling me that he was going to do the</p> <p>24 lawsuit and, you know.</p> <p>25 MR. HAYES: Do we have that e-mail</p> |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 73  | 75   |
| <p>1 Celle</p> <p>2 here?</p> <p>3 MR. BROOKS: These are the e-mails</p> <p>4 that I have.</p> <p>5 MR. HAYES: Off the record.</p> <p>6 (Discussion off the record.)</p> <p>7 MR. HAYES: Let me have marked as</p> <p>8 Defendant Celle Exhibit 2 a four-page</p> <p>9 document which contains what I believe to</p> <p>10 be a series of e-mails.</p> <p>11 The top one says from Patrick Cariou</p> <p>12 and it bears a date January 29, 2009.</p> <p>13 (Defendant's Exhibit 2, series of</p> <p>14 e-mails, was marked for identification, as</p> <p>15 of this date.)</p> <p>16 MR. HAYES: While he's doing that</p> <p>17 let's take a break for a minute.</p> <p>18 (Recess taken: 11:15 a.m.)</p> <p>19 (Proceedings resumed: 11:20 a.m.)</p> <p>20 BY MR. HAYES:</p> <p>21 Q. Ms. Celle, I would like to refer you</p> <p>22 to what's marked as Defendant Celle Exhibit 2</p> <p>23 for identification and ask you, this is an</p> <p>24 exchange of e-mails between Patrick Cariou and</p> <p>25 yourself?</p>  | <p>1 Celle</p> <p>2 Q. Okay. So as we go through it we'll</p> <p>3 just identify which are duplicates.</p> <p>4 A. Great. Okay.</p> <p>5 Q. So the first thing is if you could</p> <p>6 translate for us, please, this e-mail on the</p> <p>7 bottom page 4 with "Chere Christiane"?</p> <p>8 A. Page 4, right. Very good.</p> <p>9 From Patrick.</p> <p>10 Dear Christiane, I'm happy to know</p> <p>11 that all your projects are moving on. I will be</p> <p>12 in New York in the two next month. Something</p> <p>13 incredible is happening to me with Richard</p> <p>14 Prince. Richard Prince -- that's slang -- "c,es</p> <p>15 vautrer dans Yes Rasta" -- it's hard to</p> <p>16 translate, that means picked something in</p> <p>17 Yes Rasta -- Richard Prince picked something in</p> <p>18 Yes Rasta.</p> <p>19 Q. That would be the line -- could you</p> <p>20 read the line in French just so I understand?</p> <p>21 A. Yes.</p> <p>22 "En effet prince c,es vautrer dans</p> <p>23 yes rasta."</p> <p>24 Q. And just so I'm accurate, could you</p> <p>25 please give me the best translation from French</p> |
| 74  | 76   |
| <p>1 Celle</p> <p>2 A. Correct, yes.</p> <p>3 Q. And is it correct -- the document</p> <p>4 physically is four pages, and would it be</p> <p>5 correct to say that the exchange begins on the</p> <p>6 last page on January 29, 2009, at 6:04 a.m.,</p> <p>7 with Mr. Cariou writing to you?</p> <p>8 A. Yes.</p> <p>9 Q. And then continues in point of time</p> <p>10 getting later as we go up this page and through</p> <p>11 the other pages, correct?</p> <p>12 A. Correct.</p> <p>13 Q. So just to be clear, and because I</p> <p>14 unfortunately do not speak French, could you</p> <p>15 start with the first of the e-mails, the one on</p> <p>16 January 29, on the bottom portion of the last</p> <p>17 page of this document and translate it for us</p> <p>18 beginning with "Chere Christiane"?</p> <p>19 A. I'm just confused because I have</p> <p>20 doubles here. So I don't know --</p> <p>21 Q. We have more than one copy of a</p> <p>22 particular e-mail?</p> <p>23 A. Yeah. I think it's the same thing.</p> <p>24 Q. Perhaps we do. Okay.</p> <p>25 A. So it's okay.</p> | <p>1 Celle</p> <p>2 again?</p> <p>3 A. Yeah, in French "c,es vautrer" it's</p> <p>4 slang, so it's hard to translate.</p> <p>5 It's, you know, like kids -- "c,es</p> <p>6 vautre" is like kids lying on the sofa would</p> <p>7 be -- so it's an expression that's very hard to</p> <p>8 translate. But what he meant by that is Richard</p> <p>9 Prince went to look into the Yes Rasta.</p> <p>10 Q. That's the meaning you took from it?</p> <p>11 A. Yes, that's what -- you know.</p> <p>12 Q. Give me, if you would, your best</p> <p>13 translation of the actual words?</p> <p>14 A. "C,es vautrer," I mean --</p> <p>15 Q. Just start with the whole line.</p> <p>16 A. It's like Richard Prince is laying</p> <p>17 on the Rasta, you know.</p> <p>18 Q. Okay.</p> <p>19 A. It's hard to translate.</p> <p>20 Q. And the next line?</p> <p>21 A. He just had a show at Gagosian where</p> <p>22 he's using 30 of my photographs as a central</p> <p>23 theme. Please see attachment. I am doing a</p> <p>24 lawsuit. Please see the links. New York Times</p> <p>25 blog -- there is a New York Times link.</p>       |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 77   | 79   |
| <p>1 Celle</p> <p>2 Q. And was there an attachment to this</p> <p>3 e-mail?</p> <p>4 A. Honestly, I'm sure there was one.</p> <p>5 Q. Do you recall seeing one, opening</p> <p>6 one, what it was?</p> <p>7 A. I opening one -- I opened one,</p> <p>8 but --</p> <p>9 Q. Do you remember what it was?</p> <p>10 A. Yeah, there was a whole article</p> <p>11 about the lawsuit, but the detail I don't really</p> <p>12 remember.</p> <p>13 Q. And did you then also go to this</p> <p>14 site that that's referred to in the e-mail?</p> <p>15 A. I think I opened the blog, New York</p> <p>16 Times, yes.</p> <p>17 Q. So there was an attachment which was</p> <p>18 an article about the lawsuit, and then you also</p> <p>19 went to the blog, is that correct?</p> <p>20 A. I remember going somewhere where</p> <p>21 there was New York Times and, you know, the</p> <p>22 article, yes, I do remember that.</p> <p>23 Q. Just to be clear, were there two</p> <p>24 articles you read or one, or you don't remember?</p> <p>25 A. I remember one. I remember the</p>                                  | <p>1 Celle</p> <p>2 A. "Quand meme pas genial" means not</p> <p>3 great to do that. And "vendre si cher" means</p> <p>4 sell so expensive.</p> <p>5 Q. Okay, go ahead.</p> <p>6 A. It is called "plagiat" but that's a</p> <p>7 French name. The French name "plagiat" is like</p> <p>8 copying. It's called "plagiat." I don't know</p> <p>9 if you use that name here.</p> <p>10 I hope you get something out of it.</p> <p>11 "Dedommage" means like I hope you will get some</p> <p>12 money compensation.</p> <p>13 Q. I'll just ask you a question. The</p> <p>14 phrase, "non le mot francais," what does that</p> <p>15 mean?</p> <p>16 A. "Cela se nomme plagiat" -- "plagiat"</p> <p>17 is the French name. I don't know American name,</p> <p>18 but "plagiat" is copying somebody.</p> <p>19 Q. And I was actually asking about the</p> <p>20 four words after that, "non le mot francais"?</p> <p>21 A. I don't know why there is "non,"</p> <p>22 there should not be that.</p> <p>23 (Clarification by reporter.)</p> <p>24 A. "Cela se nomme," means this means</p> <p>25 "plagiat," the French word. I don't know why</p> |
| 78   | 80   |
| <p>1 Celle</p> <p>2 New York Times.</p> <p>3 Q. Then the next e-mail up above, is</p> <p>4 that a response by you to Mr. Cariou?</p> <p>5 A. Patrick, right.</p> <p>6 The "Antoine me dit"? Yeah.</p> <p>7 Q. Yes. And that one, just so we're</p> <p>8 clear, I think is dated January 29, '09, and</p> <p>9 it's from you to Mr. Cariou, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And then, by the way, above that</p> <p>12 ending with the word Patrick is a response from</p> <p>13 him back to you to your e-mail. There are three</p> <p>14 e-mails on this page?</p> <p>15 A. Correct.</p> <p>16 Q. So focusing on just the second</p> <p>17 e-mail, which is your e-mail to Mr. Cariou,</p> <p>18 could you please translate that for us?</p> <p>19 A. Antoine, who is my husband, is</p> <p>20 telling me that he is used to do this kind of</p> <p>21 thing and then, you know, he has lawyer to deal</p> <p>22 with it. This is not great to do this kind of</p> <p>23 thing and selling the work so expensive.</p> <p>24 Q. Selling the work so expensive, what</p> <p>25 line does that appear?</p> | <p>1 Celle</p> <p>2 there is a "non," I'm sorry, but the French</p> <p>3 word.</p> <p>4 Q. But do the four words "non le mot</p> <p>5 francais" have any meaning to you at all?</p> <p>6 A. No, I think "non" it's a typo</p> <p>7 because that doesn't mean anything in -- you</p> <p>8 know.</p> <p>9 Q. In French?</p> <p>10 A. Yeah.</p> <p>11 Q. How about "le mot francais"?</p> <p>12 A. "Le mot" is the word, French name.</p> <p>13 "Le mot" is French name.</p> <p>14 "Plagiat" will be the French name</p> <p>15 for that kind of action.</p> <p>16 Q. But what is "le mot"?</p> <p>17 A. "Le mot"?</p> <p>18 Q. Yes.</p> <p>19 A. The word.</p> <p>20 Q. The word France?</p> <p>21 A. Yeah.</p> <p>22 Q. So those last three words say the</p> <p>23 word French?</p> <p>24 A. Yeah.</p> <p>25 Q. Go ahead. Keep going, please.</p>   |

Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 81  | 83  |
| <p>1 Celle</p> <p>2 A. I hope you will get some kind of</p> <p>3 money, compensatory, whatever, "dedommage."</p> <p>4 We should do a show and put all back</p> <p>5 the clock together -- which is a French</p> <p>6 expression. We should say, wow, you should do a</p> <p>7 show and show everybody who you are. Because,</p> <p>8 you know, I was pushing to do a show at the time</p> <p>9 and until actually I figure it out.</p> <p>10 Q. But, again, I'd like you just to --</p> <p>11 the line we're on now, "j,espere que tu seras</p> <p>12 dedommage"?</p> <p>13 A. Yes.</p> <p>14 Q. And what does that line mean?</p> <p>15 A. I hope you will get some kind of</p> <p>16 compensation of -- "dedommage" -- "dommage"</p> <p>17 means, you know, when you suffer like a loss or</p> <p>18 something.</p> <p>19 Q. Right. And can you then give me</p> <p>20 your best translation of the next line?</p> <p>21 A. It's the moment to do a show and</p> <p>22 put back the clock at that time. It's an</p> <p>23 expression.</p> <p>24 Q. What did you mean by that?</p> <p>25 A. That means, you know, straighten</p>                       | <p>1 Celle</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And then we have at the top of the</p> <p>5 page a responsive e-mail from Mr. Cariou to you</p> <p>6 appearing to have been sent on January 29 at</p> <p>7 9:43 a.m., Eastern Standard Time?</p> <p>8 A. Yes.</p> <p>9 Q. And it's addressed to you.</p> <p>10 And can you please translate for us</p> <p>11 the six lines there?</p> <p>12 A. I know really well the "travail" or</p> <p>13 the work of Mr. Prince and his artistic posture.</p> <p>14 I have a lawyer, a good lawyer, who is working</p> <p>15 and very motivated by this lawsuit.</p> <p>16 Q. Let me stop you for a second. The</p> <p>17 phrase "travaille au pourcentage," what's that?</p> <p>18 A. I have a great lawyer who works --</p> <p>19 I guess I'm not sure what does that mean because</p> <p>20 I'm not a lawyer, but probably on a retainer</p> <p>21 fee. That's my interpretation, you know,</p> <p>22 percentage.</p> <p>23 Q. "Travaille au pourcentage," does</p> <p>24 that mean work on percentage?</p> <p>25 A. Yeah, percentage.</p> |
| 82  | 84  |
| <p>1 Celle</p> <p>2 things and show who you are.</p> <p>3 Q. So what were you suggesting he do in</p> <p>4 that two-line paragraph, or that line?</p> <p>5 A. I'm suggesting to him that he should</p> <p>6 really do a show and, you know, show the world</p> <p>7 who is he because these people are copying his</p> <p>8 work, he should be the one showing his work.</p> <p>9 Q. So he should have a show is what</p> <p>10 you're saying?</p> <p>11 A. I told him, yeah.</p> <p>12 Q. What's the next line?</p> <p>13 A. I have to send you photo of Bob</p> <p>14 Marley that a gentleman did. He's a 60 years --</p> <p>15 65 years, there is he a typo -- artist. There's</p> <p>16 a U missing.</p> <p>17 There was a show before and a</p> <p>18 museum, you know, took them. Some prints were</p> <p>19 lost. And some are excellent. I will try to</p> <p>20 send you some images. Superb.</p> <p>21 The prints are done by Charlie</p> <p>22 Griffin. He was a photographer in '89, and now</p> <p>23 he's a printer, and he's printing for Sugimoto.</p> <p>24 And wonderful quality.</p> <p>25 Q. And that's the end of that e-mail,</p> | <p>1 Celle</p> <p>2 Q. Okay. And then keep going.</p> <p>3 The phrase "et est tres motive"?</p> <p>4 A. That is very motivated by the</p> <p>5 lawsuit or this affair means this business, you</p> <p>6 know.</p> <p>7 Q. The lawyer is very motivated by this</p> <p>8 affair?</p> <p>9 A. Yes.</p> <p>10 Q. I see. Go ahead.</p> <p>11 A. The difference this time -- he's</p> <p>12 talking about Richard Prince. The difference</p> <p>13 this time is, you know, he doesn't put his name,</p> <p>14 but he took like 30 photos from one artist, plus</p> <p>15 a book with a central theme of my work. This</p> <p>16 I've never seen before.</p> <p>17 Q. The phrase -- just back up to the</p> <p>18 line that begins "la difference."</p> <p>19 A. Yes.</p> <p>20 Q. The phrase "cette fois c'est qu'il</p> <p>21 s, est vraiment"?</p> <p>22 A. Which one?</p> <p>23 Q. Give me the whole line, if you</p> <p>24 would.</p> <p>25 A. "La difference"?</p>  |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 85   | 87   |
| <p>1 Celle</p> <p>2 Q. Yes.</p> <p>3 A. Oh. The difference this time is he</p> <p>4 really took 30 photos from one artist.</p> <p>5 Q. Okay, good.</p> <p>6 Then the next line?</p> <p>7 A. Plus one book with the central theme</p> <p>8 of my work.</p> <p>9 Q. "Mon travail du jamais vu," does</p> <p>10 that mean my work or my travel to Jamaica?</p> <p>11 A. Oh, no, this means the central theme</p> <p>12 of my work. "Du jamais vu" means never seen.</p> <p>13 Q. Work never seen?</p> <p>14 A. Yeah.</p> <p>15 Q. The word "travail" is what? How do</p> <p>16 you translate "travail"?</p> <p>17 A. My work.</p> <p>18 Q. "Travail" is work?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Next line?</p> <p>21 A. It looks like it's the first time</p> <p>22 this is happening in the art world. We will</p> <p>23 see. And best.</p> <p>24 Q. "Nous allons voir" means we will</p> <p>25 see?</p>  | <p>1 Celle</p> <p>2 up now, how far in advance do you generally</p> <p>3 prepare the show and what do you do to prepare</p> <p>4 it?</p> <p>5 A. It depends. Usually I need from</p> <p>6 three months to six months, according to the</p> <p>7 artist.</p> <p>8 Q. And what do you do during those</p> <p>9 three to six months?</p> <p>10 A. Okay. What I do is I meet different</p> <p>11 time to review the work, pick up the work, make</p> <p>12 a choice of the work. And then it's the</p> <p>13 responsibility of the artist to print.</p> <p>14 And some artists needs two months.</p> <p>15 The framer needs three weeks to one month.</p> <p>16 So usually, you know, once you agree</p> <p>17 on the show it can take two months minimum to</p> <p>18 prepare.</p> <p>19 Q. Do you do a catalog in connection</p> <p>20 with your shows?</p> <p>21 A. Sometime I do, but not necessarily</p> <p>22 for every show.</p> <p>23 Q. And did you plan a catalog for this</p> <p>24 show?</p> <p>25 A. For that show I didn't plan a</p>  |
| 86   | 88   |
| <p>1 Celle</p> <p>2 A. We will see, yeah.</p> <p>3 Q. So this exchange all took place on</p> <p>4 January 29, 2009?</p> <p>5 A. Yes.</p> <p>6 Q. We'll go through everything else in</p> <p>7 the exhibit in a minute.</p> <p>8 But at the time that this e-mail</p> <p>9 exchange happened had you done anything to</p> <p>10 actually set up the exhibit at your gallery of</p> <p>11 Mr. Cariou's photographs?</p> <p>12 A. No.</p> <p>13 Q. Had you discussed it with any of the</p> <p>14 other artists?</p> <p>15 MR. BROOKS: Discussed what?</p> <p>16 A. With the other artists?</p> <p>17 Q. Discussed the possibility of having</p> <p>18 a Cariou show with any of the other artists you</p> <p>19 represented?</p> <p>20 A. No, I don't discuss usually each</p> <p>21 artist with the others, you know. It's kind of</p> <p>22 confidential.</p> <p>23 Q. I understand.</p> <p>24 And can you tell me in general if</p> <p>25 you're going to do a show like the show you got</p> | <p>1 Celle</p> <p>2 catalog because what I was planning is a reprint</p> <p>3 of the book of 5,000 copy and have a show of</p> <p>4 Patrick work in conjunction with the reprint of</p> <p>5 the book and do a book signing too because the</p> <p>6 book was hard to find. Powerhouse had sold out</p> <p>7 the book.</p> <p>8 Q. At this point in time had you made</p> <p>9 any arrangements to have the book reprinted as</p> <p>10 of the end of January 2009?</p> <p>11 A. No, because in November or December</p> <p>12 I heard that there was a situation where there</p> <p>13 was a show at Gagosian with certain photograph</p> <p>14 of Patrick Cariou.</p> <p>15 So at the time I had no idea and I</p> <p>16 was thinking two things, maybe Patrick Cariou is</p> <p>17 not responding my phone call because he's doing</p> <p>18 something with Richard Prince.</p> <p>19 You know, I don't know Patrick</p> <p>20 Cariou, so I say maybe that's why he's not</p> <p>21 pursuing me because he's doing something better,</p> <p>22 bigger with this person. That was my first</p> <p>23 reaction when I heard there was a show at</p> <p>24 Gagosian.</p> <p>25 First, that was my reaction. That's</p> |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 89   | 91   |
| <p>1 Celle</p> <p>2 why I left a message, you know, for him to call</p> <p>3 me back. Because for me he had done it with</p> <p>4 Gagosian and Prince and the big show and then he</p> <p>5 didn't want to tell the French girl I'm not</p> <p>6 doing it with you, you know, because we had</p> <p>7 started a relation and that would have been bad.</p> <p>8 And I was not sure about that.</p> <p>9 But I was thinking if it's done</p> <p>10 already I'm not going to do now a Rasta show</p> <p>11 showing, you know, the work. It looks like I'm</p> <p>12 trying to take advantage of the success of</p> <p>13 Richard Prince and saying, wow, great, let me do</p> <p>14 the Rasta, and now I'm going to show this.</p> <p>15 So at the time I knew that if I will</p> <p>16 do something with Patrick it will be probably</p> <p>17 the Surfer. But I could not do anymore the</p> <p>18 Rasta because it was already in Chelsea, a</p> <p>19 beautiful gallery in Chelsea.</p> <p>20 And Gagosian is a very famous</p> <p>21 gallery, so if the work was shown there already</p> <p>22 with another artist together, you know, I was</p> <p>23 not sure if Patrick had decided to do something</p> <p>24 with Richard Prince.</p> <p>25 And that was my first idea because,</p> | <p>1 Celle</p> <p>2 Q. And where do you advertise?</p> <p>3 A. In Photograph Magazine. It's like a</p> <p>4 small booklet, like a photographic guide mostly.</p> <p>5 Q. As of the end of January of 2009 had</p> <p>6 you made any arrangements for advertisements of</p> <p>7 a show of photographs by Mr. Cariou?</p> <p>8 A. No, because the minute I figure out</p> <p>9 that there was a Chelsea show of his work, you</p> <p>10 know, I knew that it was over.</p> <p>11 Q. At any time prior to January 29th of</p> <p>12 2009 had you ordered any advertisements for a</p> <p>13 show for Mr. Cariou?</p> <p>14 A. No.</p> <p>15 Q. Had you printed any invitations?</p> <p>16 A. No.</p> <p>17 Q. Had you made any arrangements with</p> <p>18 Powerhouse Books to reprint Yes Rasta?</p> <p>19 A. No, because it was more Patrick's</p> <p>20 decision to do that. But we were committed to</p> <p>21 do something.</p> <p>22 Q. Okay. Now, turning to the third</p> <p>23 page of this document, this is where I guess</p> <p>24 if you can identify -- this appears to be a</p> <p>25 different e-mail.</p> |
| 90   | 92   |
| <p>1 Celle</p> <p>2 you know, a friend of mine told my husband and I</p> <p>3 went to look on the website and I thought maybe</p> <p>4 it's a collaboration. And now I was thinking</p> <p>5 this is why, you know, I don't have any news</p> <p>6 from Patrick.</p> <p>7 The second option was we didn't</p> <p>8 agree and then we see, but I wanted to figure</p> <p>9 out, but I knew there was no way I could do a</p> <p>10 show because of the situation.</p> <p>11 Q. By this time at the end of January</p> <p>12 of 2009 had you printed up any invitations for</p> <p>13 the show?</p> <p>14 A. No.</p> <p>15 Q. Do you typically print invitations?</p> <p>16 A. Really I would say a month before</p> <p>17 the show, you know. We do a postcard.</p> <p>18 Q. A postcard?</p> <p>19 A. Yeah.</p> <p>20 Q. Do you usually take advertisements</p> <p>21 for a show?</p> <p>22 A. Yes, we do.</p> <p>23 Q. And when do you usually make the</p> <p>24 arrangements for advertisements?</p> <p>25 A. At least three months before.</p>  | <p>1 Celle</p> <p>2 Looking at the e-mail which appears</p> <p>3 to take up the bottom two thirds of this --</p> <p>4 sorry.</p> <p>5 This page appears to be a copy of</p> <p>6 the -- I confused myself here.</p> <p>7 On page 3 there appears to me to be</p> <p>8 some carryover lines or something at the top</p> <p>9 which consists of --</p> <p>10 MR. BROOKS: Excuse me. Hers is</p> <p>11 different than mine.</p> <p>12 MR. HAYES: Off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 BY MR. HAYES:</p> <p>15 Q. Looking at the third page, at the</p> <p>16 top of the page is what appears to be two lines,</p> <p>17 then a space, one line, then a space, and then</p> <p>18 three lines, do you see that?</p> <p>19 (Witness indicating.)</p> <p>20 Q. Yes. Top of the page, two lines</p> <p>21 beginning "elles ont fait"?</p> <p>22 A. Yes.</p> <p>23 Q. And then there are two lines there,</p> <p>24 then there's a space, one line?</p> <p>25 A. Yes.</p>  |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 93   | 95  |
| <p>1 Celle</p> <p>2 Q. Space, and then three lines?</p> <p>3 A. Yes.</p> <p>4 Q. Could you please --</p> <p>5 MR. BROOKS: We've already looked at</p> <p>6 that. That's on the fourth page.</p> <p>7 Just to save a little bit of time,</p> <p>8 those lines are all on the fourth page.</p> <p>9 They're the end of the second e-mail.</p> <p>10 MR. HAYES: Okay. So these are</p> <p>11 actually portions of the e-mail which were</p> <p>12 sent -- off the record.</p> <p>13 Bear with me for a second.</p> <p>14 (Discussion off the record.)</p> <p>15 BY MR. HAYES:</p> <p>16 Q. So what appears at the top of</p> <p>17 page 3, those six lines are actually a portion</p> <p>18 of the e-mail that you sent to him, to Patrick</p> <p>19 Cariou on the 29th, correct?</p> <p>20 A. Correct.</p> <p>21 Q. You've already translated those?</p> <p>22 A. Correct.</p> <p>23 On the artist that's 65 years old.</p> <p>24 Q. Yes. And the balance of this page</p> <p>25 appears to be the e-mail portion that we looked</p>                                     | <p>1 Celle</p> <p>2 at on page 4?</p> <p>3 A. Correct.</p> <p>4 Q. The balance of what appears on</p> <p>5 page 3, was that part of the original e-mail?</p> <p>6 A. Yes, that's all -- yes, correct.</p> <p>7 Q. Okay. So now, by looking at this</p> <p>8 page, do we now have the complete e-mail that</p> <p>9 Mr. Cariou sent you at 6:04 a.m. on the 29th?</p> <p>10 A. Correct.</p> <p>11 Q. Whereas what we looked at before was</p> <p>12 just partial?</p> <p>13 A. Correct.</p> <p>14 Q. Now, the line beginning "d,autre</p> <p>15 pars," and so on -- I apologize for the</p> <p>16 mispronunciation -- could you read me that line?</p> <p>17 A. "D,autre pars"?</p> <p>18 Q. Yes. Translate that, please.</p> <p>19 A. On another subject I'm thinking of</p> <p>20 selling a good part of my collection of photo</p> <p>21 books with some beautiful rare pieces.</p> <p>22 And then he said I'm a little bit</p> <p>23 confused about your program. Are you going to</p> <p>24 have three gallery, New York, St. Barths, and</p> <p>25 East Hampton.</p> |
| 94   | 96  |
| <p>1 Celle</p> <p>2 at previously on page 4 but with additional</p> <p>3 material, is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So would it be accurate to</p> <p>6 say that what actually appears on page 3,</p> <p>7 beginning on January 29, 2009, at 6:04 a.m.,</p> <p>8 Patrick Cariou wrote -- is that the complete</p> <p>9 e-mail that he sent you at that time?</p> <p>10 A. Yes.</p> <p>11 Q. Whereas what we looked at on page 4</p> <p>12 was a partial portion of the e-mail?</p> <p>13 A. Yeah. Correct. It was missing the</p> <p>14 two last lines.</p> <p>15 Q. Actually, unless I misread it, it</p> <p>16 misses a number of lines. The prior one, which</p> <p>17 ended up with the line HTTP artsbeat blogs?</p> <p>18 A. Correct.</p> <p>19 Q. And you see that appears here?</p> <p>20 A. Yes.</p> <p>21 Q. Then below that there's another line</p> <p>22 which begins HTTP www.theartnewspaper?</p> <p>23 A. Correct.</p> <p>24 Q. And now everything on the balance of</p> <p>25 the page appears to be something we did not look</p> | <p>1 Celle</p> <p>2 Q. Yes.</p> <p>3 A. He's questioning.</p> <p>4 Q. Yes.</p> <p>5 A. And then he asked me, do you know</p> <p>6 somebody at Eden Rock Gallery. This is in</p> <p>7 St. Barths. Prince, which is Richard Prince,</p> <p>8 had a show there with my photograph but I cannot</p> <p>9 find them -- but I cannot find them or, you</p> <p>10 know, anything about that show.</p> <p>11 I will need some photograph of that</p> <p>12 show or reproduction of painting. Thank you.</p> <p>13 Q. And A-plus?</p> <p>14 A. A-plus means "a bientot" or see you</p> <p>15 soon.</p> <p>16 Q. Did you understand this latter</p> <p>17 portion of the e-mail to be asking you to obtain</p> <p>18 the photos for him?</p> <p>19 A. He ask me if I -- yeah, but --</p> <p>20 Q. Did you do that?</p> <p>21 A. No.</p> <p>22 Q. Now, let's turn to -- we've now</p> <p>23 translated the entire e-mail, right?</p> <p>24 A. Yes.</p> <p>25 Q. Now, let's go back to page 2, the</p>  |



Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 97  | 99  |
| <p>1 Celle</p> <p>2 document which has what appears to be one</p> <p>3 e-mail. And that appears to be part of the</p> <p>4 e-mail that appeared on page 3, so I think we've</p> <p>5 already covered that.</p> <p>6 A. The same one, yeah.</p> <p>7 Q. And let's go now to page 1.</p> <p>8 And can you tell me, are those --</p> <p>9 are any of those the same e-mails we've already</p> <p>10 looked at or are they different?</p> <p>11 A. It's the same. Yeah.</p> <p>12 Oh, there's something here that --</p> <p>13 sorry, yeah, page 1.</p> <p>14 Q. Page 1?</p> <p>15 A. Yes.</p> <p>16 Q. So is that at the very top?</p> <p>17 A. Yes.</p> <p>18 Q. The top of the page?</p> <p>19 MR. BROOKS: No, what about this</p> <p>20 one? The bottom two we've done. I think</p> <p>21 this one is new.</p> <p>22 A. This is the part that's new.</p> <p>23 MR. BROOKS: We did that and then</p> <p>24 this part?</p> <p>25 A. Yeah.</p>   | <p>1 Celle</p> <p>2 was running out of --</p> <p>3 MR. BROOKS: No, that's from him.</p> <p>4 I think you should start and then go up.</p> <p>5 MR. HAYES: That's fine with me too.</p> <p>6 BY MR. HAYES:</p> <p>7 Q. Let's go back down.</p> <p>8 This e-mail chain begins, does it,</p> <p>9 with an e-mail from you to him?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. And is that the one that says "oui</p> <p>12 dans le passe"?</p> <p>13 A. Yes.</p> <p>14 Q. And the e-mails below that on this</p> <p>15 page we've already done, correct?</p> <p>16 MR. BROOKS: Those two.</p> <p>17 A. Yes.</p> <p>18 Q. So this e-mail chain we're now going</p> <p>19 to do, we'll start with the beginning of this</p> <p>20 e-mail chain, which is your four-line e-mail</p> <p>21 beginning "oui dans le passe"?</p> <p>22 A. Yeah.</p> <p>23 Q. Translate those four lines for me,</p> <p>24 please.</p> <p>25 A. So here I'm answering to his e-mail</p>  |
| 98  | 100   |
| <p>1 Celle</p> <p>2 (Witness indicating.)</p> <p>3 Q. Just so we're clear, the part that</p> <p>4 we've already done, is that the one that begins</p> <p>5 from Patrick 12/29?</p> <p>6 Actually, let's do it this way.</p> <p>7 Let's start from the top.</p> <p>8 A. Yeah.</p> <p>9 Q. This is Patrick Cariou to you,</p> <p>10 January 29 at 10:31, Eastern Standard Time.</p> <p>11 A. Right.</p> <p>12 Q. Could you please translate -- and it</p> <p>13 consists of four lines, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Could you please translate those</p> <p>16 four lines?</p> <p>17 A. For Rasta the book you can call my</p> <p>18 publisher Powerhouse. But I was mentioning my</p> <p>19 private collection of book -- "Grosse collect"</p> <p>20 means big collection -- with beautiful rare</p> <p>21 pieces and some not as nice.</p> <p>22 Q. And what did you understand him to</p> <p>23 be saying to you in this e-mail when you got it?</p> <p>24 A. I was telling him that I had a hard</p> <p>25 time finding more Rasta copy. And, you know, I</p> | <p>1 Celle</p> <p>2 where he's explaining that Richard Prince had</p> <p>3 took some photograph from him. And I say, yes,</p> <p>4 in the past I have seen some old publicity or</p> <p>5 small little thing, and what I'm trying by this</p> <p>6 is I mean mixed in Richard Prince photograph</p> <p>7 because I know his work is always, you know, a</p> <p>8 mix of other things.</p> <p>9 Q. Do me a favor, just because I don't</p> <p>10 translate French at all, can you just give me</p> <p>11 the straight translation of those four lines?</p> <p>12 A. Sure.</p> <p>13 Q. Thank you.</p> <p>14 A. So in the past I always, you know,</p> <p>15 all publicities, small little thing, but in your</p> <p>16 case it's true that it's "plagiat."</p> <p>17 "Plagiat" is that copy.</p> <p>18 MR. BROOKS: Does that mean</p> <p>19 plagiarism?</p> <p>20 A. Probably.</p> <p>21 But in that case I think it's a bit,</p> <p>22 you know -- "gonfle" is also slang, that means</p> <p>23 that's a lot. You know, he's really thinking</p> <p>24 he's ahead of everybody and he can do whatever</p> <p>25 he wants. Good luck to you. And I sign.</p> |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 101   | 103  |
| <p>1 Celle</p> <p>2 Q. "Bonne chance en tout cas" means</p> <p>3 good luck in your case?</p> <p>4 A. Yes.</p> <p>5 MR. BROOKS: Does it mean in your</p> <p>6 case or in any case?</p> <p>7 A. "Bonne chance" in any case, whatever</p> <p>8 happens, "bonne chance" to you.</p> <p>9 Q. And then there is a response by</p> <p>10 Patrick Cariou, what appears to be a one-line</p> <p>11 response at 16:03 on the 29th?</p> <p>12 A. Yeah.</p> <p>13 Q. And that's one line with two</p> <p>14 question marks.</p> <p>15 A. Yeah. He's saying thank you on my</p> <p>16 book, interesting, new, because he wants to sell</p> <p>17 that collection of book, so he's asking if I'm</p> <p>18 interested in those books, his big book</p> <p>19 collection.</p> <p>20 Q. And then you respond to him by</p> <p>21 e-mail, which I don't see has time on it, but</p> <p>22 it's also on the 29th and it says "oui bien</p> <p>23 sur"?</p> <p>24 A. Yeah.</p> <p>25 Q. And that consists of --</p>  | <p>1 Celle</p> <p>2 A. Yeah.</p> <p>3 Q. Okay. And so between January 29th</p> <p>4 and the time --</p> <p>5 MR. BROOKS: I'm sorry, that last</p> <p>6 line, does it say they're less rare but</p> <p>7 very beautiful?</p> <p>8 A. Yeah, very beautiful.</p> <p>9 MR. BROOKS: And less rare?</p> <p>10 A. Yes.</p> <p>11 Q. Between that e-mail on January 29th</p> <p>12 and the time that he came to your gallery to see</p> <p>13 the show did you have any e-mail contact with</p> <p>14 him?</p> <p>15 A. No, but this refreshed my memory.</p> <p>16 When this happened, as you could</p> <p>17 see, we are not corresponding. He's talking</p> <p>18 about his whole collection and I'm talking about</p> <p>19 the Rasta.</p> <p>20 So I called him. I remember I call</p> <p>21 him. And we talk about the whole thing, you</p> <p>22 know, and -- well, he was going on and on with</p> <p>23 his lawsuit. And, you know, we talk about a</p> <p>24 book and everything.</p> <p>25 And I say to him, you know, I saw a</p>  |
| 102   | 104  |
| <p>1 Celle</p> <p>2 A. Yes, of course. I mean that means</p> <p>3 I will be interested to see your collection.</p> <p>4 I buy some online. I already bought 40 Rasta</p> <p>5 and we sold them.</p> <p>6 "En revanche" means on the other</p> <p>7 side I've not been very lucky with Surfer</p> <p>8 because they are very hard to find, very</p> <p>9 difficult to find. But every week I am looking</p> <p>10 for -- "un par si par la" means everywhere I</p> <p>11 can. Rasta people adore the book, really love</p> <p>12 it. Can you do a reprint of the book.</p> <p>13 Q. And then we have at the very top his</p> <p>14 response to you, which I think we established</p> <p>15 before was at 10:31 on January 29.</p> <p>16 And now with that leading into this</p> <p>17 can you then translate those four lines for us,</p> <p>18 please?</p> <p>19 A. Yeah.</p> <p>20 For Rasta you can call my publisher</p> <p>21 Powerhouse Book. In reality I was mentioning my</p> <p>22 private collection, the big collection, with</p> <p>23 beautiful, rare, vintage pieces and some not as</p> <p>24 beautiful.</p> <p>25 Q. And that's it?</p> | <p>1 Celle</p> <p>2 few months ago I try to call you, you know, I</p> <p>3 heard about what was happening in the gallery,</p> <p>4 I tried to call you, you never call me back.</p> <p>5 Q. Did he say why he didn't call you</p> <p>6 back?</p> <p>7 A. You know, he said, you know, my</p> <p>8 cellular phone sometimes, you know --</p> <p>9 Q. Your what?</p> <p>10 A. He told me that sometimes he doesn't</p> <p>11 get all messages, you know.</p> <p>12 Q. Okay.</p> <p>13 A. I mean, you know, and because of the</p> <p>14 holiday I guess. Also in St. Barths I don't</p> <p>15 have -- my 917 phone in New York doesn't work</p> <p>16 there. So I don't know -- we didn't communicate</p> <p>17 really.</p> <p>18 But what I told him at that moment</p> <p>19 is of course I want to carry the book, I think</p> <p>20 you should try to do a reprint because it's a</p> <p>21 very important book.</p> <p>22 And I say to him, anyway, now I</p> <p>23 understand more what happened because I didn't</p> <p>24 know when this happened, I didn't know if you</p> <p>25 worked with him.</p> |

Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 105   | 107   |
| <p>1 Celle</p> <p>2 But I told him that there was no way</p> <p>3 I could do a Rasta show because it looks like</p> <p>4 I'm trying to capitalize on, you know, the</p> <p>5 Richard Prince notoriety and say, wow, he did</p> <p>6 this, I'm going to do a show now and show the</p> <p>7 Rasta work, it looks like I'm trying to take</p> <p>8 advantage of the situation. And I say there's</p> <p>9 no way I can do a show right now.</p> <p>10 Q. And in that conversation did</p> <p>11 Mr. Cariou try to persuade you to proceed with</p> <p>12 the show?</p> <p>13 A. At the time I think he was very</p> <p>14 preoccupied by the whole situation more than</p> <p>15 focusing on my conversation.</p> <p>16 Q. Preoccupied by the lawsuit?</p> <p>17 A. Yes.</p> <p>18 Q. Rather than focusing on your show in</p> <p>19 your conversation?</p> <p>20 A. Yes, he was very preoccupied with it</p> <p>21 because it was something very important for him.</p> <p>22 And I kind of apologize and say,</p> <p>23 you know what, this has been -- you know, since</p> <p>24 November I heard, I call you, you didn't call me</p> <p>25 back, and I was thinking, you know, I really</p>                       | <p>1 Celle</p> <p>2 Q. Are you still interested in doing</p> <p>3 a show with Mr. Cariou?</p> <p>4 A. I don't know after all this, you</p> <p>5 know.</p> <p>6 Q. You are still interested in selling</p> <p>7 the Yes Rasta book?</p> <p>8 A. The book I still sell it. I always</p> <p>9 sold the book, you know, because I have a</p> <p>10 bookstore and, you know. So I love the book,</p> <p>11 but doing a show, I'm not sure.</p> <p>12 Q. Anything else in that conversation</p> <p>13 that you had with him that you haven't told us</p> <p>14 about?</p> <p>15 A. No. I think that's it. I don't</p> <p>16 think I remember anything else.</p> <p>17 Q. Were there any other conversations</p> <p>18 that you had between that telephone conversation</p> <p>19 and the time he came to your gallery in the</p> <p>20 spring of '09?</p> <p>21 A. I don't -- no, I don't think so.</p> <p>22 Q. And that conversation was -- these</p> <p>23 e-mails are in late January?</p> <p>24 A. Mm-hmm.</p> <p>25 Q. Was that conversation shortly after</p>  |
| 106   | 108   |
| <p>1 Celle</p> <p>2 love your work but now if I do a show today it</p> <p>3 looks like I'm taking advantage.</p> <p>4 Because if there is a New York Times</p> <p>5 Magazine talking about, you know, this, you get</p> <p>6 a writeup and I don't want to be the one trying</p> <p>7 to capitalize on the success of that or not the</p> <p>8 success or the bad press, you know. So I say I</p> <p>9 don't want to do the show.</p> <p>10 Q. What did he say in response to that?</p> <p>11 A. You know, he asked me will you do</p> <p>12 any other show. And I say, well, maybe, you</p> <p>13 know, we have to talk.</p> <p>14 Q. And did you have a discussion, for</p> <p>15 example, about doing a show relating the surfer</p> <p>16 portraits that you talked about putting in the</p> <p>17 show with the Rastas?</p> <p>18 A. You know, at the time we didn't go</p> <p>19 anywhere. The proof is like today I still</p> <p>20 haven't gotten anything from him.</p> <p>21 Q. You haven't gotten any prints from</p> <p>22 him or anything?</p> <p>23 A. Today I mean I'm trying to get</p> <p>24 things, but I think this has to be probably</p> <p>25 over, you know. I don't know the situation.</p> | <p>1 Celle</p> <p>2 the e-mail exchange, do you recall?</p> <p>3 A. Yes. I call him because I really</p> <p>4 wanted -- because we e-mail sometime, you know,</p> <p>5 he's talking about his collection, I want the</p> <p>6 Rasta.</p> <p>7 Because I had mentioned early on</p> <p>8 that the book was running out, he should do a</p> <p>9 reprint, he should talk to Powerhouse, because</p> <p>10 I cannot go to the publisher and say can you</p> <p>11 reprint that book.</p> <p>12 Q. And that conversation took place,</p> <p>13 would it be fair to say, around the end of</p> <p>14 January or beginning of February?</p> <p>15 A. Yes, beginning of February probably.</p> <p>16 Q. And in that conversation did you</p> <p>17 have a more complete conversation about his</p> <p>18 collection and him sending you the collection?</p> <p>19 MR. BROOKS: I'm sorry, which</p> <p>20 collection?</p> <p>21 MR. HAYES: His collection of his</p> <p>22 own books.</p> <p>23 A. At the time he say to me that the</p> <p>24 books were in the basement in Brooklyn, that his</p> <p>25 next trip to New York he will, you know, go</p> |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 109   | 111  |
| <p>1 Celle</p> <p>2 through the books and give them to me and --</p> <p>3 which he did last week actually.</p> <p>4 Q. So the contacts in '09 were the</p> <p>5 e-mail exchange, the phone conversation, the</p> <p>6 visit to the studio?</p> <p>7 A. Yeah.</p> <p>8 Q. And his bringing the books to you</p> <p>9 last week?</p> <p>10 A. Yes.</p> <p>11 Q. Anything else?</p> <p>12 A. No, I don't recall anything else.</p> <p>13 Q. And after the telephone conversation</p> <p>14 in early February has there been any further</p> <p>15 discussion in any fashion of a show or not</p> <p>16 having a show?</p> <p>17 A. No.</p> <p>18 Q. Just so I'm clear, no other e-mails</p> <p>19 after this exchange of e-mails?</p> <p>20 A. I don't remember, no, I don't think</p> <p>21 so.</p> <p>22 MR. BROOKS: By the way, I should</p> <p>23 just say something for the record.</p> <p>24 We don't have the August e-mail</p> <p>25 that you marked as 1 because I told the</p> | <p>1 Celle</p> <p>2 had with Mr. Cariou about not going forward with</p> <p>3 the show at that time, did you discuss that with</p> <p>4 anyone else?</p> <p>5 A. Probably Polly Campbell who worked</p> <p>6 with me, P-O-L-L-Y, C-A-M-B-E-L-L, because she's</p> <p>7 my closest person, you know, she's my assistant.</p> <p>8 Because she can follow up what I do every day.</p> <p>9 Q. Do you remember having that</p> <p>10 conversation or are you just assuming you had</p> <p>11 one?</p> <p>12 A. I remember informing her, you know,</p> <p>13 about what was going on.</p> <p>14 But, you know, it's a small office</p> <p>15 so I work with her every day. So she knew since</p> <p>16 November what was going on, you know, about, you</p> <p>17 know, Gagosian and Richard Prince.</p> <p>18 So, you know, I have about 20 other</p> <p>19 photographer, you know, that I -- in five</p> <p>20 galleries. So it is true that Patrick was not</p> <p>21 always, you know, the conversation.</p> <p>22 Q. Plenty of other things to do?</p> <p>23 A. Yeah, especially at the end of the</p> <p>24 year because I had St. Barths and, you know.</p> <p>25 Q. Other than any conversation you</p> |
| 110   | 112  |
| <p>1 Celle</p> <p>2 witness -- that came from our production,</p> <p>3 and I told the witness they already have</p> <p>4 this one, so look for others.</p> <p>5 MR. HAYES: Right.</p> <p>6 MR. BROOKS: But she does have that</p> <p>7 one also.</p> <p>8 MR. HAYES: Okay, great.</p> <p>9 BY MR. HAYES:</p> <p>10 Q. Just for the record, you have, of</p> <p>11 course, what we have marked as Exhibit 1, you</p> <p>12 have that in your own records?</p> <p>13 A. I mean I've seen that e-mail.</p> <p>14 Can I retrieve from my computer from</p> <p>15 2008? I don't know.</p> <p>16 Q. Okay. But you had it or have it?</p> <p>17 A. Yeah.</p> <p>18 Q. And you have the e-mails which we've</p> <p>19 marked as Exhibit 2?</p> <p>20 A. Yes.</p> <p>21 Q. And for e-mails that's it between</p> <p>22 you and Mr. Cariou?</p> <p>23 A. Yes.</p> <p>24 Q. No problem.</p> <p>25 In addition to the conversation you</p>  | <p>1 Celle</p> <p>2 may have had with Ms. Campbell do you recall</p> <p>3 discussing it with anyone else?</p> <p>4 A. My husband probably because, you</p> <p>5 know, he doesn't take care of the operation of</p> <p>6 the gallery. But, you know, we discuss artists</p> <p>7 and I tell him what I find, you know, the new</p> <p>8 artist or the exciting one.</p> <p>9 And, yeah, we talk about business</p> <p>10 because he put some money into the business.</p> <p>11 Q. And do you recall a specific</p> <p>12 conversation with your husband about this?</p> <p>13 A. No. The only thing I recall is the</p> <p>14 first time I heard about, you know, the</p> <p>15 Gagosian, Richard Prince, was from my husband.</p> <p>16 Q. Other than any conversations with</p> <p>17 your husband did you discuss it with anyone else</p> <p>18 besides Ms. Campbell and your husband?</p> <p>19 A. No.</p> <p>20 Q. And Mr. Cariou?</p> <p>21 A. No.</p> <p>22 Q. I'd like to go back to your finding</p> <p>23 out about the show, the Richard Prince show.</p> <p>24 A. Yes.</p> <p>25 Q. Which is entitled Canal Zone?</p>  |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 113  | 115   |
| 1 Celle  | 1 Celle   |
| 2 A. Yes.  | 2 A. No, I didn't. I did not.                       |
| 3 Q. So I'll refer to it as the Canal              | 3 Q. You saw the show was up and running            |
| 4 Zone show if that's okay?                        | 4 at the time?                                      |
| 5 A. Yes, mm-hmm.                                  | 5 A. I saw on the website, yeah, but                |
| 6 Q. When did you first hear about the             | 6 there was some photograph I remember.             |
| 7 Canal Zone show?                                 | 7 Q. Do you remember, did you have any              |
| 8 A. I can't recall if it's -- it's in             | 8 further conversations with anyone else about the  |
| 9 November I think. I can't remember.              | 9 show other than what you've told us?              |
| 10 Q. 2008?  | 10 A. No.   |
| 11 A. 2008.  | 11 Q. Do you frequently go to art shows in          |
| 12 Q. Did you see the show yourself?               | 12 Chelsea?   |
| 13 A. No.  | 13 A. I have to be honest, interestingly,           |
| 14 Q. How did you hear about the show?             | 14 I don't. I have to say when I was in fashion I   |
| 15 A. My husband came home one evening             | 15 didn't go to fashion shows. I never have time.   |
| 16 and he had -- you know, he had heard through    | 16 You know, I work and I go home and I have kids   |
| 17 somebody from France, who was actually probably | 17 so --  |
| 18 a photographer, I can't remember, traveling in  | 18 Q. You're too busy?                              |
| 19 New York who saw the show.                      | 19 A. I do weekends sometimes, but I don't          |
| 20 And he probably knew Patrick's                  | 20 have time.                                       |
| 21 work or new the Rasta and said, wow, that's     | 21 Q. Other than discussions with -- by             |
| 22 incredible, that French guy or Patrick, his     | 22 the way, without getting into the conversation   |
| 23 photograph is in the show with Richard Prince.  | 23 with Mr. Brooks or anyone else at this law firm, |
| 24 So my husband told me.                          | 24 when did you first hire him as your lawyer?      |
| 25 Q. Just so I'm clear, your husband told         | 25 A. Just yesterday I guess.                       |
| 114  | 116   |
| 1 Celle  | 1 Celle   |
| 2 you about a conversation he had with someone who | 2 Q. So prior to hiring him as your                 |
| 3 is in France who had seen the show?              | 3 lawyer yesterday had you ever spoken to           |
| 4 A. Yes. I think it's somebody who was            | 4 Mr. Brooks before?                                |
| 5 in New York but living in France, somebody I     | 5 A. Two times he asked me if I was                 |
| 6 didn't know actually. And he say, wow, you       | 6 called if I will be willing to participate or     |
| 7 should check it out because this is what I heard | 7 give a deposition or an affidavit. I think        |
| 8 today.   | 8 that's the term. And I say yes, if you need me    |
| 9 Q. Your husband said this to you?                | 9 of course I will.                                 |
| 10 A. Yes.   | 10 Q. Any substantive discussion about              |
| 11 Q. What did you say to him, if you              | 11 what it will be about?                           |
| 12 remember?                                       | 12 A. Any?  |
| 13 A. I say, well, I have to check it out,         | 13 Q. Substantive discussion about what it          |
| 14 it's weird.                                     | 14 will be about?                                   |
| 15 Q. And what, if anything, did you do            | 15 A. Until yesterday when I got more               |
| 16 after that?                                     | 16 detail, no.                                      |
| 17 A. After that I went on the Gagosian            | 17 Q. And any conversation with Mr. Brooks          |
| 18 website and there was some images.              | 18 before yesterday?                                |
| 19 Q. And did you do anything further              | 19 A. No. Basically the only thing I                |
| 20 after that, did you go to the gallery, did you  | 20 remember Mr. Brooks was telling me that there    |
| 21 talk to anyone from the gallery?                | 21 was an e-mail about a show, and he ask me, you   |
| 22 MR. BROOKS: I'm sorry, I didn't                 | 22 know, did you write an e-mail about doing a show |
| 23 hear.   | 23 with Patrick, and I say, yes, yes, I was very    |
| 24 Q. Did you go to the gallery, did you           | 24 interested to do a show with him.                |
| 25 talk to anyone at the gallery?                  | 25 Q. And would that be Exhibit 1?                  |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 117   | 119  |
| <p>1 Celle</p> <p>2 A. Yes, Exhibit 1.</p> <p>3 Q. And did you subsequently give it to</p> <p>4 him?</p> <p>5 MR. BROOKS: I got it from Patrick.</p> <p>6 Q. And other than Mr. Brooks and before</p> <p>7 yesterday did you speak to anybody else at this</p> <p>8 firm?</p> <p>9 A. No.</p> <p>10 Q. Had you ever attended any exhibits</p> <p>11 that you can recall of works by Richard Prince?</p> <p>12 A. The only one I saw, so this year I</p> <p>13 went to see -- oh, my God, I went uptown to see</p> <p>14 a show, it was not Richard Prince, but I know</p> <p>15 Richard Prince was upstairs.</p> <p>16 So I only saw that show, and that</p> <p>17 was -- I think it was in December, but I'm</p> <p>18 trying to remember the photographer I saw.</p> <p>19 On Madison Avenue.</p> <p>20 And there was a Richard Prince</p> <p>21 exhibit on the top floor.</p> <p>22 Q. Was this at the Gagosian Gallery at</p> <p>23 980 Madison?</p> <p>24 A. Yes, it was Gagosian Gallery, and it</p> <p>25 was -- I can't remember the title of the show.</p>   | <p>1 Celle</p> <p>2 I remember that. A lot of nude people and</p> <p>3 drawings, that's really what I remember.</p> <p>4 Q. And that would have been December</p> <p>5 of '09?</p> <p>6 A. Yes.</p> <p>7 Q. Have you ever read any books about</p> <p>8 Richard Prince?</p> <p>9 A. No. No.</p> <p>10 I mean I know his work a little bit.</p> <p>11 Q. How do you know his work, from what</p> <p>12 sources?</p> <p>13 A. I know his work from reading</p> <p>14 magazine or flipping through. I've seen some</p> <p>15 books of him, but because I'm more photographic</p> <p>16 and I know sometimes he mix photography and</p> <p>17 painting, I'm not super-familiar with his work,</p> <p>18 except the Marlboro Man and certain things.</p> <p>19 Q. I should have asked this earlier,</p> <p>20 but let me just go back one second.</p> <p>21 Have you ever studied art history?</p> <p>22 A. No, never.</p> <p>23 Q. Have you ever taken any art courses</p> <p>24 at all?</p> <p>25 A. Never.</p>                       |
| 118   | 120  |
| <p>1 Celle</p> <p>2 It was a group show. And he was upstairs. But</p> <p>3 not related to that.</p> <p>4 Q. So it was a show on the fifth and</p> <p>5 sixth floors, and you went to the fifth floor?</p> <p>6 A. I'm trying to remember the name of</p> <p>7 the show, which I should remember because I have</p> <p>8 a book in the bookstore.</p> <p>9 Q. Do you remember generally the type</p> <p>10 of photography it was?</p> <p>11 A. Yeah, it's a woman, her name is --</p> <p>12 I have a great memory, but I forgot her name.</p> <p>13 She did a lot of photograph about her husband</p> <p>14 who is actually sick, and it's a lot of muscle</p> <p>15 and they are like very interesting black and</p> <p>16 white photography.</p> <p>17 And when I saw that show, on top</p> <p>18 there was a Richard Prince and so I went and</p> <p>19 looked at it and it was drawing and painting.</p> <p>20 Q. So you actually went upstairs to</p> <p>21 look at the Richard Prince show?</p> <p>22 A. Yes.</p> <p>23 Q. And do you recall what the subject</p> <p>24 matter of the show was at all?</p> <p>25 A. No. It was very sexual oriented.</p> | <p>1 Celle</p> <p>2 Q. Other than the conversations that</p> <p>3 you've described with Patrick regarding the</p> <p>4 Canal Zone -- with Mr. Cariou regarding the</p> <p>5 Canal Zone exhibit and your husband, and perhaps</p> <p>6 Ms. Campbell, have you spoken to anyone else</p> <p>7 about the Canal Zone exhibit other than maybe</p> <p>8 your attorney yesterday?</p> <p>9 A. Not that I recall.</p> <p>10 Q. And the decision to not go forward</p> <p>11 with the exhibit is only the conversations</p> <p>12 you've already described to us previously?</p> <p>13 A. Yes.</p> <p>14 Q. No one else you've spoken to about</p> <p>15 it?</p> <p>16 A. No.</p> <p>17 Q. As of the time you left the</p> <p>18 voicemail for Mr. Cariou at the end of December</p> <p>19 of 2008 had he sent you any prints at all for</p> <p>20 the show?</p> <p>21 A. No.</p> <p>22 Q. By the time you had the e-mail</p> <p>23 exchange in January 29 of 2009 had he sent you</p> <p>24 any prints for the show?</p> <p>25 A. No.</p> |

