

EXHIBIT B

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.

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

A P P E A R A N C E S

FOR THE PLAINTIFF:

James A. Holmes, Esq.
LAW OFFICE OF JAMES A. HOLMES
605 South Main
Suite 203
Henderson, Texas 75654

Phone: 903.657.2800

Fax: 903.657.2855
E-mail: JH@JamesHolmesLaw.com

FOR THE DEFENDANT, CISCO SYSTEMS, INC.:

Charles L. Babcock, Esq.
JACKSON WALKER, LLP
1401 McKinney
Suite 1900

Houston, Texas 77010
Phone: 713.752.4200
Fax: 713.752.4221
E-mail: cbabcock@jw.com

FOR THE DEFENDANT, RICHARD FRENKEL:

Nicole Peavy, Esq.
George L. McWilliams, Esq.

LAW OFFICES OF GEORGE L. McWILLIAMS

406 Walnut
PO Box 58
Texarkana, Texas 75504

Phone: 870.772.2055

ALSO PRESENT:

Doug Rankin - Videographer

1 P R O C E E D I N G S

2 (Exhibits 21A - 63 marked)

3 THE VIDEOGRAPHER: Here begins the
4 videotape deposition of Eric Albritton in the matter of
5 Eric M. Albritton vs. Cisco Systems, Inc., Rick Frenkel,
6 et al. Case No. 6:08CV00089. Today's date is October
7 27th of 2008. The time is approximately 12:44 p.m. Now
8 on the record.

9 ERIC ALBRITTON,

10 having been first duly sworn, testified as follows:

11 EXAMINATION

12 BY MR. BABCOCK:

13 Q. Would you state your name, sir.

14 A. Eric Albritton.

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

18 What -- how are you employed?

19 A. I'm a lawyer.

20 Q. And do you practice with a firm?

21 A. I do.

22 Q. What's the name of the firm?

23 A. Eric M. Albritton, PC.

24 Q. And PC stands for professional corporation,
25 correct?

1 Q. Okay.

2 A. I know I was at the office all weekend working
3 on a cert petition and death penalty case while I'm
4 getting ready to pick a jury on the third, so this week
5 I'm real, real busy.

6 Q. Okay. And do you recall how much income you
7 received from your law practice in 2007?

8 A. Uh-uh.

9 Q. Excuse me?

10 A. No, sir.

11 Q. Okay. And how do you file with the Internal
12 Revenue Service? Do you have a Subchapter S Corporation
13 or how do you handle that?

14 A. I think it is an S Corp.

15 Q. Okay. And you would have to refer to your
16 federal income tax return to tell me how much income you
17 made in 2007, right?

18 A. Uh-huh.

19 Q. Is that a "yes"?

20 A. Yes, sir. But, of course, you know, income --
21 you know, some of the things that I earned in 2007 were
22 from cases that were, you know, signed up in 2005.

23 Q. Sure. Do you know whether your income from
24 your law practice is going to increase in 2008 over
25 2007? I know we've got two months to go.

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 And just like I told you in the very beginning, you
2 know, I cannot quantify and I'm not claiming that I've
3 been financially harmed as a result of this. I may have
4 been, but there's no way of knowing that.

5 MR. BABCOCK: Well, subject to reserving
6 the right to ask the witness questions on that topic if
7 the Judge rules in our favor, then I'll pass to
8 Mr. McWilliams.

9 MR. HOLMES: All right. Thank you.

10 EXAMINATION

11 BY MR. McWILLIAMS:

12 Q. Eric, I don't know whether Mr. Babcock asked
13 you about your case load change from 2007 to 2008. What
14 -- has your case load increased in 2008 over 2007 or can
15 you tell?

16 A. I have no idea.

17 Q. What's your sense about that?

18 A. Well, what case load are you talking about,
19 Mr. McWilliams?

20 Q. Well, like most lawyers know what case load
21 is.

22 A. I've got fewer criminal cases probably. You
23 know, when Hacker was appointed judge, I started ramping
24 down my criminal business. So my criminal business is
25 diminishing. I have probably -- I have filed -- I have

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.)
24
25

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

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. *

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

1 me by _____;

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

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

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

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

7

8 That pursuant to information given to the deposition

9 officer at the time said testimony was taken, the

10 following includes counsel for all parties of record:

11 FOR THE PLAINTIFF:
12 James A. Holmes, Esq.

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

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

18

19

20

21

22

23

24 That \$ _____ is the deposition officer's charges

25 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.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ALL THESE COPIES
The original certified transcript
file was electronically signed
using RealLegal technology.

Tammy Lea Maggs

Tammy Lea Maggs, CSR 7496
Expiration Date: 12/31/2009
Firm No. Dallas: 69 Houston: 373
HG Litigation Services
2501 Oak Lawn Avenue
Suite 600
Dallas, Texas 75219
214.521.1188 Fax 214.521.1034
1.888.5656.DEPO