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THE HONORABLE KAREN L. STROMBOM

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEN ARONSON,  
Plaintiff,  
v.  
DOG EAT DOG FILMS, INC.,  
Defendant.

NO. 3:10-CV-05293-KLS

DECLARATION OF THOMAS B.  
VERTETIS IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S SPECIAL MOTION TO  
STRIKE PLAINTIFF'S CLAIMS OF  
MISAPPROPRIATION OF LIKENESS  
AND INVASION OF PRIVACY

NOTE FOR MOTION CALENDAR:

JULY 9, 2010

ORAL ARGUMENT REQUESTED

I, Thomas B. Vertetis, declare and state as follows:

1. I am a partner with Pfau Cochran Vertetis Kosnoff PLLC, I am over the age of 18, I am one of the attorneys for the Plaintiffs in this case, I am competent to testify to the facts of this case, and I make the following declaration based upon my own personal knowledge.

DECL OF TBV ISO PLFF'S OPP TO SPECIAL MOT - 1 of 2  
NO. 3:10-CV-05293-KLS

PFAU COCHRAN VERTETIS KOSNOFF PLLC  
701 Fifth Avenue, #4730  
Seattle, WA 98104  
PHONE: (206) 462-4334  
FACSIMILE: (206) 623-3624



# **EXHIBIT 1**



Page 5

1 Q Anybody else live there with you?  
 2 A Yes. My girlfriend.  
 3 Q Who's that?  
 4 A Barbara Sleasman, S-l-e-a-s-m-a-n.  
 5 Q Anybody else?  
 6 A Occasionally her daughter.  
 7 Q Who's that?  
 8 A Alexandria.  
 9 Q And her last name also Sleasman?  
 10 A Yes.  
 11 Q How old is she?  
 12 A Eight.  
 13 Q Do you own this house? Are you renting it?  
 14 A I own it.  
 15 Q And are you employed?  
 16 A Yes.  
 17 Q Who are you employed with?  
 18 A Self.  
 19 Q You're self-employed?  
 20 A Yes.  
 21 Q What's the name of your company?  
 22 A Your Place Or Mine Auto Repair.  
 23 Q How long have you been a self-employed with Your Place  
 24 Or Mine Auto Repair?  
 25 A 20-plus years.

Page 6

1 Q What type of employment is that? What do you do there?  
 2 A I fix -- fix and repair cars, mobile auto repair.  
 3 Q Do you ever sell any vehicles there?  
 4 A Not for business, no. I've sold personal ones, but not  
 5 for business. It's just my home actually. I'm a  
 6 mobile repair. I go out and do work. No employees.  
 7 Q No employees? Okay.  
 8 Mr. Aronson, I'm just going to ask you some  
 9 generic questions. Have you ever been arrested before  
 10 for any crimes or for any purpose?  
 11 A Yeah. I was -- it was a deferred thing and thrown out  
 12 of court.  
 13 Q What was it?  
 14 A DUI.  
 15 Q When was that?  
 16 A I can't honestly remember the year. It was a long time  
 17 ago, though.  
 18 Q Five years back, ten years back?  
 19 A More, more.  
 20 Q More than ten years back?  
 21 A Yes.  
 22 Q Do you know what county it was in?  
 23 A Grays Harbor.  
 24 Q And you said it was deferred?  
 25 A It's supposed to be dismissed and the records thrown

Page 7

1 out, right.  
 2 Q Any other arrests you can think of?  
 3 A No.  
 4 Q Other than this lawsuit, have you been involved in any  
 5 other lawsuits?  
 6 A In the past, yes.  
 7 Q What lawsuits?  
 8 A It was against a furniture company in Aberdeen a long,  
 9 long time ago.  
 10 Q What was that for?  
 11 A And for -- furniture company possessing my belongings  
 12 that I purchased from a private individual that bought  
 13 the furniture from this particular store, and they  
 14 tricked me into bringing it in to get the chair fixed  
 15 and then wanted to confiscate all the material that I'd  
 16 gotten in a trade with a receipt from the person that  
 17 bought it from the store. They wanted to keep my  
 18 material from me, so I took them to court.  
 19 Q What furniture is this?  
 20 A I can't remember. I believe it was Goldberg's back  
 21 then. It's no longer in existence.  
 22 Q So did that lawsuit settle or did you take it to trial?  
 23 A They lost.  
 24 Q So it went to trial?  
 25 A No. They just --

Page 8

1 Q Settled?  
 2 A -- settled, yeah. The attorney got ahold of them and  
 3 said, It's illegal what you're doing, and they had to  
 4 pay me. They actually went to -- I think it was  
 5 Montesano, but it wasn't much of a procedure.  
 6 Q You think it was Montesano District Court?  
 7 A Yes.  
 8 Q Any other lawsuits besides that one and the one we're  
 9 here for?  
 10 A Yeah. I had one against the City of Aberdeen.  
 11 Q When was that?  
 12 A Probably 10, 15 years ago. I can't remember.  
 13 Q What was it for?  
 14 A Them tearing down a fence that they allowed me to  
 15 build. And that was one that they -- because of their  
 16 error, they had to settle out of court with me once  
 17 again.  
 18 Q Do you know what court it was? Was it Grays Harbor?  
 19 A It didn't go to court.  
 20 Q It was just a claim that you made with the city?  
 21 A A claim with the city.  
 22 Q Any other suits or claims you can think of?  
 23 A No.  
 24 Q Have you ever used any type of drugs?  
 25 A Well, yes.

Page 9

1 MR. DORAN: Objection. Relevance.  
 2 Q What drugs?  
 3 MR. DORAN: Objection. Relevance.  
 4 A Marijuana.  
 5 Q Any other drugs?  
 6 A You talking totally illegal drugs or --  
 7 Q Sure. Are you on medication now?  
 8 A No. No. I'm not on no medication at all and haven't  
 9 been.  
 10 Q What drugs are you referring to, whether you think it's  
 11 illegal or not?  
 12 A Well, I've probably taken a pain pill or something  
 13 before for pain.  
 14 Q What about any illegal drugs other than marijuana?  
 15 MR. DORAN: I'm going to object again. It's  
 16 irrelevant.  
 17 A (Witness shook head negatively.)  
 18 Q Nope? Okay. When did you -- do you still use  
 19 marijuana now?  
 20 A Not really, I don't. I mean, I have for pain because  
 21 I'm a crime victim patient versus using chemicals,  
 22 which I don't agree with, I have used marijuana, you  
 23 know, very -- you know, it's -- it doesn't happen very  
 24 often, but once in a while.  
 25 Q When you say you're a crime victim, what are you

Page 10

1 talking about?  
 2 A I was run over by an illegal Mexican in 9/14/02 on a  
 3 ladder and almost killed, and instead of taking pain  
 4 pills which will do big damage to your organs, I  
 5 decided to go back to smoking marijuana for pain  
 6 relief.  
 7 Q So that was a motor vehicle-pedestrian accident then?  
 8 A Yes, on a ladder at my second home.  
 9 Q Did it turn into a felony charge against that other  
 10 motorist?  
 11 A Yes.  
 12 Q And the -- I assume you received injuries as a result  
 13 of that accident.  
 14 A I did.  
 15 Q And were those injuries permanent?  
 16 A I consider them permanent.  
 17 Q So do you take any type of pain medication now for  
 18 those injuries?  
 19 A I haven't taken pain medicine for -- prescribed by a  
 20 doctor for a long time, so, no, I don't take any  
 21 currently.  
 22 Q And this was in 1992?  
 23 A 9/14/02, yes, when I got ran over.  
 24 Q So in 1997 were you taking marijuana for recreational  
 25 purposes, or were you taking it for --

Page 11

1 A In '97?  
 2 Q Yes.  
 3 A I could have been. I don't know when I quit or how  
 4 long I quit for. But like I said, I've used it off and  
 5 on for a while. I'm not a real big connoisseur of it.  
 6 Q How about have you ever had any drug or alcohol abuse?  
 7 A Never.  
 8 Q Well, today I have with me to my left is the defendant,  
 9 Eric Turnbow. I assume that you know Mr. Turnbow.  
 10 A Sure do.  
 11 Q When did you meet him?  
 12 A Probably in the '80s.  
 13 Q And how did you guys meet?  
 14 A Through a mutual friend.  
 15 Q And did you and Mr. Turnbow take a trip together?  
 16 A Yes, we did.  
 17 Q Why don't you tell me about that. When was it?  
 18 A 1999.  
 19 Q Where did you guys go?  
 20 A To London and Amsterdam.  
 21 Q Have you ever been to London or Amsterdam before?  
 22 A Never been out of the country prior to that, except for  
 23 Mexico.  
 24 Q And then -- so you guys -- it was a 1999 trip?  
 25 A Yes.