Christiane Celle

January 26, 2010

|   |   |
|---|---|
| 121   | 123   |
| 1 Celle   | 1 Celle   |
| 2 Q. Have you yourself ever contacted               | 2 Q. And did he tell you the price point            |
| 3 Powerhouse about the number of sales of the       | 3 at which they were sold?                          |
| 4 Yes Rasta book?                                   | 4 A. No.  |
| 5 MR. BROOKS: I don't understand the                | 5 MR. BROOKS: Objection, asked and                  |
| 6 question.   | 6 answered.   |
| 7 Q. I'll rephrase it.                              | 7 Q. Did he tell you how many?                      |
| 8 Have you ever had any contacts with               | 8 A. No.  |
| 9 Powerhouse Books yourself?                        | 9 Q. You decided not to proceed, at least           |
| 10 A. Except ordering books?                        | 10 for the present, with the Cariou exhibit         |
| 11 Q. Yes.  | 11 regarding Yes Rasta photographs in or about      |
| 12 A. And usually it's not me, it's Polly           | 12 January of '09?                                  |
| 13 Campbell, she does all the ordering books, so    | 13 A. No, actually I decided the end of             |
| 14 she's the one who talk directly to them.         | 14 November, December, and I met -- at the time     |
| 15 Q. Does she actually order it by                 | 15 when I saw the Richard Prince situation, I       |
| 16 calling them up and asking for the books?        | 16 committed with another photographer called Lyle  |
| 17 A. I know she call them and was trying           | 17 Owerko. I met him actually end of November       |
| 18 to get the rest of the Rasta. And there was a    | 18 about the same time that there was, you know,    |
| 19 fair in Brooklyn and Powerhouse had a big space, | 19 the situation that I learned that Richard Prince |
| 20 and I noticed they had some Surfer. So after     | 20 and Patrick Cariou had maybe done something      |
| 21 the fair we contacted them to try to get more    | 21 together.  |
| 22 copy, but they would not want to give their copy | 22 So I decided to do my show in                    |
| 23 of Surfer. So we could not get more books from   | 23 April with a different photographer called       |
| 24 them.  | 24 Lyle Owerko. And my goal was to replace          |
| 25 Q. But you personally never spoke to             | 25 probably Patrick with that work. And it's        |
| 122   | 124   |
| 1 Celle   | 1 Celle   |
| 2 anybody at Powerhouse?                            | 2 exactly what I did, I just opened my gallery      |
| 3 A. No, Polly Campbell did, my                     | 3 with that show.                                   |
| 4 assistant.  | 4 Q. Just to make sure I didn't miss                |
| 5 Q. You had told us previously that                | 5 anything, when you say you learned about this     |
| 6 Mr. Cariou gave you some information about his    | 6 Canal Zone exhibition, that consisted of you      |
| 7 prior sales of prints. Did he give you            | 7 having had the conversation with your husband     |
| 8 specifics? He told you he sold some Surfer        | 8 and you going online?                             |
| 9 prints, is that correct?                          | 9 A. Yes.   |
| 10 A. He told me he sold both actually,             | 10 Q. And the conversation with                     |
| 11 but he told me that he had a show about a surfer | 11 Ms. Campbell?                                    |
| 12 in Paris.  | 12 A. Yes, exactly.                                 |
| 13 Q. And that he sold some of the Surfer           | 13 Q. Anything else?                                |
| 14 prints?  | 14 A. No.   |
| 15 A. Yes.  | 15 MR. BROOKS: I'm not sure she said                |
| 16 Q. Did he tell you he sold some                  | 16 she definitely had a conversation with           |
| 17 Yes Rasta prints?                                | 17 Ms. Campbell. And she certainly didn't           |
| 18 A. He sold some Rasta prints, yeah.              | 18 say that's how she learned about it.             |
| 19 Q. Did he tell you to whom?                      | 19 MR. HAYES: No, I understand.                     |
| 20 A. Independent people, but it was not            | 20 BY MR. HAYES:                                    |
| 21 in a gallery. It was more independent of         | 21 Q. I think you said previously that              |
| 22 friends or collector, but not in a gallery       | 22 Ms. Campbell works for you?                      |
| 23 setting.   | 23 A. Yes.  |
| 24 Q. Private sales?                                | 24 Q. You speak to her frequently?                  |
| 25 A. Private sales, if I remember.                 | 25 A. Yes.  |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 125   | 127  |
| <p>1 Celle</p> <p>2 Q. And you expect you did discuss this</p> <p>3 with her?</p> <p>4 A. Yes.</p> <p>5 Q. But don't perhaps remember a</p> <p>6 specific conversation?</p> <p>7 A. I probably told her that was</p> <p>8 happening and that I will not do the show</p> <p>9 because, you know, in December I was already</p> <p>10 talking with a photographer. She was aware of</p> <p>11 it. She had met Lyle Owerko.</p> <p>12 We also had bought a book from him</p> <p>13 that we were selling right away.</p> <p>14 Q. And you were intending to sell that</p> <p>15 in your bookstore?</p> <p>16 A. Bookstore and eventually gallery.</p> <p>17 Q. And the title of that book is?</p> <p>18 A. And The Birds Sing, it's a book</p> <p>19 about 2011 what happened -- September 11, sorry.</p> <p>20 This young photographer came to show</p> <p>21 me with his work about September 11, which I was</p> <p>22 not interested, and when I ask him what other</p> <p>23 project he was working on he showed me the</p> <p>24 Samburu, the North Kenya civilization.</p> <p>25 And I immediately, you know, decided</p>  | <p>1 Celle</p> <p>2 selling about 30 prints from him.</p> <p>3 Q. In the year 2009 how many prints in</p> <p>4 total did you sell?</p> <p>5 A. In whole gallery?</p> <p>6 Q. Yes.</p> <p>7 A. There was an artist where I sold</p> <p>8 about 189 exactly.</p> <p>9 Q. Who is that?</p> <p>10 A. It's called James and Karla Murray,</p> <p>11 M-U-R-R-A-Y, and it's called Store Front. It's</p> <p>12 coming with a book too, so we did book signing</p> <p>13 and show. I forgot to mention that show before.</p> <p>14 We are still selling their work.</p> <p>15 It's real interesting work about all New York</p> <p>16 store fronts.</p> <p>17 Q. And what is the price point of those</p> <p>18 photographs?</p> <p>19 A. \$2,500 and up.</p> <p>20 MR. BROOKS: Excuse me one second.</p> <p>21 Did you get the word "store front"?</p> <p>22 A. Store Front, yeah, the name of the</p> <p>23 show, and the book.</p> <p>24 Q. In your gallery -- or galleries, but</p> <p>25 focusing first on the Broome Street gallery, do</p>  |
| 126   | 128  |
| <p>1 Celle</p> <p>2 to do a show with him because I knew I was not</p> <p>3 going to do Rasta. And I had Rasta such in my</p> <p>4 head that it was the perfect, you know,</p> <p>5 replacement. And I really like his work.</p> <p>6 Actually, he just won last week --</p> <p>7 there was 3,000 candidates in a big contest</p> <p>8 called Hasselblad contest. He's the winner this</p> <p>9 year, and he was chosen from 3,000 people.</p> <p>10 So I knew that if I could not have</p> <p>11 Rasta I had to have a replacement. And when I</p> <p>12 saw his work I was thinking that's perfect, you</p> <p>13 know.</p> <p>14 Q. And that's the show you told us</p> <p>15 about earlier which did in fact take place?</p> <p>16 A. Yes, my opening show in April.</p> <p>17 Q. And how did that show go?</p> <p>18 A. Very well actually.</p> <p>19 Q. Did you sell prints in the show?</p> <p>20 A. Yeah.</p> <p>21 Q. Do you have an average number of</p> <p>22 prints you've sold from your photography shows?</p> <p>23 A. In this case the prints start at</p> <p>24 2,500 up to 10,000. You know, it's still a</p> <p>25 small gallery, but we are right now we have been</p> | <p>1 Celle</p> <p>2 you carry inventory of the photographs?</p> <p>3 A. Yes, we do.</p> <p>4 Q. And so you offer those for sale in</p> <p>5 addition to whatever the currently-up show is,</p> <p>6 if there is one?</p> <p>7 A. Yes, definitely.</p> <p>8 Q. And where do you have them</p> <p>9 physically in the gallery?</p> <p>10 A. We have like a file, a flat file,</p> <p>11 so we have them there. Some are also framed.</p> <p>12 For example, we keep older show, you know, so we</p> <p>13 have inventory. I have also a huge space.</p> <p>14 I have a 4,000-square-foot space in 255 Centre</p> <p>15 Street. So we keep inventory.</p> <p>16 Q. And you keep inventory then in each</p> <p>17 of your galleries?</p> <p>18 A. Yes, because we work with also a lot</p> <p>19 of decorators, you know.</p> <p>20 Q. And do you keep inventory primarily-</p> <p>21 of the artists you've shown or artists of a</p> <p>22 broad spectrum?</p> <p>23 A. Only artists we are showing.</p> <p>24 Q. Have you ever kept any inventory of</p> <p>25 Patrick Cariou?</p> |



Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 129  | 131  |
| <p>1 Celle</p> <p>2 A. No.</p> <p>3 Q. Have you ever asked him whether you</p> <p>4 could carry inventory of Patrick Cariou?</p> <p>5 A. I've been trying. But, you know, he</p> <p>6 wanted to do a show and then take it from there.</p> <p>7 Q. I see. But did you ask him at any</p> <p>8 time after the -- withdrawn.</p> <p>9 At any time since beginning of '09</p> <p>10 have you asked him to give you inventory to</p> <p>11 sell?</p> <p>12 A. No.</p> <p>13 Q. At any time in '08 did you ask him</p> <p>14 to give you inventory to sell?</p> <p>15 A. No.</p> <p>16 Q. Did he ever offer to give you</p> <p>17 inventory to sell other than discussions about</p> <p>18 the show?</p> <p>19 A. No.</p> <p>20 Q. I think you referred to an artist by</p> <p>21 the name of Morlock who uses photography in art?</p> <p>22 A. Yes.</p> <p>23 Q. And in some fashion she puts some</p> <p>24 kind of images over the photographs, at least in</p> <p>25 part, is that fair to say?</p>   | <p>1 Celle</p> <p>2 A. Yes.</p> <p>3 Q. And so you have conversations with</p> <p>4 them about photographs that might be appropriate</p> <p>5 for their decorating jobs?</p> <p>6 A. Correct.</p> <p>7 Q. Have you ever discussed with a</p> <p>8 decorator the possibility of them buying Patrick</p> <p>9 Cariou photographs from you?</p> <p>10 A. Never, except Robert Novogratz.</p> <p>11 Q. And did you personally speak to</p> <p>12 Robert Novogratz about it?</p> <p>13 A. Robert came to buy books from me and</p> <p>14 was interested in Patrick, and I ask him at the</p> <p>15 time to contact him and he contact him directly.</p> <p>16 Q. Patrick contacted Mr. Novogratz?</p> <p>17 A. Mr. Novogratz went on Patrick's</p> <p>18 website, contacted him and bought some</p> <p>19 photograph for a hotel in New Jersey.</p> <p>20 Q. You personally have not spoken to</p> <p>21 Mr. Novogratz about selling Patrick Cariou</p> <p>22 prints?</p> <p>23 A. No, I was not involved in the</p> <p>24 transaction at all.</p> <p>25 Q. And so has there ever been a time</p> |
| 130  | 132  |
| <p>1 Celle</p> <p>2 A. I mean in the whole show 80 percent</p> <p>3 is painting and drawings, but she has two</p> <p>4 photographs that are vintage photographs she</p> <p>5 bought, probably online, she blew up really big</p> <p>6 and then she painted -- I guess it's black ink,</p> <p>7 she painted tattoo on the woman.</p> <p>8 Q. Have you ever had any other artists</p> <p>9 who used photos together with other media in any</p> <p>10 show?</p> <p>11 A. Just Tony C., the surfer.</p> <p>12 Q. And that consisted of photographs of</p> <p>13 his collage works?</p> <p>14 A. Yeah, photograph, collage, any kind</p> <p>15 of paper clip or advertising or publicity that</p> <p>16 he put in his journal and then it's translated</p> <p>17 into a photograph, yeah.</p> <p>18 Q. Forgive me if I asked this, did you</p> <p>19 ever have a situation where you were thinking</p> <p>20 about having an exhibit, other than Mr. Cariou,</p> <p>21 that you did not go forward with, that you</p> <p>22 canceled?</p> <p>23 A. Not so far.</p> <p>24 Q. You deal, I think you said, with</p> <p>25 decorators about photography?</p> | <p>1 Celle</p> <p>2 when you personally went to anyone and offered</p> <p>3 to sell or try to get them to buy Patrick Cariou</p> <p>4 photographs?</p> <p>5 A. Never.</p> <p>6 Q. Robert Novogratz came to your</p> <p>7 gallery?</p> <p>8 A. Yes, correct.</p> <p>9 Q. And he was interested in Patrick</p> <p>10 Cariou?</p> <p>11 A. Yes.</p> <p>12 Q. And what did he say to you about</p> <p>13 being interested in Mr. Cariou?</p> <p>14 A. He bought two books, loved his work</p> <p>15 and asked me if I knew him. And I say I would</p> <p>16 love to do a show with him, I'm in conversation,</p> <p>17 but I'm not representing him yet.</p> <p>18 And because Robert Novogratz is a</p> <p>19 friend and client, I said best thing is to go</p> <p>20 directly and contact him, which he did.</p> <p>21 And when Patrick was in New York</p> <p>22 he say to me, thank you, you know, I'm doing</p> <p>23 something with Robert, that's very nice of you.</p> <p>24 Q. And did he say what it was he was</p> <p>25 doing with Robert?</p>                                       |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 133   | 135  |
| <p>1 Celle</p> <p>2 A. He told me that they were buying a</p> <p>3 lot of prints for a hotel in New Jersey.</p> <p>4 Q. And did he tell you what subject</p> <p>5 matter those prints were?</p> <p>6 A. I can't recall. I know they were</p> <p>7 related to the book, but I could not give you</p> <p>8 more detail. And I was not really indiscreet,</p> <p>9 you know.</p> <p>10 Q. And the books that Mr. Novogratz</p> <p>11 purchased from you were Yes Rasta books or some</p> <p>12 other books?</p> <p>13 A. Yes Rasta and Surfer.</p> <p>14 MR. HAYES: Can we take a break for</p> <p>15 a few minutes?</p> <p>16 (Recess taken: 12:19 p.m.)</p> <p>17 (Proceedings resumed: 12:42 p.m.)</p> <p>18 BY MR. HAYES:</p> <p>19 Q. As of this time do you represent</p> <p>20 Mr. Cariou in any way in your view?</p> <p>21 A. I was very committed, I wanted to</p> <p>22 represent him. We agree on it but we never</p> <p>23 really pursue it, no.</p> <p>24 Q. You never got to an agreement?</p> <p>25 A. No. In general when I do a show</p>         | <p>1 Celle</p> <p>2 But no, never.</p> <p>3 Q. Sitting here today has Mr. Cariou</p> <p>4 ever sent you prints of any photographs he would</p> <p>5 like to have you sell?</p> <p>6 A. No.</p> <p>7 MR. HAYES: I'd like to mark as</p> <p>8 Defendant Celle Exhibit 3 a four-page</p> <p>9 document, which I will represent I printed</p> <p>10 out of what I believe to be your website,</p> <p>11 and I'm not saying it's the entire</p> <p>12 website, it's four pages from the website.</p> <p>13 Let me have that marked, and then I</p> <p>14 want to ask you a few questions about it.</p> <p>15 (Defendant's Exhibit 3, printout</p> <p>16 from website, was marked for</p> <p>17 identification, as of this date.)</p> <p>18 Q. Take a moment to look through those</p> <p>19 four pages. As I said before, I think this is</p> <p>20 not a complete copy of your website. And I may</p> <p>21 ask you if I can get a copy.</p> <p>22 Also, I notice in looking at this</p> <p>23 that some of the photocopying is not good, which</p> <p>24 I apologize for. But just take a look at it.</p> <p>25 And the first question I would have</p> |
| 134   | 136  |
| <p>1 Celle</p> <p>2 with somebody -- when I do a show with an artist</p> <p>3 I do not do a show if I don't represent him,</p> <p>4 because it's very expensive to put a show</p> <p>5 together.</p> <p>6 Q. Sure.</p> <p>7 As of this moment if Patrick Cariou</p> <p>8 wants to sell his prints to someone else he can</p> <p>9 do so in your view?</p> <p>10 A. He's allowed to.</p> <p>11 MR. BROOKS: Object to the form.</p> <p>12 Q. Have you had any discussions with</p> <p>13 Mr. Cariou about him selling his work -- say</p> <p>14 since the beginning of 2010, have you had any</p> <p>15 discussions with Mr. Cariou about him selling</p> <p>16 his work anywhere else?</p> <p>17 A. No.</p> <p>18 Q. Did you have any discussions in</p> <p>19 2009, other than the conversation about the</p> <p>20 decorator we talked about, Robert --</p> <p>21 A. Novogratz.</p> <p>22 Q. -- Novogratz, any discussions with</p> <p>23 Mr. Cariou about him selling his work through</p> <p>24 anyone else?</p> <p>25 A. Novogratz I think was in 2008.</p> | <p>1 Celle</p> <p>2 is does this look like several pages from your</p> <p>3 website?</p> <p>4 A. Yes, correct.</p> <p>5 Q. But there would be more to the</p> <p>6 website pages?</p> <p>7 A. Yes.</p> <p>8 Q. And do you have a complete copy of</p> <p>9 the website pages, not saying here today, but do</p> <p>10 you have them?</p> <p>11 A. I never printed one, but I could.</p> <p>12 Q. And in order to print one would one</p> <p>13 go to the different categories of about, news,</p> <p>14 blog, locations, artists, press, and contact,</p> <p>15 and if you printed out all of those you would</p> <p>16 have a complete?</p> <p>17 A. Correct.</p> <p>18 Q. Can I ask you, if you wouldn't</p> <p>19 mind -- and of course your attorney can take</p> <p>20 this under advisement -- if you could just at</p> <p>21 some point print out a copy and ask Mr. Brooks</p> <p>22 to give me a copy of it?</p> <p>23 A. Definitely.</p> <p>24 Q. Sometimes we have trouble with</p> <p>25 different websites, people have trouble printing</p>  |

