

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ERIC M. ALBRITTON,	*
	*
Plaintiff,	*
	*
VS.	* C.A. NO. 6:08-CV-00089
	*
CISCO SYSTEMS, INC., RICK	*
FRENKEL, MALLUN YEN &	*
JOHN NOH,	*
	*
Defendants.	*

CERTIFIED COPY

ORAL DEPOSITION OF
ERIC M. ALBRITTON
OCTOBER 27TH, 2008

ORAL DEPOSITION OF ERIC ALBRITTON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 27th of October, 2008, from 12:44 p.m. to 4:24 p.m., before Tammy Staggs, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of James A. Holmes, 605 South Main, Suite 203, Henderson, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

EXHIBIT D

P R O C E E D I N G S

(Exhibits 21A - 63 marked)

THE VIDEOGRAPHER: Here begins the videotape deposition of Eric Albritton in the matter of Eric M. Albritton vs. Cisco Systems, Inc., Rick Frenkel, et al. Case No. 6:08CV00089. Today's date is October 27th of 2008. The time is approximately 12:44 p.m. Now on the record.

ERIC ALBRITTON,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. BABCOCK:

Q. Would you state your name, sir.

A. Eric Albritton.

Q. Mr. Albritton, here is Exhibit 21A. I just like to start each deposition with a notice. Obviously you're here, so there's no question about that.

What -- how are you employed?

A. I'm a lawyer.

Q. And do you practice with a firm?

A. I do.

Q. What's the name of the firm?

A. Eric M. Albritton, PC.

Q. And PC stands for professional corporation, correct?

1 A. -- I believe that it has. Can I -- can I
2 quantify that monetarily? No, I cannot. And I don't
3 intend to tell the jury that I should be paid "X"
4 dollars because of my -- my reputation has been
5 diminished by "X" dollars. I'm not going to quantify
6 that at all. Because frankly, there's no way to know
7 how I -- exactly how I've been harmed, and frankly
8 that's the reason the law, as I understand it, says that
9 damages are presumed, because people don't call me up
10 and say, hey, we are not hiring you anymore because
11 you're evidently a criminal.

12 Q. Well, are you -- are you asking for presumed
13 reputational damages?

14 A. I'm -- I'm -- whatever I'm entitled to under
15 the law and under the contours of what Mr. Holmes said
16 is all that I'm seeking.

17 Q. Well, what he says is that you're only seeking
18 damages for mental anguish and punitive damages.

19 Let me ask it that way. Is that all that
20 you're seeking: mental anguish damages and punitive
21 damages?

22 A. All I can tell you is I'm not seeking economic
23 damages.

24 Q. And you won't rule anything else out?

25 A. I'm not seeking any economic damages. And I'm

1 not seeking, you know, health care or, you know,
2 something like that. I've not been to the doctor as a
3 result of this.

4 Q. Okay.

5 A. So no medical expenses, no economic damages.

6 Q. Will you rule out presumed reputational
7 damages or are you seeking that?

8 A. I don't know what a presumed -- I don't know
9 what the meaning of that word is or that phrase
10 "reputational damages."

11 Q. Well --

12 A. I'm not seeking economic damages, that's all I
13 can tell you.

14 Q. Okay. And so that's all you're going to rule
15 out, right?

16 A. Mr. Babcock, I don't know all -- I'm telling
17 you I don't -- I'm not seeking money damages for lost
18 economics based on economic harm.

19 Q. I think you were the one that raised this
20 issue of presumed damages.

21 A. Generally presumed. I don't know about
22 presumed reputational damages as you keep using that
23 phrase.

24 Q. Let me ask you what -- take reputational out
25 of it. What damages are you seeking in this case that

1 you believe the law presumes?

2 A. I'm not here to offer legal opinions.

3 Whatever the law presumes is whatever the law presumes.

4 Q. Okay. So -- so to get -- get back to my
5 question a few questions ago, you're not willing to rule
6 out anything that the law would permit you to have other
7 than economic damages?

8 A. I'm not asking for any economic damage.

9 Q. And other than that, you're going for
10 everything?

11 A. As we sit here this second, I think a jury
12 ought to be able to award, you know, the damages it
13 believes are appropriate, except for I'm not asking for,
14 you know, medical bills or economic damages.

15 Q. Okay. The ambiguity that I mentioned earlier
16 was created by your complaint vis-a-vis your
17 disclosures, and it says in your complaint that you've
18 endured shame, embarrassment, humiliation, mental pain,
19 and anguish. Are you still seeking damages for all
20 those things?

21 A. Yes. This has been extremely, extremely
22 traumatic.

23 Q. Okay. Can you identify for me a friend who
24 was a friend of yours prior to the October 18th and 17th
25 articles and who is -- and who is now not a friend as a

1 17th and 18th articles and after?

2 A. Based on what Cisco said about me?

3 Q. Yes, based on the articles.

4 A. Of what Cisco said about me?

5 Q. Well, are you distinguishing something that
6 Cisco said versus the articles?

7 A. Well, didn't Cisco take responsibility for
8 what Mr. Frenkel said?

9 Q. Well, you know, that's, as you say, a matter
10 of law. But I'm trying to focus on the articles that
11 you're suing about.