Page 12

1 Q Are you sure it wasn't 1997?  
 2 A I -- it's quite a while ago. I don't know. It could  
 3 have been. I thought it was '99, but I might be wrong.  
 4 Q It possible it might have been 1997?  
 5 A It's possible.  
 6 Q So who goes on this trip with you in 1999 or '97 to  
 7 London or Amsterdam?  
 8 A Eric.  
 9 Q Anybody else?  
 10 A No.  
 11 Q And how long were you guys going to go on this trip  
 12 for?  
 13 A I believe it was a week.  
 14 Q And so when you're preparing for this trip, did you  
 15 purchase any items in preparation of this trip?  
 16 A Yes.  
 17 Q Tell me what you purchased.  
 18 A I purchased a videotape for my then-girlfriend's camera  
 19 that I borrowed from her and probably shaving stuff. I  
 20 don't know what all I purchased.  
 21 Q How many videotapes did you purchase?  
 22 A I believe it was just the one.  
 23 Q One videotape?  
 24 A That I can recall.  
 25 Q Do you know how many hours the videotape was good for?

Page 13

1 A I think it held up to four hours.  
 2 Q Do you know what type of videotape it was?  
 3 A Videotape for a camera. I don't know what type.  
 4 Q Was it -- I believe -- don't quote me on this but  
 5 there's some product that I believe is made by Maxem  
 6 [sic] videotapes?  
 7 A It was ten years ago. I have no clue. It was a  
 8 plastic tape that went into a camera, so I don't know.  
 9 Q So you borrowed a camera from your then-girlfriend?  
 10 A Right.  
 11 Q And what was her name?  
 12 A Shah, S-h-a-h, T-a-w-w-a-t-e-r.  
 13 Q Do you know where Shah is located now?  
 14 A She's in Marysville as far as I know.  
 15 Q Do you know if Shah is married?  
 16 A Single.  
 17 Q And she still goes by Tawwater?  
 18 A Yes.  
 19 Q Do you still have contact with her?  
 20 A No.  
 21 Q Did you ever take a camera on this trip with you?  
 22 MR. DORAN: Can you clarify what you mean by  
 23 camera.  
 24 Q A picture camera, still pictures.  
 25 A I might have. I might have taken my 35 mm Pentax A3000

Page 14

1 model, I believe it was.  
 2 Q Do you know if Mr. Turnbow ever took a still photo  
 3 camera with him?  
 4 A I believe he did.  
 5 Q Did Mr. Turnbow ever take a handheld videocamera with  
 6 him?  
 7 A No, not to my knowledge.  
 8 Q So tell me what type of discussion, if any, you had  
 9 with Mr. Turnbow about the videocamera that was taken  
 10 on this trip.  
 11 A Before the trip what kind of discussion?  
 12 Q Right.  
 13 A I don't believe we ever had one.  
 14 Q You show up at the airport and you have this  
 15 videocamera; is that how that was?  
 16 A No. I showed up at Eric's house with my belongings to  
 17 go on this trip.  
 18 Q And you had a videocamera with you?  
 19 A Yes.  
 20 Q And did you have any discussions about what you would  
 21 be doing with the videocamera while you were at Eric's  
 22 house?  
 23 MR. DORAN: Objection. Asked and answered.  
 24 A There was no need for discussion about the videocamera  
 25 It was my videocamera for my private memories of our

Page 15

1 vacation.  
 2 Q So it was your understanding that you would be taking  
 3 all the video on that camera?  
 4 A There was no understanding.  
 5 Q Well, did you take all the video on that camera?  
 6 A Probably not all of it. I probably let him use it to  
 7 take pictures of me back. I don't -- without viewing  
 8 the whole four hours of footage, which I've rarely  
 9 seen, I probably let him use my camera to take a  
 10 picture of me or whatever. He might have picked it up  
 11 in the room or shot video with my permission or without  
 12 it. I don't know.  
 13 Q Do you recall if Mr. Turnbow ever took your -- the  
 14 camera that was belonging to Shah Tawwater and took  
 15 footage of you with that camera?  
 16 A I can't recall. He may have.  
 17 Q Well, if you're on this video, who else but Mr. Turnbow  
 18 would be taking video shots of you when you are on it?  
 19 MR. DORAN: Object to the form.  
 20 A Strangers in the street.  
 21 Q Can you tell me how many strangers actually had  
 22 possession of your video?  
 23 A Maybe one or two. I don't have any idea.  
 24 Q Do you recall strangers using your video or taking  
 25 footage on that video camera?

Page 16

1 A Not really. I'd have to -- like I said, I'd have to  
 2 review the video to see if somebody else was using my  
 3 camera that I borrowed from my girlfriend.  
 4 Q When was the last time that you viewed the videotape?  
 5 A Probably months ago, several months ago.  
 6 Q 2008?  
 7 A Maybe the beginning of it.  
 8 Q Anybody watch with you at the time you viewed it in  
 9 2008?  
 10 A I believe my girlfriend was viewing it with me.  
 11 Q Did you watch the entire tape?  
 12 A I think I did in part. I mean, I might have watched  
 13 part of it and then watched the rest later. I don't  
 14 think I watched it all at once. I don't think I would  
 15 have sat there the entire tape. But I did eventually  
 16 watch the whole thing, yes.  
 17 Q And do you know how long that tape is?  
 18 A Like I said earlier, I think it recorded up to four  
 19 hours. I don't know specifically what the exact amount  
 20 of time that these filmed on it, but --  
 21 Q Is it possible the film could be over six hours?  
 22 A I have no idea. I don't believe so.  
 23 Q You don't think it's over six hours?  
 24 A I don't know. I have no knowledge of how many hours  
 25 actually it would hold or how much was on it. I didn't

Page 17

1 time it.  
 2 Q Have you ever watched the video in its entirety?  
 3 A Yes.  
 4 Q And how long did it take you to watch it in its  
 5 entirety?  
 6 A I didn't time it. I had no reason to keep track of how  
 7 long the video was.  
 8 Q So you're on this trip, and are you utilizing this  
 9 camera the whole time when you were on the trip or were  
 10 there times when you didn't take video footage?  
 11 A The times that I'm not filming is the time that I'm not  
 12 taking video footage.  
 13 Q Can you recall in one day, per day how many hours of  
 14 video you were taking?  
 15 A I just took whatever I felt necessary to take. I  
 16 couldn't tell you if it was one hour one day or five  
 17 hours one day. I don't know. I just took whatever I  
 18 felt like shooting.  
 19 Q Can you tell me what you took footage of. What were  
 20 you shooting with the video?  
 21 A City scenes, on the plane, at the airport. I'm not  
 22 sure what's all in there. Eric walking across Abbey  
 23 Road. At the hospital, in the hospital after he hurt  
 24 himself, just, you know, various things. Just whatever  
 25 an average tourist would take. If you see things, you

Page 18

1 find things interesting, you shoot it.  
 2 Q So were you taking shots of public areas, then?  
 3 A Well, everything outside is a public area. I'd say  
 4 yes.  
 5 Q Did you take any shots of any private locations where  
 6 you had to get permission?  
 7 A Not to my knowledge. I don't remember that.  
 8 Q So you never asked permission from anybody to take any  
 9 of the footage you took while on the trip?  
 10 A No. Not to my knowledge, I never asked -- I didn't  
 11 feel the need to ask. There was nobody around to ask  
 12 from what I can remember from the footage.  
 13 Q And so do you recall actually being gone for a whole  
 14 week on this trip or was it longer?  
 15 A Well, I don't think it was any longer than a week.  
 16 Q Did you ever have to switch out this tape, or was it  
 17 just one tape that was in --  
 18 A I believe it was just one tape. I don't recall, like I  
 19 say, if I used more than one. I remember it being one  
 20 for sure, but...  
 21 Q Do you know what type of camera you were using?  
 22 A I have no idea.  
 23 Q Was it battery operated? Did it have one of those  
 24 batteries where you can charge it up again?  
 25 A I believe it was a charge-up type with batteries.