Christiane Celle

January 26, 2010

|   |  |
|---|--|
| 137   | 139  |
| <p>1 Celle</p> <p>2 out the whole thing. I just want to see if I</p> <p>3 can get a complete.</p> <p>4 Okay. The first page that I have</p> <p>5 here has some photographs of books and says</p> <p>6 January Book Sale, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And these are books that you're</p> <p>9 offering as part of a sales -- were offering as</p> <p>10 part of a sales process, or are offering now as</p> <p>11 part of a sales process in January?</p> <p>12 A. Correct.</p> <p>13 Q. And one is a book about Africa?</p> <p>14 A. Yes, correct.</p> <p>15 Q. By Leni Riefenstahl?</p> <p>16 A. Correct.</p> <p>17 Q. Next is Matthew Rolston book?</p> <p>18 A. Mm-hmm.</p> <p>19 Q. Is that a fashion book?</p> <p>20 A. Yes, fashion.</p> <p>21 Q. Next one over, I'm sorry, I can't</p> <p>22 read. Do you recognize it?</p> <p>23 A. Thomas Ruff, yeah.</p> <p>24 Q. And the next one over is?</p> <p>25 A. I can't remember. I mean I know</p>   | <p>1 Celle</p> <p>2 A. Both. Some of them also have a</p> <p>3 book, some don't have a book.</p> <p>4 Q. So this first one with the two</p> <p>5 elephants, those artists have a book and sell</p> <p>6 prints?</p> <p>7 A. Yes, correct.</p> <p>8 Q. At your gallery?</p> <p>9 A. Yes.</p> <p>10 Q. The next one over, what's the next</p> <p>11 one?</p> <p>12 A. Sue Kwon.</p> <p>13 Q. Again, sells both books and prints</p> <p>14 at your gallery?</p> <p>15 A. Yes, the book is called Street</p> <p>16 Level.</p> <p>17 Q. And what's the subject matter of</p> <p>18 that?</p> <p>19 A. It's New York, old neighborhood that</p> <p>20 were photographs starting in the '80s to today,</p> <p>21 different neighborhood. And I had a show for</p> <p>22 Sue Kwon actually in September.</p> <p>23 Q. Next one over is?</p> <p>24 A. Wayne Levin. No book, but I</p> <p>25 represent him and his work. He's from Hawaii.</p>   |
| 138   | 140  |
| <p>1 Celle</p> <p>2 it's representing Eden, but I can't remember the</p> <p>3 name of the photographer. I have a blank.</p> <p>4 Q. The next page, which I think is</p> <p>5 printed out when one goes to artists, as you can</p> <p>6 see from the word "artist" being underlined, is</p> <p>7 this list artists you represent or have</p> <p>8 represented?</p> <p>9 A. Correct.</p> <p>10 Q. And, again, I apologize for the bad</p> <p>11 copying. The one at the top left which shows</p> <p>12 two elephants?</p> <p>13 A. Yes.</p> <p>14 Q. Who is the artist there?</p> <p>15 A. Christo -- Cyril Christo, and Marie</p> <p>16 Wilkinson.</p> <p>17 Q. Are those a husband-and-wife team?</p> <p>18 A. Correct, yeah.</p> <p>19 Q. What do they show?</p> <p>20 A. They show the work from a book</p> <p>21 called Walking Thunder.</p> <p>22 Q. And by the way, all these on this</p> <p>23 page, are these all books or are these artists</p> <p>24 who are selling prints in the gallery or</p> <p>25 galleries?</p> | <p>1 Celle</p> <p>2 Q. So you sell prints of his?</p> <p>3 A. Yes.</p> <p>4 Q. And the subject matter is?</p> <p>5 A. Underwater photography.</p> <p>6 Q. Color?</p> <p>7 A. Black and white mainly in my</p> <p>8 gallery, but he also does color.</p> <p>9 Q. And have you done a show for him?</p> <p>10 A. No, he's always part of group show.</p> <p>11 Q. And the first two that we just went</p> <p>12 through, did you do shows with them?</p> <p>13 A. Sue Kwon I did a show.</p> <p>14 Christo and Wilkinson I did a show</p> <p>15 and book signing.</p> <p>16 Q. Next one over, the fourth one with</p> <p>17 the picture of a person on it, what's that one?</p> <p>18 A. Lyle Owerko. He's the person</p> <p>19 actually we replaced Patrick Cariou in April</p> <p>20 2009 opening. That's the Samburu project. No</p> <p>21 book yet about that special work, but a show.</p> <p>22 Q. What's the one to the right?</p> <p>23 A. Jean-Philippe Piter, underwater</p> <p>24 photography. He's from St. Barths. No show.</p> <p>25 I'm sorry, no book. Group show. Part of the</p> |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 141  | 143  |
| <p>1                   Celle</p> <p>2 surf show.</p> <p>3       Q. And then on the left where it says</p> <p>4 James and Karla Murray?</p> <p>5       A. Okay. We had a show in July and</p> <p>6 August 2009 at Centre Street, and there is a</p> <p>7 book and a show.</p> <p>8       Q. And those are store fronts?</p> <p>9       A. Store fronts, yeah.</p> <p>10       Q. And next one over, Wolfgang?</p> <p>11       A. Wolfgang Ludes, he's an artist I</p> <p>12 represent mainly in St. Barths right now. So</p> <p>13 he has a lot of also scenery about water, beach,</p> <p>14 sunset, and the horse. No book.</p> <p>15       Q. His work is all photography?</p> <p>16       A. All photography.</p> <p>17       Q. And you sell prints of his work?</p> <p>18       A. Yes.</p> <p>19       Q. Next one over?</p> <p>20       A. Burton Machen was part of the group</p> <p>21 show from Surfer that I did when I opened the</p> <p>22 gallery in 2009.</p> <p>23       Q. Right.</p> <p>24       A. In the summer, July-August.</p> <p>25       No book, just representing his work.</p> | <p>1                   Celle</p> <p>2 right now.</p> <p>3       Q. Next one over is?</p> <p>4       A. Alfons Alt, we don't have a show</p> <p>5 yet. We are planning a show. I already</p> <p>6 received work from him. Now it's more about</p> <p>7 finding the right moment.</p> <p>8       Q. The next one?</p> <p>9       A. Magda Biernat. I have a show coming</p> <p>10 out February 1st -- 2nd, sorry. And there is a</p> <p>11 book to support her work.</p> <p>12       Q. She's a photographer?</p> <p>13       A. She's a photographer, yeah.</p> <p>14       Q. And you sell her work as well?</p> <p>15       A. I sell her work as well, yeah.</p> <p>16       Q. And the next one is Tony --</p> <p>17       A. -- Caramanico. He's the surfer, the</p> <p>18 surf journal.</p> <p>19       Q. He does the photographs of his own</p> <p>20 collages?</p> <p>21       A. Yes, correct.</p> <p>22       Q. And you've had a show with him?</p> <p>23       A. He was one of my first artists in</p> <p>24 2008. And I also made a catalog of his work.</p> <p>25       Q. Okay. And the next one over is</p> |
| 142  | 144  |
| <p>1                   Celle</p> <p>2       Antoine Verglas is my husband. I</p> <p>3 represent his work, not exclusive, you know. A</p> <p>4 lot of people are not exclusive in international</p> <p>5 of course, but my husband he has different</p> <p>6 gallery. No book.</p> <p>7       Vincent Fournier I did show in</p> <p>8 October 2009. He has a book called The Space</p> <p>9 Project, and this is his work. So I represent</p> <p>10 him.</p> <p>11       Q. So all the way through that one</p> <p>12 through Vincent Fournier, those are all</p> <p>13 photographers?</p> <p>14       A. Yes.</p> <p>15       Q. Now, we turn going down to the next</p> <p>16 line with Jody Morlock is listed?</p> <p>17       A. Voila.</p> <p>18       Q. And she is an artist, in some cases</p> <p>19 uses photographic materials, but she's an artist</p> <p>20 doing mixed media?</p> <p>21       A. Yes.</p> <p>22       Q. And you had a show of hers?</p> <p>23       A. Yeah.</p> <p>24       Q. Group show or individual show?</p> <p>25       A. Individual show. It's still on</p>          | <p>1                   Celle</p> <p>2 Gabe?</p> <p>3       A. Yeah, Gabe. Same thing, I have --</p> <p>4 I'm planning a show for him. Right now I just</p> <p>5 have a few prints and, you know, we are trying</p> <p>6 to put something together.</p> <p>7       Q. Does this pretty well describe most</p> <p>8 of the major artists that you've had shows with</p> <p>9 or represented so far?</p> <p>10       A. Yes.</p> <p>11       Q. And by the way, of these artists how</p> <p>12 many of them are exclusive to you?</p> <p>13       A. I'm sorry?</p> <p>14       Q. Of these artists how many have an</p> <p>15 exclusive arrangement with you?</p> <p>16       A. In New York I mean most of them are</p> <p>17 exclusive. I mean once you leave New York, you</p> <p>18 know, everybody is free. So it's only in</p> <p>19 New York they're all exclusive.</p> <p>20       Q. I see.</p> <p>21       And do they all have written</p> <p>22 agreements with you?</p> <p>23       A. Yes.</p> <p>24       Q. They do.</p> <p>25       And then the next page is the page</p>                                    |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 145  | 147   |
| <p>1 Celle</p> <p>2 that one gets when printing out about, that says</p> <p>3 about the bookstore and gallery?</p> <p>4 A. Yes.</p> <p>5 Q. Again, not the best photocopy, but</p> <p>6 it talks generally in the first two paragraphs</p> <p>7 about your galleries in general, referring to</p> <p>8 East Hampton and two galleries and a standalone</p> <p>9 bookshop in New York City, right?</p> <p>10 A. That's correct.</p> <p>11 Q. And it says that you have, in</p> <p>12 addition to selling icons from Helmut Newton,</p> <p>13 Mary Ellen Mark, Nan Goldin, Richard Avedon, and</p> <p>14 Robert Mapplethorpe, you've carried a number of</p> <p>15 other volumes. That means you're selling</p> <p>16 photography books by those artists?</p> <p>17 A. Correct.</p> <p>18 Q. Are you selling their prints as well</p> <p>19 or just the books?</p> <p>20 A. No, just the books.</p> <p>21 One exception, Mary Ellen Mark,</p> <p>22 I sell her prints in St. Barths, you know.</p> <p>23 Q. And then it says Clic shows that are</p> <p>24 included, and then there's a reference to Lyle</p> <p>25 Owerko's show?</p> | <p>1 Celle</p> <p>2 A. 255 Centre.</p> <p>3 Q. And the next column says Continental</p> <p>4 Bounce by Magda Biernat?</p> <p>5 A. Correct.</p> <p>6 Q. That's at 424 Broome?</p> <p>7 A. Yes.</p> <p>8 Q. And that's photography?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. And the image below it says view the</p> <p>11 images and there's a photograph below that?</p> <p>12 A. Yes.</p> <p>13 Q. Is that also her photography?</p> <p>14 A. Bande-A-Part, actually it's missing</p> <p>15 something. It's the show that I have right now</p> <p>16 that's being over in a week and being replaced</p> <p>17 by Magda.</p> <p>18 Q. I see.</p> <p>19 A. Bande-A-Part.</p> <p>20 Q. And then the right is the Samburu</p> <p>21 show that we talked about?</p> <p>22 A. Correct.</p> <p>23 Q. And then beneath are two pictures</p> <p>24 there from that show?</p> <p>25 A. Yeah. This picture there, I mean</p>   |
| 146  | 148   |
| <p>1 Celle</p> <p>2 A. Mm-hmm.</p> <p>3 Q. The nomads of Northern Kenya, the</p> <p>4 Samburu. And then it identifies the award that</p> <p>5 he won, correct?</p> <p>6 A. That's an old one, yeah. We don't</p> <p>7 have the new one yet. It should be there.</p> <p>8 Q. And the new one again is what?</p> <p>9 A. It's the Hasselblad 2009.</p> <p>10 It's actually already on our website</p> <p>11 but on a different page.</p> <p>12 Q. And the next one on the page is the</p> <p>13 news page, and that identifies a group show at</p> <p>14 255 Centre?</p> <p>15 A. Correct.</p> <p>16 Q. And who is in that show?</p> <p>17 A. Vincent Fournier, Antoine Verglas,</p> <p>18 Karla Murray -- Karla and James Murray.</p> <p>19 Q. And I see below it there is a</p> <p>20 picture of a Jody Morlock piece. Is she also in</p> <p>21 the same show at 255 Centre?</p> <p>22 A. I think that's current, so she's</p> <p>23 still there because the show is not changing</p> <p>24 until February 1st.</p> <p>25 Q. Her show is at what gallery?</p>  | <p>1 Celle</p> <p>2 it's the St. Barths show. It's a women's show</p> <p>3 with -- this is a photo of Mary Ellen Mark. And</p> <p>4 in the show we have Amy Arbus and other women.</p> <p>5 Q. Just to have the record clear,</p> <p>6 you're referring there to the picture showing a</p> <p>7 man and a woman with the man's arm around the</p> <p>8 woman?</p> <p>9 A. Yes.</p> <p>10 Q. And who is that by?</p> <p>11 A. Mary Ellen Mark.</p> <p>12 MR. BROOKS: Off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 BY MR. HAYES:</p> <p>15 Q. I just want to make sure I'm clear</p> <p>16 about one area.</p> <p>17 You had the discussion with</p> <p>18 Mr. Cariou about doing a show, which we talked</p> <p>19 about extensively. Had you had discussions with</p> <p>20 him about selling his prints individually?</p> <p>21 A. Selling his prints individually --</p> <p>22 MR. BROOKS: In connection with the</p> <p>23 show or single prints?</p> <p>24 MR. HAYES: In general, single</p> <p>25 prints, at any time.</p> |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 149  | 151   |
| <p>1 Celle</p> <p>2 A. What I was assuming is once I would</p> <p>3 be like representing him I will do a show about</p> <p>4 the Rasta. But I was interested in also the</p> <p>5 Surfer print. So in that case, of course I will</p> <p>6 sell the Surfer print too. That was my</p> <p>7 understanding.</p> <p>8 Q. And he has never sent you the Surfer</p> <p>9 prints?</p> <p>10 A. If he had sent me the Surfer</p> <p>11 prints -- I've seen the Surfer prints. He</p> <p>12 showed me the cover of the book. I've seen a</p> <p>13 few image but, you know, they don't belong to</p> <p>14 me.</p> <p>15 Q. If he were to send you the Surfer</p> <p>16 prints would you sell them, offer them for sale?</p> <p>17 A. I mean I will have to think about</p> <p>18 it. I cannot just maybe sell them randomly.</p> <p>19 I would have to maybe organize a show. I have</p> <p>20 a show coming this summer of Surfer maybe.</p> <p>21 Q. Have you had any discussion with</p> <p>22 Mr. Cariou about including Surfer images in the</p> <p>23 summer show?</p> <p>24 A. We talked about it before, yes, we</p> <p>25 did.</p>                               | <p>1 Celle</p> <p>2 A. Yeah, I'm not sure that he'd be</p> <p>3 willing to participate. I'm not sure what kind</p> <p>4 of prints are available.</p> <p>5 He showed me some prints but they</p> <p>6 were very small. I need big prints. They are</p> <p>7 expensive. He needs to print them. I don't</p> <p>8 know his situation financially, if he can afford</p> <p>9 to print them, you know. That's all the detail.</p> <p>10 You know, some photographer just</p> <p>11 say, okay, you want to do a show, let's do it,</p> <p>12 and I have the print.</p> <p>13 With Patrick we never really went</p> <p>14 farther. And because of the situation now --</p> <p>15 what is interesting right now is selling his</p> <p>16 book. And I told him I will help him with that.</p> <p>17 Q. The Rasta book? The Surfer book?</p> <p>18 A. No, the collection of old books.</p> <p>19 And those two books I'm selling no matter what.</p> <p>20 Q. I apologize. So you told him you're</p> <p>21 interested in selling his collection or the</p> <p>22 portion of his collection he's given you to</p> <p>23 review?</p> <p>24 A. Voila. Right now actually I'm</p> <p>25 trying to review them, but they have probably --</p> |
| 150  | 152   |
| <p>1 Celle</p> <p>2 Q. And what was the discussion about</p> <p>3 it, what did you say to him and what did he say</p> <p>4 to you?</p> <p>5 A. I wanted to know if he had, you</p> <p>6 know, the image, what kind of image he had, and</p> <p>7 if it was consistent enough, you know, because</p> <p>8 so far I've not seen really many prints of his</p> <p>9 works. I have seen the book but I have not seen</p> <p>10 all the prints.</p> <p>11 Q. But any substantive discussions,</p> <p>12 detailed discussions about it?</p> <p>13 A. I mean I always told him that, you</p> <p>14 know, I would love to do something with the</p> <p>15 Surfer, you know. And I think probably it will</p> <p>16 happen. I don't guarantee.</p> <p>17 I know right now his focus is</p> <p>18 this situation, so I never really got like a</p> <p>19 100 percent answer.</p> <p>20 But we discussed that before,</p> <p>21 because I mean Yes Rasta is a problem, but the</p> <p>22 Surfer has no problem. You know, it's very</p> <p>23 independent from this.</p> <p>24 Q. So when you say you never got a</p> <p>25 100 percent answer, you mean from Mr. Cariou?</p> | <p>1 Celle</p> <p>2 he told me 400. I'm trying to do an inventory</p> <p>3 and see what books I'm interested in, because I</p> <p>4 cannot take the 400, you know.</p> <p>5 Q. I won't ask a lot of questions about</p> <p>6 this, but I just wanted to know, have you or</p> <p>7 your husband ever been involved in any lawsuits?</p> <p>8 A. Yes, I had been.</p> <p>9 Q. What lawsuits have you been involved</p> <p>10 in?</p> <p>11 A. It was when I left Calypso, my</p> <p>12 previous company. I resign for good cause. And</p> <p>13 there was a lawsuit, and it was settled, you</p> <p>14 know.</p> <p>15 Q. Has your husband ever been involved</p> <p>16 in a lawsuit? He was involved in that lawsuit I</p> <p>17 guess?</p> <p>18 A. Actually was he involved directly or</p> <p>19 indirectly? Yes, I think he was involved as a</p> <p>20 partner, you know, in the company.</p> <p>21 Q. Has he been in any other lawsuits</p> <p>22 that you know?</p> <p>23 A. Not that I know of.</p> <p>24 MR. HAYES: I have no further</p> <p>25 questions.</p>   |

Christiane Celle

January 26, 2010

|  |   |
|--|---|
| 153  | 155   |
| <p>1 Celle</p> <p>2 MS. HAMMERMAN: I have no questions.</p> <p>3 MR. BROOKS: I just have a few.</p> <p>4 EXAMINATION BY</p> <p>5 MR. BROOKS:</p> <p>6 Q. Ms. Celle, earlier today you</p> <p>7 testified that if you had done the show for</p> <p>8 Mr. Cariou I believe you said there would have</p> <p>9 been 30 to 40 prints, is that right?</p> <p>10 A. Correct.</p> <p>11 Q. Of different sizes?</p> <p>12 A. Different sizes.</p> <p>13 Q. Now, for any given photograph that</p> <p>14 you had a print of would there only have been</p> <p>15 one for sale or would there have been more than</p> <p>16 one for sale?</p> <p>17 A. Okay. What we discussed with</p> <p>18 Patrick was the edition, because that's a very</p> <p>19 important question. So for each print we were</p> <p>20 thinking a series of ten photograph.</p> <p>21 Q. And would those have remained for</p> <p>22 sale after the show was over?</p> <p>23 A. Yes.</p> <p>24 Q. You would have kept them in</p> <p>25 inventory?</p>   | <p>1 Celle</p> <p>2 MS. HAMMERMAN: Join.</p> <p>3 Q. You can answer.</p> <p>4 A. I wish. It's hard to say.</p> <p>5 I wish, I would be very happy today.</p> <p>6 Q. And the prices again would have been</p> <p>7 between what and what?</p> <p>8 A. First price around 3,000, the most</p> <p>9 expensive, the biggest format I would say 15,000</p> <p>10 to 20.</p> <p>11 Q. Now, just to be clear, you've talked</p> <p>12 a lot about Lyle -- Owerko?</p> <p>13 A. Owerko, yeah.</p> <p>14 Q. That was your first show?</p> <p>15 A. Yes.</p> <p>16 Q. At the 424 Broome Street gallery?</p> <p>17 A. Yes.</p> <p>18 Q. And when you were talking to Patrick</p> <p>19 was he going to be the first show before you</p> <p>20 replaced him with Lyle?</p> <p>21 A. Yes, Patrick was the opening show.</p> <p>22 Q. And can you explain again what your</p> <p>23 idea was that you discussed with Patrick about</p> <p>24 having a book signing at his show?</p> <p>25 A. Usually, I mean it's really more</p>  |
| 154  | 156   |
| <p>1 Celle</p> <p>2 A. Yes. The way it works is people buy</p> <p>3 sometime at the show.</p> <p>4 MR. HAYES: I'm just going to object</p> <p>5 to the question. Calls for speculation.</p> <p>6 MS. HAMMERMAN: Join.</p> <p>7 Q. Go on.</p> <p>8 A. Also people buy the print at the</p> <p>9 show because there is only one print people</p> <p>10 order, you know, people want the same image, so</p> <p>11 we have to print it for them.</p> <p>12 Q. So if there were 30 to 40 photos how</p> <p>13 many copies would there have been of each one</p> <p>14 that you would have offering for sale?</p> <p>15 MR. HAYES: Again, object, the</p> <p>16 question calls for speculation, and form.</p> <p>17 MS. HAMMERMAN: Form.</p> <p>18 Q. You can answer.</p> <p>19 A. At the show I was issuing one of</p> <p>20 each but, you know, you could make 30 to 40 by</p> <p>21 ten, you know.</p> <p>22 Q. So there could have been 300 to 400</p> <p>23 that you would have sold?</p> <p>24 MR. HAYES: Objection, calls for</p> <p>25 speculation. Objection to form.</p> | <p>1 Celle</p> <p>2 powerful when you are able to present the work</p> <p>3 of an artist and there is a book to validate the</p> <p>4 work.</p> <p>5 I was very surprised that -- in</p> <p>6 Europe his work is very well-known of course,</p> <p>7 because he's French I guess. I really wanted to</p> <p>8 capitalize for, you know, the fact that there</p> <p>9 was that beautiful book. And, you know, the</p> <p>10 book was very helpful in terms of picking out</p> <p>11 all the photograph and the portrait.</p> <p>12 Q. And which book are you talking about</p> <p>13 now?</p> <p>14 A. Yes Rasta.</p> <p>15 Q. So again, how many copies were you</p> <p>16 planning to have at the book signing?</p> <p>17 A. Usually in a book signing I can sell</p> <p>18 from -- I will say an event like that, 50 to</p> <p>19 200.</p> <p>20 I had a book signing where I sold</p> <p>21 400 books, but that was Patrick Demarchelier.</p> <p>22 He's much more famous.</p> <p>23 But usually guaranteed 50 books.</p> <p>24 But, you know, up to 200, and the book stays in</p> <p>25 the gallery anyway and the show too, so.</p> |