12 A. My family has not said to me that -- and I
13 don't believe that they think different of me based on
14 what Cisco and Rick Frenkel lied about me.

15 Q. So your relationship with your family is
16 unaffected by the articles, correct?

17 A. That was not the question you asked, but I
18 don't believe they think of me any differently as a
19 result of these statements. Has this affected my family
20 life? Certainly.

21 Q. Okay. Tell me how.

22 A. Because I'm sick, not physically, I'm sick
23 over the fact that those people said these horrible,
24 malicious lies about me. And that you and George
25 McWilliams to this day are telling the world that what

1 they said was true, and that affects how I interact with
2 my family, my friends, my staff. It's repulsive to me.

3 Q. So you're kind of worked up about it?

4 A. I'm not kind of worked up; I'm extremely
5 worked up as you would be, I'm certain, if somebody
6 called you a criminal.

7 Q. By the way you keep saying that. Is that --
8 is that phrase used in the -- in either of the articles?

9 A. It says that I conspired to alter a document
10 to manufacture subject matter jurisdiction where none
11 existed, that is a crime.

12 Q. My question was: Did they say -- did that
13 article say anywhere -- and I'll pull it out here --
14 that you were a criminal?

15 A. They -- the substance of what they said is
16 that I was a criminal, absolutely.

17 Q. So that's your spin on it?

18 A. That's any rational person that reads that.
19 And when these 12 people or 10 people, they'll get to
20 make that decision too.

21 Q. Let me hand you Exhibit 31. And I believe
22 these are the two articles that are the subject of the
23 lawsuit, would that be correct, the subject of your
24 lawsuit?

25 A. That appears to be, yes.

1 A. I believe it will.

2 Q. Okay. Even though you can't be specific, can
3 you tell me generally how much you made in 2007 from
4 your law practice?

5 A. No.

6 Q. Can you tell me whether it was 100,000 or a
7 hundred million?

8 A. It was neither a 100,000 nor a hundred
9 million.

10 Q. Somewhere in between?

11 A. Yes, sir.

12 Q. Was it in the millions?

13 MR. HOLMES: Let's -- why don't we hold
14 off on that until we get a response from the Court on
15 your motion. We -- you asked for that information in
16 your motion to compel --

17 MR. BABCOCK: I did.

18 MR. HOLMES: -- and that's part of what
19 I've been objecting to. So I would ask we hold off on
20 that until we get a ruling.

21 MR. BABCOCK: Okay.

22 Q. (BY MR. BABCOCK) I know you're your own man,
23 but you're going to follow what your lawyer says?

24 A. Yeah, and just to be clear, I'm not saying --
25 I mean, I will have made more money in 2008 than 2007.

1 that someone looking at that complaint that says filed
2 October 15th, 2007 across the top could have concluded
3 that it was filed October 15th, 2007?

4 A. Nobody could have concluded that I conspired
5 with the United States District Court to alter a
6 document to manufacture subject matter jurisdiction
7 where none existed.

8 MR. McWILLIAMS: Again, I'm going to have
9 to object to the nonresponsiveness of your answer. I
10 think you have nonresponsively answered it enough that
11 we know what the true answer is. Pass the witness.

12 MR. HOLMES: Anything further,
13 Mr. Babcock?

14 MR. BABCOCK: None for me.

15 MR. HOLMES: I'll reserve mine.

16 THE VIDEOGRAPHER: This marks the end of
17 tape No. 4.

18 MR. McWILLIAMS: Before we go off, I want
19 to reiterate what Mr. Babcock said that we're recessing
20 the deposition subject to the motions to compel.

21 THE VIDEOGRAPHER: Off the record. The
22 time is approximately 4:24 p.m.

23 (Deposition concluded at 4:24 p.m.)
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REPORTER'S CERTIFICATION
DEPOSITION OF ERIC ALBRITTON
OCTOBER 27TH, 2008

I, TAMMY LEA STAGGS, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, ERIC ALBRITTON, was duly sworn by
the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the deposition transcript was submitted on
_____ to the witness or to the attorney
for the witness for examination, signature and return to

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me by _____;

That the amount of time used by each party at the deposition is as follows:

Mr. James A. Holmes - (0:00)

Mr. Charles L. Babcock - (2:38)

Mr. George L. McWilliams - (0:35)

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

FOR THE PLAINTIFF:
James A. Holmes, Esq.

FOR THE DEFENDANT, CISCO SYSTEMS, INC.:
Charles L. Babcock, Esq.

FOR THE DEFENDANT, RICHARD FRENKEL:
George L. McWilliams, Esq.
Nicole Peavy

That \$ _____ is the deposition officer's charges to the Defendant, Cisco Systems, for preparing the original deposition transcript and any copies of exhibits;

1 I further certify that I am neither counsel for,
 2 related to, nor employed by any of the parties or
 3 attorneys in the action in which this proceeding was
 4 taken, and further that I am not financially or
 5 otherwise interested in the outcome of the action.
 6 certified to by me this 31st of October, 2008.

ALL THE ABOVE COPY
 THE ORIGINAL COPY
 file was electronically signed
 using RealLegal technology.

Tammy Lea Scaggs

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