Page 19

1 Q Was it one of -- is it a handheld camera, then?  
 2 A Yes.  
 3 Q And did it have a screen where you could see what you  
 4 are videotaping?  
 5 A No. No. It doesn't have a -- I don't believe it had a  
 6 review device on it to rewatch what you have shot. I  
 7 don't believe that was the type she had.  
 8 Q And do you recall if you personally ever took any still  
 9 photos from like a regular camera on that trip?  
 10 A With my camera? I'm sure I did.  
 11 Q And what type of photos were you taking?  
 12 A Just photos.  
 13 Q Do you recall taking any photos of Eric on that camera?  
 14 A I don't recall if I used just the camera or both  
 15 cameras or what I shot on them. I don't remember even  
 16 if I have any still photos from my camera, you know, or  
 17 where they would be today. I don't know.  
 18 Q Did you have Eric take photos of you on your still  
 19 camera?  
 20 A I'm sure he did. I -- we were on double-decker buses  
 21 and shot photos of each other back and forth as friends  
 22 would do.  
 23 Q And do you know if Eric was taking still photos on the  
 24 camera he may have brought?  
 25 A Yes.

Page 20

1 Q Did you see him take photos on a still camera?  
 2 A Yes.  
 3 Q Did you ever use Eric's camera to take any still  
 4 photos?  
 5 A I'm sure I did. I think he handed it to me on the bus  
 6 to take a picture of him and other shots. I'm not  
 7 sure. We just shared back and forth the cameras to  
 8 take pictures of each other and places and in front of  
 9 things.  
 10 Q When you got back from that trip, do you recall having  
 11 any discussion about the videotape and what you guys  
 12 were going to do with it, if anything?  
 13 A Yes, I do.  
 14 Q Tell me about that.  
 15 A When we got back, Eric offered to transfer from the  
 16 cartridge with the machine that was -- belonged to my  
 17 girlfriend also for her camera, to put it on VHS for  
 18 me, which he did. And he put in chronological order  
 19 the events on the tape and wrote everything on my tape  
 20 and gave me a copy of it.  
 21 Q Do you know how many copies he made of that  
 22 original --  
 23 A I have no idea how many copies he made of it. I know  
 24 he made me one, and that's all I know.  
 25 Q Do you know if he made himself one?

Page 21

1 A I've never seen it. If he did make one, he -- I don't  
 2 know if he made one.  
 3 Q So you never had any discussions that he would make you  
 4 a copy and make himself a copy?  
 5 A He never showed me his copy if he made one.  
 6 Q And then what happened to the original tape?  
 7 A He claimed that somebody broke into his house, a former  
 8 friend of his, and stole it along with drugs and money  
 9 and stuff out of his safe.  
 10 Q So do you recall ever having a discussion with Eric  
 11 that he would pay you for the original for around \$40?  
 12 A Never happened.  
 13 Q Did Eric ever give you a stash of marijuana in exchange  
 14 for the original tape?  
 15 A Never happened. I'm not that desperate. I don't need  
 16 to sell my memories for 40 bucks.  
 17 Q So why would you -- so after he made the copy for you,  
 18 why didn't you take the original back?  
 19 A Well, we were friends for quite some years, and I left  
 20 it with him, and he gave me my type that he made for  
 21 me, and I was going to give the machine -- or that  
 22 machine that plays the cartridge out of the camera back  
 23 to my girlfriend. And we hung out so much that I just  
 24 kind of forgot all about it was even over there for  
 25 quite a long time. Years probably.

Page 22

1 Q Just so I understand what you're saying here, the  
 2 original tape was copied by Eric with your permission?  
 3 A For me.  
 4 Q For you.  
 5 A For me.  
 6 Q And you don't -- you don't know whether he made a copy  
 7 for himself?  
 8 A I don't know -- no, I don't know if he made a copy for  
 9 himself.  
 10 Q Do you recall if he ever asked your permission if he  
 11 could make a copy for himself?  
 12 A I don't believe that, you know -- I don't know. I  
 13 mean, I just -- I don't know what he would do with it  
 14 when he had it in his possession, other than using it  
 15 to make me a copy and then give the machine back to my  
 16 girlfriend.  
 17 Q So you don't recall whether or not Eric made a copy for  
 18 himself or whether you guys had this discussion. Is it  
 19 possible that you and Eric had discussion about him  
 20 making copies of this videotape, the main master  
 21 videotape, for you and for himself?  
 22 MR. DORAN: Objection. Mischaracterizes the  
 23 evidence. The witness has not testified that he -- he  
 24 doesn't recall a conversation requesting a copy of the  
 25 videotape.

Page 23

1 Q That's fair enough. Let me ask you: Do you recall if  
 2 you had a discussion with Mr. Turnbow about whether or  
 3 not he could make a copy for himself from the master  
 4 tape?  
 5 A I don't recall.  
 6 Q Since you don't recall, is it possible that there was a  
 7 discussion between you and Mr. Turnbow about him making  
 8 a copy for himself from that master tape?  
 9 A I can't say it's impossible that he didn't say  
 10 something to me that he made himself a copy, but I  
 11 don't recall after ten years or longer that it was  
 12 discussed.  
 13 Q Okay. Have you ever watched the videotape of that trip  
 14 at Eric's house?  
 15 A Yes.  
 16 Q And did you watch it with the copy that you had in your  
 17 possession that he made a copy of?  
 18 A No. We watched it directly off the master copy.  
 19 Q Other than the master copy, do you ever remember  
 20 watching a copy of that videotape at Eric's house that  
 21 was not the master tape?  
 22 A I don't recall ever viewing anything that -- I would  
 23 have assumed it would have been off the master tape.  
 24 Q Why would you assume that?  
 25 A Because that's what it was recorded on originally and

Page 24

1 that's what we viewed it on when we got back.  
 2 Q So once the master recording was made, a copy was given  
 3 to you, what happened to the camera itself?  
 4 A The camera went immediately back to my girlfriend when  
 5 I got home from the trip.  
 6 Q And then you left the masters at Eric's place?  
 7 A Yes.  
 8 Q And how long did you leave the master at Eric's place  
 9 for?  
 10 A Years.  
 11 Q Why didn't you ever take it back?  
 12 A I totally -- slipped my mind. It wasn't important. I  
 13 had a copy that he made for me for my future to view  
 14 it, and busy life. I just didn't think about it.  
 15 Nobody -- my girlfriend, if she would have pressured me  
 16 for it, I would have got it back for her. But nobody  
 17 asked me for it, and just kind of being busy in life  
 18 and I never thought to -- you know, I thought it would  
 19 be safe in his hands and never thought about it.  
 20 Q So you allowed Eric to keep the master, then.  
 21 A I didn't allow him to keep it. I allowed him to hang  
 22 on to it. He said he wasn't done viewing -- after he  
 23 made my copy, he said he wanted to keep it, because I  
 24 asked for it back. He said he wanted to keep it and  
 25 still review things and -- that he never got to really

Page 25

1 watch -- I think he just plugged it in and turned it on  
 2 to record and left the house. I don't know what he  
 3 did.  
 4 Q Can you tell me when you asked to get it back -- if you  
 5 can recall when you asked to get it back?  
 6 A I probably asked after he made me my copy, you know,  
 7 somewhere down the line that I'd like to get it back to  
 8 give it back to my girlfriend.  
 9 Q What was the need to get a copy for you if you were  
 10 going to have the original? If there was an original,  
 11 why didn't you keep the original?  
 12 A Because it takes a special machine to play the  
 13 cartridge from the camera, and I didn't have that  
 14 machine, so Eric offered to transfer -- because he  
 15 likes to record everything on VHS all the time, even  
 16 probably today. And I wanted to have a copy that I  
 17 could watch in my VHS player at home without having to  
 18 go buy the machine.  
 19 Q Did Eric have the machine?  
 20 A My girlfriend's machine, yes, he did.  
 21 Q Did you ever ask for that machine back?  
 22 A I did at one point.  
 23 Q Did you get it back?  
 24 A No, I never got it back.  
 25 Q So where is this machine?