Christiane Celle

January 26, 2010

|  |  |
|--|--|
| 157  | 159  |
| <p>1 Celle</p> <p>2 Q. And why was it that you -- I think</p> <p>3 you said he was going to ask Powerhouse to</p> <p>4 reprint the book I think you said?</p> <p>5 What was the reason for that?</p> <p>6 MR. HAYES: Objection. I don't</p> <p>7 think it states the testimony correctly.</p> <p>8 MS. HAMMERMAN: Join.</p> <p>9 MR. BROOKS: I think she said that.</p> <p>10 A. I was the one telling him because</p> <p>11 it's not in my power to go to Powerhouse and</p> <p>12 tell them to reprint the book.</p> <p>13 So I was having a conversation with</p> <p>14 Patrick to tell him you should really push them</p> <p>15 to reprint that book, but not only that book,</p> <p>16 the Surfer book too.</p> <p>17 Q. Now, you don't represent Patrick,</p> <p>18 correct?</p> <p>19 A. I don't.</p> <p>20 Q. But if you had had a show you would</p> <p>21 have entered into a contract to be his agent?</p> <p>22 MR. HAYES: Objection, calls for</p> <p>23 speculation. Object to the form.</p> <p>24 MS. HAMMERMAN: Join.</p> <p>25 Q. Is that correct?</p>   | <p>1 Celle</p> <p>2 or contemporary photography, but this was a show</p> <p>3 that I thought could have a wide audience, but</p> <p>4 especially in the entertainment business because</p> <p>5 of the nature of -- you know, you don't sell the</p> <p>6 Rasta and the marijuana to the same people that</p> <p>7 necessarily want something for their children's</p> <p>8 room.</p> <p>9 So it was I think something very</p> <p>10 interesting that when I start looking I really</p> <p>11 look to see there was work very similar, you</p> <p>12 know, and I didn't find anything on the Rasta</p> <p>13 because I think it's very difficult to</p> <p>14 infiltrate that community and be able to live</p> <p>15 with them and take their photo. It's something</p> <p>16 very -- like the Samburu, the same thing.</p> <p>17 You know, tourists don't go to that</p> <p>18 place. He only had access to that place because</p> <p>19 he worked for the United Nations.</p> <p>20 Q. This is in northern Kenya?</p> <p>21 A. North Kenya, yeah.</p> <p>22 Q. Did you say that those photos were</p> <p>23 similar to the Yes Rasta photos?</p> <p>24 A. For me it was similar approach in</p> <p>25 the term that it's a certain civilization that's</p> |
| 158  | 160  |
| <p>1 Celle</p> <p>2 A. I would because, as I mentioned</p> <p>3 before, you know, a show -- just framing the</p> <p>4 show costs between 20 and 30-thousand dollars.</p> <p>5 So when you start investing it's a long-term</p> <p>6 reward. So I sign the photographer. If not,</p> <p>7 I don't do the show.</p> <p>8 Q. Finally, you said something in one</p> <p>9 of your answers to the effect that you knew</p> <p>10 people in the entertainment business, do you</p> <p>11 remember saying that?</p> <p>12 A. Yes, correct.</p> <p>13 MS. HAMMERMAN: Objection.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 Q. What significance, if any, did that</p> <p>16 have with respect to these Yes Rasta prints?</p> <p>17 A. Okay. Because of the different show</p> <p>18 I've been doing, I know coming from fashion I</p> <p>19 have all kind of different customers, so of</p> <p>20 course I have the fashion people.</p> <p>21 But I'm really connected with a lot</p> <p>22 of people in the music industry. And I won't</p> <p>23 sell -- you know, the Rasta for me was directly</p> <p>24 addressed to this kind of people.</p> <p>25 Like in the Hamptons I sell surfer</p> | <p>1 Celle</p> <p>2 kind of disappearing one day and you cannot</p> <p>3 really take their photograph except if you get</p> <p>4 their trust and you are able to spend time with</p> <p>5 them and live with their family.</p> <p>6 And that's what they both did. It's</p> <p>7 a very similar work in different places.</p> <p>8 Q. They both meaning Patrick Cariou and</p> <p>9 Lyle --</p> <p>10 A. And Lyle Owerko, yeah.</p> <p>11 Q. I have nothing further.</p> <p>12 BY MR. HAYES:</p> <p>13 Q. I have couple questions coming out</p> <p>14 of Mr. Brooks' questions.</p> <p>15 First, about Mr. Owerko and</p> <p>16 Mr. Cariou, so in your view they both document</p> <p>17 certain civilizations that may be passing?</p> <p>18 A. Definitely.</p> <p>19 Q. Did you ever give Mr. Cariou a draft</p> <p>20 contract for him to review or sign?</p> <p>21 A. No, no. It didn't go so far.</p> <p>22 Q. Of the other photographers -- you</p> <p>23 spoke to Mr. Cariou about doing a series of the</p> <p>24 prints?</p> <p>25 A. Sorry?</p>   |



Christiane Celle

January 26, 2010

|   |   |
|---|---|
| <p style="text-align: center;">161</p> <p>1                   Celle</p> <p>2           Q. You spoke to Mr. Cariou about doing</p> <p>3 a series of the prints, if there was to be a</p> <p>4 show, that is to say more than one of each</p> <p>5 print?</p> <p>6           A. Definitely.</p> <p>7           Q. And what did you say to him and what</p> <p>8 did he say to you about that?</p> <p>9           A. What I ask him is if he had any</p> <p>10 printed from the book, and he said his printer</p> <p>11 was in New York, that he had some prints</p> <p>12 available.</p> <p>13           But if I was to choose certain image</p> <p>14 he might have to print them for me, and because</p> <p>15 of the format, we wanted to go really big, like</p> <p>16 80 by 90, big format, these would have to be</p> <p>17 printed.</p> <p>18           Q. Did you have any specific discussion</p> <p>19 as to any individual photographs as to how many</p> <p>20 of each would be produced?</p> <p>21           A. For the show, only one of each.</p> <p>22 The situation was some format were really big</p> <p>23 and needed to be printed. He only had, if I</p> <p>24 remember, images that were like 20 by 30. That</p> <p>25 was the biggest sizes he had. I don't think he</p> | <p style="text-align: center;">163</p> <p>1                   Celle</p> <p>2 those.</p> <p>3           MR. HAYES: No further questions.</p> <p>4           Thank you very much.</p> <p>5           MR. BROOKS: Dara, do you have</p> <p>6 anything?</p> <p>7           MS. HAMMERMAN: No.</p> <p>8           MR. BROOKS: I have nothing else.</p> <p>9           THE WITNESS: Thank you.</p> <p>10           MR. HAYES: Thank you.</p> <p>11           MR. BROOKS: Thank you very much.</p> <p>12           (Time noted: 1:12 p.m.)</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">CHRISTIANE CELLE</p> <p>Subscribed and sworn to</p> <p>before me this ____ day</p> <p>of _____, 2010.</p> <p style="text-align: center;">_____</p>  |
| <p style="text-align: center;">162</p> <p>1                   Celle</p> <p>2 had anything bigger.</p> <p>3           And I needed at the time at least</p> <p>4 three times the size on certain images.</p> <p>5           Q. And talking about other artists,</p> <p>6 other photographers, what is the most of any one</p> <p>7 series of prints that you've sold from any other</p> <p>8 photographer?</p> <p>9           A. It's about the store front, it's</p> <p>10 still selling. Right now it's probably</p> <p>11 90-something.</p> <p>12           Q. And after that how many -- what's</p> <p>13 the next most you've sold?</p> <p>14           A. You know, it all depends like if a</p> <p>15 show is new. Like I have a new show right now,</p> <p>16 ten, you know. It all depends the price.</p> <p>17           Q. And what price point was that?</p> <p>18           A. The one that I sold ten right now</p> <p>19 it's a \$6,000 one.</p> <p>20           Q. And the show by Mr. Owerko, how many</p> <p>21 of those have you sold</p> <p>22           A. Probably around 30 of the biggest</p> <p>23 one. And then I'm still selling them, you know.</p> <p>24 And then he has a smaller format that he did</p> <p>25 special edition, you know, like a few dozen of</p>  | <p style="text-align: center;">164</p> <p>1                   CERTIFICATE</p> <p>2</p> <p>3           STATE OF NEW YORK )</p> <p>4                                )ss:</p> <p>5           COUNTY OF NEW YORK)</p> <p>6</p> <p>7           I, BRYAN NILSEN, a Notary Public</p> <p>8 within and for the State of New York, do</p> <p>9 hereby certify:</p> <p>10           That CHRISTIANE CELLE, the witness</p> <p>11 whose deposition is hereinbefore set</p> <p>12 forth, was duly sworn by me and that such</p> <p>13 deposition is a true record of the</p> <p>14 testimony given by such witness.</p> <p>15           I further certify that I am not</p> <p>16 related to any of the parties to this</p> <p>17 action by blood or marriage and that I am</p> <p>18 in no way interested in the outcome of</p> <p>19 this matter.</p> <p>20           IN WITNESS WHEREOF, I have hereunto</p> <p>21 set my hand this ____ day of January, 2010.</p> <p>22</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">BRYAN NILSEN, RPR</p> |

|   |  |                       |             |                  |                |   |  |                 |     |  |
|---|--|-----------------------|-------------|------------------|----------------|---|--|-----------------|-----|--|
| <p style="text-align: center;">165</p> <p style="text-align: center;">Celle</p> <p style="text-align: center;">----- I N D E X -----</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"><b>WITNESS</b></td> <td style="width: 50%;"><b>EXAMINATION BY</b></td> <td style="width: 30%;"><b>PAGE</b></td> </tr> <tr> <td>CHRISTIANE CELLE</td> <td>MR. HAYES.....</td> <td>6</td> </tr> <tr> <td></td> <td>MR. BROOKS.....</td> <td>153</td> </tr> </table> <p style="text-align: center;">----- INFORMATION REQUESTS -----</p> <p><b>TO BE FURNISHED: PAGE</b></p> <p>Number of copies of Yes Rasta sold.....36</p> <p style="text-align: center;">----- EXHIBITS -----</p> <p><b>DEFENDANT'S FOR ID.</b></p> <p>1 E-mail exchange.....54</p> <p>2 Series of e-mails.....73</p> <p>3 Printout from website.....135</p> <p style="text-align: center;">** EXHIBITS RETAINED BY COUNSEL **</p> | <b>WITNESS</b>   | <b>EXAMINATION BY</b> | <b>PAGE</b> | CHRISTIANE CELLE | MR. HAYES..... | 6 |  | MR. BROOKS..... | 153 | <p style="text-align: center;">167</p> <p style="text-align: center;">Celle</p> <p>DEPOSITION ERRATA SHEET</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>SIGNATURE: _____ DATE: _____</p> <p style="text-align: center;">CHRISTIANE CELLE</p> |
| <b>WITNESS</b>  | <b>EXAMINATION BY</b>  | <b>PAGE</b>           |             |                  |                |   |  |                 |     |  |
| CHRISTIANE CELLE  | MR. HAYES.....   | 6                     |             |                  |                |   |  |                 |     |  |
|   | MR. BROOKS.....  | 153                   |             |                  |                |   |  |                 |     |  |
| <p style="text-align: center;">166</p> <p style="text-align: center;">Celle</p> <p>DEPOSITION ERRATA SHEET</p> <p>Assignment No. 307077</p> <p>Case Caption: PATRICK CARIOU<br/>vs. RICHARD PRINCE, et al.</p> <p><b>DECLARATION UNDER PENALTY OF PERJURY</b></p> <p>I declare under penalty of perjury<br/>that I have read the entire transcript of<br/>my Deposition taken in the captioned<br/>matter or the same has been read to me,<br/>and the same is true and accurate, save<br/>and except for changes and/or corrections,<br/>if any, as indicated by me on the<br/>DEPOSITION ERRATA SHEET hereof, with the<br/>understanding that I offer these changes<br/>as if still under oath.</p> <p>CHRISTIANE CELLE</p> <p>Subscribed and sworn to on the _____ day of<br/>_____, 2010, before me,</p> <p>Notary Public,<br/>in and for the State of _____</p>  | <p style="text-align: center;">168</p> <p style="text-align: center;">Celle</p> <p>DEPOSITION ERRATA SHEET</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>SIGNATURE: _____ DATE: _____</p> <p style="text-align: center;">CHRISTIANE CELLE</p> |                       |             |                  |                |   |  |                 |     |  |