Page 26

1 A I have no idea. He'd have to answer that question.  
 2 Q But the machine belonged to your girlfriend?  
 3 A Yes, it did.  
 4 Q So did your girlfriend ever ask for it back?  
 5 A I don't believe she did. She wasn't concerned. We  
 6 never used it for anything.  
 7 Q So you left some machine that belonged to your  
 8 girlfriend at your friend's house?  
 9 A It's the machine to play the cartridge in the VHS  
 10 player with -- I left it at Eric's with the master  
 11 tape. Otherwise he'd have no way of playing it  
 12 himself. He didn't have a machine like that.  
 13 Q And so after how many years do you think -- or months  
 14 or days were you then informed that Eric no longer had  
 15 the master tape?  
 16 MR. DORAN: Objection. Mischaracterizes  
 17 evidence. I don't think it's ever been established  
 18 that he was ever so informed.  
 19 Q I thought you said that Eric told you that somebody  
 20 broke into his house and stolen the master tape. When  
 21 was this?  
 22 A It wasn't -- it was after he had informed me that  
 23 Michael Moore was -- he was pursuing what he found on  
 24 the Internet from Michael Moore wanting anything to do  
 25 with social medicine. And I don't know the time or

Page 27

1 date, but he told me that his friend broke into his  
 2 house, a guitar player that we both knew, and stole his  
 3 drugs, his gold coin collection, and my tape, possibly.  
 4 And he didn't mention the machine, but I'm sure  
 5 the tape and the machine were probably -- you know, the  
 6 tape may have been in the machine. Because I don't  
 7 know why you'd keep them apart. But I don't recall  
 8 exactly when, you know -- when the thing disappeared.  
 9 I have no knowledge other than he told me afterwards  
 10 that his friend broke into his house and took it.  
 11 Q And that's what I'm trying to establish. When did he  
 12 tell you this?  
 13 A You'd have to ask him. I don't know.  
 14 Q Well, you just testified what he told you about Michael  
 15 Moore, right, that there was a Michael Moore project  
 16 and at that time he told you that the master was  
 17 stolen?  
 18 A Right. When we were hanging out, yes, he did.  
 19 Q When was that?  
 20 A I have no idea. Prior to movie release.  
 21 Q Was this in 2006, 2007, 2005?  
 22 A When he informed me that the tape was stolen?  
 23 Q Correct.  
 24 A Whenever he made his police report that the guy broke  
 25 into his house. If he made one, I don't know.

Page 28

1 Q I'm trying to get your memory of this, when this  
 2 conversation happened.  
 3 A My memory? I don't have a memory of when this  
 4 happened. I'd say probably 2006, I would guess. I'm  
 5 not sure. It's just a guess.  
 6 Q So almost ten years later in 2006 you now have been  
 7 told that the master has possibly been stolen by  
 8 somebody who broke into Mr. Turnbow's house; is that  
 9 correct?  
 10 A That's pretty much correct.  
 11 Q And this guitar player, do you know what his name is?  
 12 A I can't remember his name.  
 13 Q But you'd indicated it's somebody you mutually know?  
 14 A I know that he could -- you know, you could follow up  
 15 with the Quinault Casino, because he played and filled  
 16 in for The Coasters or somebody that flew in there.  
 17 He's a guitar player for one of the events there. Eric  
 18 would be able to tell you his name. I wasn't really  
 19 his friend. It was Eric that was his friend.  
 20 Q So when this conversation took place, were you at  
 21 Eric's house?  
 22 A Which conversation?  
 23 Q The conversation that you found out the master was  
 24 stolen by this guitar player.  
 25 A I don't recall. I think he called me on the phone and

Page 29

1 we were discussing, you know, the tape and the return  
 2 of it.  
 3 Q Did you call him that day to say, Hey, I would like the  
 4 master tape returned?  
 5 A I don't recall, you know, what time -- when it came up.  
 6 I just knew that at some point when we had a falling  
 7 out that I wanted to get my girlfriend's machine back  
 8 and my master tape and then he told me that this guy  
 9 broke in -- that he thought broke into his house. He  
 10 didn't see him do it, but he said that he assumed that  
 11 the guy that broke into his house also took my master  
 12 tape. And this was all the time when he was talking  
 13 with Michael Moore about this footage for possibly  
 14 being in the movie, I guess, in the future.  
 15 Q So is it your testimony that you had a falling out with  
 16 Mr. Turnbow in maybe 2006?  
 17 A 2005, '6, yes, somewhere in there.  
 18 Q So you and Mr. Turnbow continued to have a  
 19 communication or friendship between 1997 or '98 up  
 20 until 2005 or 2006?  
 21 A We were friends for like 10, 12 years total and then  
 22 there was a falling out. And then he called me by  
 23 mistake and we started being friends again, and this  
 24 was prior to the movie.  
 25 Q When was the falling out?

Page 30

1 A I have no idea. I can't remember the year or the day  
 2 or the month.  
 3 Q Was it 2006 or 2005?  
 4 A I can't remember.  
 5 Q How long did you not have any communications after this  
 6 falling out?  
 7 A Probably a couple years.  
 8 Q So in 2008 he contacted you about the Michael Moore  
 9 film?  
 10 A Either 2007 or '8, I would say.  
 11 Q So you think either 2005 or 2006 you had a falling out.  
 12 Then you got reconnected back to talking with one  
 13 another in 2007 or 2008?  
 14 A Possibly, yes.  
 15 Q And it's when you guys reconnected either 2007 or 2008  
 16 at that point you requested back the equipment and the  
 17 master tape from Mr. Turnbow?  
 18 A I'd requested it back prior to this falling out after  
 19 we got back from my vacation.  
 20 Q When did you request it?  
 21 A I don't know the year. Just somewhere along being  
 22 friends I finally said, Hey, I forgot to get my tape  
 23 and my cartridge for my girlfriend back -- the player  
 24 for cartridge back to my girlfriend. And then I was  
 25 informed that it was stolen.

Page 31

1 Q I'm a little confused here.  
 2 A So am I.  
 3 Q My understanding is that you were told that this tape  
 4 was stolen by this guitar player during the  
 5 conversation where Mr. Turnbow was telling you about  
 6 the Michael Moore film.  
 7 A No. It's -- I'm not sure exactly when it was, but I  
 8 know that it was all revolving around this time period.  
 9 Q So are these two separate conversations, or are they  
 10 the same conversation? Which one?  
 11 A Well, we had more than one conversation concerning the  
 12 cartridge that belonged to my girlfriend and the master  
 13 tape. And I believe that I asked for the main master  
 14 tape back about the time when he was telling me that he  
 15 was emailing Michael Moore with the possibilities of  
 16 submitting this footage of him hurting himself on Abbey  
 17 Road, and then all of a sudden the tape disappears. He  
 18 claimed to me that somebody stole it. So it's all  
 19 revolving around the time when he started giving the  
 20 information to Michael Moore and I requested it back.  
 21 Q And at the time that you were talking about the Michael  
 22 Moore film was in the time that you guys reconnected;  
 23 is that right?  
 24 A Yes. Yeah. Prior to the movie and all this, we had  
 25 been -- befriended each other once again. You know,

Page 32

1 like I said, he called me up, he claimed by mistake.  
 2 He had two Kens in his cell phone that he hit my number  
 3 instead of the other Ken that he had programmed in his  
 4 cell phone and started talking to me, and we started  
 5 seeing and hanging out again.  
 6 Q At the time of the falling out, prior to the time of  
 7 the falling out, did you ever request for the videotape  
 8 back or the equipment to play the master tape?  
 9 A Well, like I'd said, I'd asked for it not long after he  
 10 had recorded my tape for me, which was right when we  
 11 returned from our vacation. And then, you know,  
 12 somewhere down the line I asked him again, and he said  
 13 he wasn't done with it or done using it a few months  
 14 down the road from our return from our vacation.  
 15 And then when it got up to the point, you know,  
 16 years later about hearing about this possibly being  
 17 used in a film, I requested it back once again to get  
 18 the -- I remember that he still had the cartridge that  
 19 played the tape, so I can give it back to my girlfriend  
 20 and return it to her, because I -- it just struck my  
 21 memory later on down the road that, you know, I give  
 22 back to people things that belong to them. I'm not a  
 23 thief, and I don't take things that aren't mine.  
 24 Q So is it your testimony and recollection that between  
 25 the time of the trip and the time of the falling out

Page 33

1 that you had only requested for the return of that  
 2 video and the equipment of that video one time?  
 3 A No. More than once.  
 4 Q How many times?  
 5 A I have no idea. Probably three or four times in  
 6 between the time we returned and the time the movie was  
 7 going to be sent off to Michael Moore.  
 8 Q The Michael Moore conversation took place after you  
 9 guys reconnected, correct?  
 10 A Yes.  
 11 Q So there was a falling out period and a reconnecting  
 12 period; is that right?  
 13 A Yes, right. And I asked for the return of it prior to  
 14 and after.  
 15 Q That's where I'm trying to get at. At the time you  
 16 took the trip, which was '97 or '98, to the time of the  
 17 falling out, which I think you testified was either  
 18 2005 or 2006, between those two times, how many times  
 19 did you request the return of the video and the  
 20 equipment for that video?  
 21 A I don't know. A few. Three or four.  
 22 Q So you asked for it three or four times. Now there's a  
 23 two-year gap where you guys don't talk, and you  
 24 reconnect in either 2007 or 2008; is that right?  
 25 A Whatever it was, yes. I don't remember exact dates.

Page 34

1 Q So when you reconnect, how many times did you ask him  
 2 about the videotape and the return of that tape and the  
 3 equipment?  
 4 A You -- I don't know. He'd have to answer to that,  
 5 because once he told me it was stolen, there would be  
 6 no need for me to ask for it again when it's gone.  
 7 Q So you recall -- after you reconnected, you asked him  
 8 to return the tapes and the equipment and at that point  
 9 he told you it was stolen?  
 10 A Right.  
 11 Q And you're not sure if it's in one or two conversations  
 12 where you guys then discussed this Michael Moore film?  
 13 A He had mentioned that he found him on the Internet and  
 14 how he was looking for anybody that had anything to do  
 15 with social medicine. And, you know, I'm -- I didn't  
 16 think anything would ever transpire with my footage of  
 17 the vacation that we went on, and so I didn't think  
 18 anything of it. And you know, I didn't remember -- or  
 19 remember the conversations we had that surrounded it or  
 20 anything. It wasn't important at that time. I thought  
 21 nothing had become of it.  
 22 Q You considered the videotape that you took on this trip  
 23 to be your footage?  
 24 A Definitely.  
 25 Q Even though it had footage of Eric and other folks on

Page 35

1 there as well, you considered it to be your footage?  
 2 A Well, sure.  
 3 Q So when Eric kept the master and/or had copies made of  
 4 this master, you still understood that to be your tape  
 5 and your footage?  
 6 A I sure did.  
 7 Q And you never said to him you can -- I'm going  
 8 to -- you could purchase this master from him? You  
 9 never said that to him?  
 10 A I never said that.  
 11 Q You never took any marijuana in exchange for the  
 12 master?  
 13 A I never did that ever.  
 14 Q And you never said to him, I don't ever want you to  
 15 give this to anyone; I just want you to keep it?  
 16 A I didn't see the need in expressing that to him. It  
 17 was just a copy of the vacation.  
 18 Q Did you ever say to Eric, I didn't want you to show  
 19 this videotape to anybody?  
 20 A I didn't see the need in saying that to him at this  
 21 time.  
 22 Q Do you know if Eric showed the videotape to his family  
 23 or friends?  
 24 A Well, there might have been acquaintances we had there  
 25 that might have been in the house that we jammed

Page 36

1 together and hung out together that might have viewed  
 2 it with us. I don't know. I can't remember  
 3 specifically anybody that actually sat there with me in  
 4 the room. I'll sure there was. He had people in and  
 5 out of his house all the time.  
 6 Q Do you know if Eric ever told you, Yeah, I watched this  
 7 video with so-and-so person when you were not there?  
 8 A I don't recall that conversation.  
 9 Q Do you have any knowledge whether or not Eric, in fact,  
 10 showed it to any of his family members without your  
 11 presence?  
 12 A I don't have any knowledge of it. He may have. I  
 13 don't have -- I don't know what he did. You'd have to  
 14 ask him what he did with it.  
 15 Q Did you ever ask Eric who you've ever shown the video  
 16 to?  
 17 A I didn't find the need in it.  
 18 Q Well, why didn't you find the need in it if you are  
 19 concerned that this is your footage?  
 20 A I wasn't concerned. I knew it was my footage.  
 21 Q So were you worried that Eric could show it to other  
 22 people?  
 23 A Was I worried at that time? I probably didn't even  
 24 think twice about it. Other than he had it in his  
 25 safekeeping, I didn't feel that -- you know, it wasn't

Page 37

1 no great need, in my opinion, that he would have to run  
 2 out and show everybody our footage of what I'd shot  
 3 over there on our vacation. I have no idea if he  
 4 showed it to anybody.  
 5 Q Did you care whether Eric showed it to any of his  
 6 family members?  
 7 A Well, sure. There's things in there that I wouldn't  
 8 want my own family members to see.  
 9 Q Did you tell him that?  
 10 A I didn't see the need in telling him at that time. He  
 11 knew what was on there. He knew what was filmed. He  
 12 filmed me. I filmed him. There's footage of both of  
 13 us on there.  
 14 Q So if you had concerns that there was some footage that  
 15 you wouldn't want any of his family members to see, why  
 16 didn't you tell him?  
 17 A I just expected that he would respect my privacy and  
 18 the moments in film -- you know, like if I had his  
 19 tape, I would probably stop it if there was something  
 20 that I thought would bother me if it was me showing  
 21 somebody else and their moments on tape, I would  
 22 probably not show it to them.  
 23 Q So can you tell me what moments on the tape that you  
 24 feel were private?  
 25 A There's drug use, running around the room in our

Page 38

1 underwear acting goofy. The version of me singing a  
 2 capella with him "Oh, England" is embarrassing and  
 3 awful.  
 4 It was my first time using a videocamera, and  
 5 he -- you know, he told me what a rotten job of filming  
 6 I did, which I agree. I'd never used a camera prior to  
 7 that point. And, you know, like I said, it was  
 8 just -- it was just a poor quality everything and no  
 9 experience behind the camera, and I just -- I wasn't,  
 10 you know, happy with -- especially when I seen myself  
 11 in a movie, I didn't know what to find. And it was  
 12 real shocking and embarrassing and, you know, kind  
 13 of -- it kind of -- I felt really strange about it.  
 14 Q If there were a bunch of shocking and embarrassing  
 15 things on the video, why didn't you guys destroy the  
 16 video?  
 17 A Well, I figured once I got it back from him, it would  
 18 be up to me whether I wanted to destroy it or -- you  
 19 know, I don't know how to destroy it. It's on a tape.  
 20 I don't have no -- I don't have no way of -- unless I  
 21 took it and cut it with a scissor and pulled the tape  
 22 together and respliced it, I didn't feel necessary to  
 23 take anything out of it if it's in my possession. I  
 24 wouldn't care if I had it in my possession.  
 25 Q So why would you leave a master tape that had

Page 39

1 embarrassing and bad footage to an individual for over  
 2 ten years?  
 3 A Well, like I said, it just totally slipped my mind that  
 4 he had it for all that time. I'd forgotten about it  
 5 for several years. It wasn't important. It's not like  
 6 he had, you know, my gold watch in his possession worth  
 7 lots of money. I'd probably get it right back right  
 8 now if he had it over at his house. But it wasn't to  
 9 me at this time any major concern to even think about  
 10 it. Just spaced it off and even forgot that it was  
 11 even there.  
 12 Q So it wasn't so embarrassing and poorly filmed that you  
 13 felt a need to try to retrieve it over ten years, then?  
 14 A Like I said, I never expected it to go beyond Eric's  
 15 house and beyond our -- you know, him and my eyes. I  
 16 didn't expect it to go anywhere farther than that. I  
 17 left it with him for the purpose of recording it for me  
 18 and giving me my tape, my master tape, and the machine  
 19 back to me that played the tape in a reasonable amount  
 20 of time.  
 21 Q So can you tell me who you know has viewed this film,  
 22 this videotape that you personally have shown it to.  
 23 A Shah Tawwater. And my girlfriend that lives with me,  
 24 Barbara Sleasman. And I don't recall anybody else,  
 25 actually.

Page 40

1 Q Just those two?  
 2 A That I've shown it to at my house.  
 3 Q So no other family members in your family have seen it?  
 4 A No.  
 5 Q So did Shah Tawwater -- did she watch the drug use  
 6 footage of you and Eric?  
 7 A Well, I'm sure, unless she got up to go in the bathroom  
 8 in that moment of time. I don't know. I don't know  
 9 what anybody sees. I mean, the film was put on, she  
 10 watched it with me, and I can't recall, you know, what  
 11 her memory recalls seeing of it.  
 12 Q Did you ever ask Eric if it was okay you could show  
 13 Shah Tawwater his -- footage of him using drugs?  
 14 A Did I ask Eric that?  
 15 Q Yes. Did you ask Eric permission for you to show  
 16 footage of him using drugs to Shah Tawwater?  
 17 A He didn't ask me permission to show me using drugs with  
 18 him over there either.  
 19 Q So did you have an understanding you guys could show  
 20 the footage to people?  
 21 A We had no understanding of anything. All I knew is  
 22 record it and give back to me.  
 23 Q Mr. Aronson, you just testified that you would respect  
 24 someone's privacy and their right if there was some  
 25 footage that was embarrassing to not reveal it to

Page 41

1 somebody without their permission.  
 2 A If I thought it was a real -- if it was a real bad  
 3 something that I filmed, like, you know -- I mean, I  
 4 don't know what to use as an example, but if it was  
 5 something very, very extremely embarrassing and the  
 6 person made mention to me not to show this because it's  
 7 on your film, I would respect that.  
 8 Q So I just asked you that very question. What on this  
 9 film from this trip was very embarrassing to you and  
 10 private to you? And I believe you testified that the  
 11 drug -- you using drugs, you running around in the room  
 12 in your underwear, you singing "Oh, England," and there  
 13 was just poor quality in the camera was very  
 14 embarrassing to you and private. Do you recall  
 15 testifying to that just a few minutes ago?  
 16 A Yes.  
 17 Q So with that question in mind, I'm asking you if  
 18 there's footage on there of Eric using drugs and you  
 19 showing it to Shah Tawwater, did you ever ask  
 20 permission from Eric to show that to Shah?  
 21 A Eric openly does what he does with drugs -- and he  
 22 doesn't -- he's not embarrassed by it, so I wouldn't  
 23 feel the need to ask his permission to show something  
 24 that I filmed that he knew that was on there and he  
 25 never made mention that he wanted me to keep anything

Page 42

1 private from what I filmed at any time nor did he ask  
 2 me to give permission for what belonged to me to use --  
 3 show to my friends at my own home. So, no, I never  
 4 asked him permission to show anything about him on that  
 5 film. It was my film.  
 6 Q So do you think that Eric using drugs on the videotape  
 7 is an embarrassing thing for Eric?  
 8 MR. DORAN: Objection. Speculation.  
 9 A You'd have to ask him.  
 10 Q Is it embarrassing to you?  
 11 A That he uses drugs?  
 12 Q No, is it embarrassing that there's footage of you  
 13 using drugs? Is that embarrassing for other people to  
 14 see?  
 15 A It could be, yes.  
 16 Q Well, I'm asking you --  
 17 A I wouldn't show it to my mother, no.  
 18 Q In this film -- I'm asking you --  
 19 A It's not in the film. You mean the Michael Moore film  
 20 or my own footage --  
 21 Q No. The footage that you took that you showed Shah  
 22 Tawwater, is there footage of you using drugs in this?  
 23 A Yes. We're smoking marijuana.  
 24 Q Okay. Let me go back and ask you that same question  
 25 that I'm asking you again, because apparently there

Page 43

1 must be some confusion.  
 2 From this footage that you took as home video,  
 3 what footage on there is embarrassing and something  
 4 that you consider is a private matter?  
 5 A A private matter is something that could embarrass me  
 6 in front of certain people that I know as in smoking  
 7 drugs, running around in my underwear, singing an awful  
 8 version of my song that I originated and wrote; he  
 9 helped cowrite. And, you know, I mean, some people I  
 10 don't know. I mean, just anybody. I wouldn't show  
 11 certain parts of that video to anyone.  
 12 Q Because they are embarrassing?  
 13 A They are to me, yes.  
 14 Q And because they are private --  
 15 A Right.  
 16 Q -- to you?  
 17 A To me.  
 18 Q So do you think that it was okay for you to show  
 19 footage of Eric using drugs to Shah Tawwater?  
 20 A Do I think it was okay? Yes, I do.  
 21 Q Because you don't think that's an embarrassing moment  
 22 for Eric?  
 23 A Shah's seen him smoking dope at his house, so why would  
 24 it be any different from watching him do it live  
 25 ver- -- watching him on my video that we shot.

Page 44

1 Q Has Shah seen you doing drugs?  
 2 A Yes.  
 3 Q So do you think that's an embarrassing thing to you to  
 4 show Shah this footage?  
 5 A Not to Shah it wouldn't be, no.  
 6 Q Is there any footage of Eric in his underwear running  
 7 around on this footage?  
 8 A I can't remember. There might be. I don't know. But  
 9 I know I am.  
 10 Q Do you think that's an embarrassing footage of Eric?  
 11 MR. DORAN: Objection. Speculation.  
 12 A Do I think it's embarrassing? I'm another male. I  
 13 wouldn't think it was embarrassing to me to see him in  
 14 his underwear.  
 15 Q But you think it would be embarrassing if somebody saw  
 16 you in your underwear on film?  
 17 MR. DORAN: Objection. Can you clear who the  
 18 viewer is who's watching it.  
 19 A That's right. It depends on who's watching.  
 20 Q So it depends on people who you show the film to as  
 21 being okay to show these embarrassing moments, what you  
 22 label them as embarrassing; is that what you're saying?  
 23 A I wouldn't be embarrassed if Eric and I watched the  
 24 footage that I shot of us doing what we did. I would  
 25 be embarrassed if certain other people or strangers in

Page 45

1 the whole world was exposed to what I shot, which I  
 2 consider private and my own belongings.  
 3 Q So any of the footage that you took that you showed  
 4 Shah Tawwater, were you embarrassed at all to show her?  
 5 A No. Because she knows, you know, me and she sees me in  
 6 those moments, and it's something that she's used to.  
 7 Q What about you girlfriend, Barbara? Did she see the  
 8 footage of you using drugs and being in your underwear  
 9 and singing "Oh, England"?  
 10 A I don't remember how much of all the film she actually  
 11 sat and took all in. But I know she watched some of it  
 12 with me.  
 13 Q And do you know if she saw Eric using drugs in that  
 14 film and running around in his underwear and singing  
 15 "Oh, England"?  
 16 A Once again, I don't even know what she saw. You'd have  
 17 to ask her.  
 18 Q So if Eric had shown this videotape to his girlfriend,  
 19 for example, Miriam here, do you think that showing you  
 20 using drugs and being in your underwear -- do you think  
 21 that's an embarrassing thing?  
 22 A For me?  
 23 Q Yes.  
 24 A If I didn't know her, it could be, yes. She might lose  
 25 respect for me if she didn't like drugs. I don't know.

Page 46

1 Q So, again, just so I understand, there was never any  
 2 conversation between you and Eric as to who can view  
 3 this film?  
 4 A I didn't see -- no, we never discussed that.  
 5 Q So when you were told that there was this Michael Moore  
 6 project by Eric, what, if anything, did you tell Eric  
 7 as to whether or not he could provide any footage to  
 8 Michael Moore?  
 9 A I didn't tell him anything concerning the footage, that  
 10 he could provide it to anybody.  
 11 Q Did you tell him, I don't want you to send it?  
 12 MR. DORAN: Objection. Mischaracterizes his  
 13 testimony. I believe his testimony is that he was  
 14 informed post facto that it had been sent.  
 15 MS. LIM: That wasn't my understanding.  
 16 Q Let me ask you this. At the time that you found out  
 17 that Michael Moore wanted to do this project, had Eric  
 18 already produced the film to him, the first time you  
 19 were informed about Michael Moore?  
 20 A No. The -- he had told me that he had been on the  
 21 Internet and saw this thing that Michael Moore wanted  
 22 footage or experiences in social medicine.  
 23 Q That's what I thought.  
 24 A And then he informed me --  
 25 MR. DORAN: Please let the plaintiff finish.

Page 47

1 Q Sorry. Go ahead.  
 2 A And then he informed me that he'd sent the video to him  
 3 along with our CD, I'm Alive, to Michael Moore.  
 4 Q Is it your testimony that the first time you found out  
 5 about the Michael Moore project was after the videos  
 6 were sent?  
 7 A Say that once again.  
 8 Q Is it your testimony that the first time you found out  
 9 about the Michael Moore project was after Eric had  
 10 already sent the video?  
 11 MR. DORAN: I'm going to object it's vague as  
 12 to what "the Michael Moore project" means.  
 13 A He found out about the project and then they  
 14 communicated on the Internet and then he sent the  
 15 footage down without my permission.  
 16 Q Okay. At the time when you were told that there  
 17 was -- the name Michael Moore came up, at this time  
 18 when you were told or you had heard of Michael Moore,  
 19 had the film already been sent by Eric to Michael  
 20 Moore?  
 21 A I can't answer that.  
 22 MR. DORAN: Objection. Vague. I'm not sure  
 23 what you mean by finding out about Michael Moore.  
 24 Q Well, how did you hear about Michael Moore?  
 25 A Through Eric.

Page 48

1 Q What did Eric tell you about Michael Moore?  
 2 A That he saw on the Internet what I told you earlier:  
 3 That the guy wanted some people's inputs as to social  
 4 medicine and how it works and any footage or anything  
 5 that could help his movie out possibly to contact him,  
 6 and Eric had made mention to that to me prior to  
 7 sending the video to him. I don't know when did. I  
 8 had no clue. All I know is later on after he did what  
 9 he did, then he informed me of sending it.  
 10 Q So when he first told you that there was this Michael  
 11 Moore Internet communication, at this time, that  
 12 conversation that you just talked about or testified  
 13 to, had the films been sent?  
 14 A Not to my knowledge. I don't know.  
 15 Q And do you recall if you ever watched a Michael Moore  
 16 film at Eric's house with Eric during this time?  
 17 A No, I hadn't.  
 18 Q Do you ever recall saying you didn't know who Michael  
 19 Moore was when Eric told you about Michael Moore?  
 20 A I don't recall what I said.  
 21 Q Do you recall watching the movie Fahrenheit 911 with  
 22 Eric at Eric's house?  
 23 A It's possible, yes.  
 24 Q Was it possible that this happened -- that you watched  
 25 the Fahrenheit 911 during the time Eric first told you

Page 49

1 that there was a Michael Moore Internet communication?  
 2 A I don't remember when I -- I remember seeing the movie  
 3 Fahrenheit 911. I don't remember if it was with Eric  
 4 or who it was. I remember seeing it. It might have  
 5 been at Eric's, and it would have been after the tape  
 6 had been sent.  
 7 But prior to that, I didn't really know much of  
 8 Michael Moore or his movies. I never watched them  
 9 prior to that movie. That's the only movie I've ever  
 10 see by Michael Moore is Farenheit 911 prior to Sicko,  
 11 the release of Sicko.  
 12 Q So when Eric told you that he saw something from  
 13 Michael Moore on the Internet, did you at that point  
 14 tell Eric, I don't want you to send the films to  
 15 Michael Moore?  
 16 A I don't remember -- all it was was in the early stages  
 17 that he was communicating with him. He hadn't  
 18 discussed sending anything down at that time. Or he  
 19 hasn't told me that he was sending nothing. He just  
 20 said he was communicating with him about what happened  
 21 to him.  
 22 Q Did Eric ever say to you, Hey, I want to show Michael  
 23 Moore the footage of the time that we were on Abbey  
 24 Road?  
 25 A No. I believe he just did it and then he told me about

Page 50

1 it.  
 2 Q Do you ever recall being at Eric's house and there was  
 3 a gentleman there at the time you were there named Paul  
 4 Braggett [phonetic]?  
 5 A I don't recall that name.  
 6 Q He could also be known as Nisqually Pauly.  
 7 A Never heard that name.  
 8 Q If Mr. Braggett were to testify that you were present  
 9 at Eric's house during that time that Eric first told  
 10 you about Michael Moore and that you said you didn't  
 11 care what Eric did with the film --  
 12 A I never stated that to anybody ever.  
 13 Q So you would deny ever saying that?  
 14 A I would definitely deny that.  
 15 Q So then when you found out that the film had been  
 16 given -- or a copy had been given to Michael Moore was  
 17 after the fact; is that your testimony?  
 18 A After what fact?  
 19 Q After the films were sent.  
 20 A To my knowledge. It was after he'd sent them to him  
 21 that he disclosed to me that they were sent.  
 22 Q I want to know how long from the first time he told you  
 23 that there was a Michael Moore Internet communication  
 24 to the time where you found out the films were sent.  
 25 How long is this? What's the time period?

Page 51

1 A I have no idea.  
 2 Q Are we talking months, weeks, days?  
 3 A I have no idea. I wasn't communicating with Michael  
 4 Moore; Eric was. So I don't know when he did what he  
 5 did.  
 6 Q I'm talking about your understanding of the  
 7 communications between you and Eric. So when Eric told  
 8 you that there was a Michael Moore Internet  
 9 communication and then when Eric told you that, hey, I  
 10 sent the films to Michael Moore, how long?  
 11 A Probably months. Probably months.  
 12 Q How many months?  
 13 A I can't remember.  
 14 Q When Eric told you that he had sent the films to  
 15 Michael Moore, was it in person, was it over the phone,  
 16 was it through email?  
 17 A I would assume that he mailed it in the mail.  
 18 Q When Eric told you that he sent the film to Michael  
 19 Moore, did he tell you in person, was it over the  
 20 phone, was it through email, was it in a text message?  
 21 A I've never been online in my life, so, no, it wouldn't  
 22 have been on email. He probably told me over the phone  
 23 that he sent them.  
 24 Q After he told you that he sent them over the phone,  
 25 what was your reaction or what was your comment back to

Page 52

1 Mr. Turnbow?  
 2 A It was so long ago I don't know what I would have  
 3 said. I remember just thinking pretty much like, you  
 4 know, not knowing if -- you know, he was telling me  
 5 that it could possibly be used in the movie, I think he  
 6 mentioned to me. And I just kind of thought, you  
 7 know -- I would just assume if they used anything, it  
 8 would be of him walking across Abbey Road rolling over  
 9 with his hurt shoulder and that would be the extent of  
 10 it for the movie purpose. I don't know.  
 11 I mean, I don't know how I felt back then at that  
 12 exact time, but I know I wasn't happy that, you know,  
 13 he was taking belongings that was my personal property  
 14 and giving it out to somebody else without my  
 15 permission.  
 16 Q So at the time that Eric told you on the phone that he  
 17 had sent the films to Michael Moore, why didn't you say  
 18 to him, Get it back. I want you to get those videos  
 19 back from Michael Moore. I don't want you to send them  
 20 to anybody. Why didn't you ever say that?  
 21 A Well, because he told me there's a slim chance of it  
 22 being used in the movie possibly, and I didn't think  
 23 anything would become of it. You know, you've got  
 24 several thirty -- so many thousands of responses from  
 25 people that had experienced social medicine, and he

Page 53

1 just picked and choose what he wanted to be in the  
 2 movie. I thought we'd have like winning the lottery of  
 3 him actually using my rotten footage, my embarrassing  
 4 footage. I didn't expect anything to become of it.  
 5 Q So you weren't concerned at the time that Eric told you  
 6 that he handed over the footage to Michael Moore that  
 7 there was private footage or embarrassing footage, as  
 8 you state, private, embarrassing footage of your drug  
 9 use, running around in your underwear -- so at that  
 10 time when he told you, that didn't concern you at all?  
 11 A It sure did concern me, but it was out of my hands, out  
 12 of his hands, in Michael Moore's hands. And I wasn't  
 13 happy about it.  
 14 Q So why didn't you tell Eric to get those films back?  
 15 A Because they were already sent.  
 16 Q You didn't think they could get them back?  
 17 A They could have got them back, they could have copied  
 18 them, and still used them. Michael Moore is known to  
 19 do this to people.  
 20 Q So why didn't you tell Eric to tell Michael Moore not  
 21 to use the film; that he had no permission?  
 22 A Because, like I said, I didn't think they would end up  
 23 in a movie, and I thought they'd review them and send  
 24 them back to him. Like I said, he's the one that  
 25 initialled all of it. I had nothing to do with it.

Page 54

1 Q But if you are so outraged and embarrassed that there  
 2 was private information and/or private footage on that,  
 3 why didn't you tell Eric explicitly to tell Michael  
 4 Moore not to use any of the footage in the film and to  
 5 return the film back?  
 6 A Well, he didn't use any embarrassing moments of me  
 7 other than me singing my song, a lousy version. He  
 8 didn't show the underwear, he didn't show the drug use,  
 9 and that didn't -- that wouldn't have concerned me. It  
 10 would have really made me mad if he would have showed  
 11 that in his movie, yes.  
 12 Q So there was no embarrassing moments of you shown in  
 13 the Sicko film?  
 14 A Yes, there was.  
 15 Q What is that?  
 16 A All of it. I don't like my image being put in a movie  
 17 without me having any control over it. I don't like a  
 18 song that I originated, "Oh, England," in Eric's home  
 19 with an awful version a cappella being put into a  
 20 movie. I had no control over anything. Nobody  
 21 contacted me about it at all.  
 22 Q Mr. Aronson, you've got me a little confused because  
 23 you just testified that the reason why you didn't  
 24 explicitly tell Eric to tell Michael Moore to not use  
 25 your film at all and to return the videos was because

Page 55

1 he didn't use any embarrassing moments from that video  
 2 in the film.  
 3 A Well, the thing is, like I said earlier, I had no idea  
 4 that it was going to be used. I know he sent it down  
 5 there but it was not -- I didn't think it was going to  
 6 be used at all, so I wasn't really that concerned at  
 7 the moment. Only after I found out I was in a movie  
 8 when I was really concerned and what was in it.  
 9 Q So you don't think the possibility of your film being  
 10 sent to Michael Moore to be viewed showing footage that  
 11 you considered to be embarrassing moments a concern?  
 12 A It was a concern.  
 13 MR. DORAN: Objection. Mischaracterizing the  
 14 plaintiff's testimony and also objection as  
 15 argumentative.  
 16 Q Go ahead.  
 17 A Like I said, I would have been concerned if I would  
 18 have known it would have ended up in someone else's  
 19 hands, the production -- a Michael Moore production and  
 20 who's viewing the whole entire tape of my video and the  
 21 moments in there. I would have, you know, not allowed  
 22 them to use or view it at all if I had any control over  
 23 it, but I didn't have control over it. He did. He  
 24 took it and sent it, not me.  
 25 Q But you never told him to explicitly tell Michael Moore

Page 56

1 to retrieve the film and not use the film, correct?  
 2 MR. DORAN: Counsel, I'm going to object.  
 3 This has been asked and answered.  
 4 Q I just want to clarify because apparently there's been  
 5 some confusion.  
 6 A I did not see the need in asking him to return it.  
 7 It's already gone. It's already sent. There's nothing  
 8 I can do. They've already had it in their hands and  
 9 used it, I don't know when we communicated that -- when  
 10 he told me about it. It could have been long viewed  
 11 before I even discussed it with Eric about them viewing  
 12 it at that time.  
 13 Q But it's your understanding, your testimony, that these  
 14 were your films, correct?  
 15 A Yes, they are.  
 16 Q So if you did not want anybody to view your films, once  
 17 you discovered they were sent, why didn't you  
 18 explicitly instruct Mr. Turnbow to retrieve these  
 19 films?  
 20 MR. DORAN: Counsel, I'm going to object.  
 21 This has been asked and answered. He's explained that  
 22 he thought it would be futile to make the question.  
 23 This is, I think, the fourth or fifth time that this  
 24 question has been asked.  
 25 MS. LIM: Can you repeat what I just

Page 57

1 said out --

2 Q I want to make sure clearly -- I want to clearly

3 understand the reason why, if these were your films,

4 why you didn't explicitly tell Mr. Turnbow to contact

5 Michael Moore's office and have the films returned and

6 to not use them at all.

7 A Because I didn't expect --

8 MR. DORAN: Objection. Again, this has been

9 asked and answered. He' already explained that it --

10 Q Okay. So when --

11 MR. DORAN: Stop. He's already explained

12 that he didn't think it would be used in the video.

13 So, again, this is now the sixth time you have asked

14 the question.

15 Q When did you find out they were used in the Sicko

16 video?

17 A The day that it opened to the public in Olympia,

18 Washington. It didn't open in our area, so I drove to

19 Olympia the day it came out to see if I was in it, what

20 part of me was in it, or if I was in it at all.

21 Q And tell me what part of it showed you.

22 A The part that does.

23 Q What is it?

24 A It shows whatever the movie has in it. It shows us.

25 It shows us singing my song I originated and wrote.

Page 58

1 Q Do you know how long --

2 A And it shows him walking on Abbey Road on his hands. I

3 shows me catching his left shoulder, making a crack

4 sound, rolling over on Abbey Road, carting him off to

5 the hospital, interviewing him in the hospital, outside

6 the hospital with his arm in the sling. Everything

7 that's in the video is what I filmed.

8 Q And do you know how long that clip is in the Sicko

9 film?

10 A I don't know how long the film is.

11 Q Would you be surprised if it's only 90 seconds?

12 A I wouldn't be surprised at all -- any length of time it

13 is. I didn't time it. I didn't feel the need to time

14 it.

15 Q So let's assume it's 90 seconds of your footage. Can

16 you tell me of that 90 seconds what you believe was an

17 embarrassing and private moment that was shown in the

18 Sicko film of you?

19 A The embarrassing part was all of it. I wouldn't have

20 agreed of have any of my image or my voice or me

21 singing a song that I wrote in the footage.

22 Q So what image was shown of you in the 90-second clip?

23 A Have you watched the film?

24 Q I have. I'd like to know what you have seen --

25 A Did you see me in there?

Page 59

1 Q I would like to know what you believe is an

2 embarrassing moment of the 90-second clip of you.

3 A Him and I singing together --

4 MR. DORAN: Objection. It's been asked and

5 answered.

6 Q So just singing. Is it embarrassing -- you singing is

7 an embarrassing part on the clip; is that right?

8 A All the footage of me is embarrassing.

9 Q And what footage is that? I would like to know.

10 A Eric and I singing together a song I wrote. Me, my

11 voice, talking on the film.

12 Q So your voice talking is an embarrassing thing on the

13 90-second clip; is that right?

14 A Yes, it is.

15 Q What part of your voice that was embarrassing?

16 A All of it. Everything I said. Being in a movie.

17 Q Anything else that was embarrassing in the 90-second

18 clip that you can think of?

19 A Everything that showed me and my voice is embarrassing

20 to me and -- like I said, I didn't want to be in a

21 movie or my image or my voice. I wanted to have some

22 control if I was going to be. I want somebody to come

23 in contact with me and say, Do we have permission to

24 use your footage, your video, your image, your voice,

25 and your song in a movie that's going to be shown to

Page 60

1 millions of people across the world.

2 Q Did you tell Eric that you wanted Michael Moore to

3 contact you and get your permission before the film

4 could be used?

5 A No. I never told -- we weren't communicating a lot

6 around that time.

7 Q Were you concerned once you heard that Eric had sent

8 the film to Michael Moore?

9 A I was concerned.

10 Q So based on this concern, did you tell Eric that you

11 wanted Michael Moore to contact you before any footage

12 was used?

13 A Never discussed it because I didn't think it would get

14 that far down the road with it.

15 Q Did you ever personally try to contact Michael Moore

16 once you found out that some of your film was then sent

17 to Michael Moore?

18 A Sure did.

19 Q When did you contact him?

20 A I didn't personally contact him. I had people -- my

21 friends tried to email him because I've never been on a

22 computer in my life.

23 Q Can you tell me who are these friends, their names?

24 A Yes. It's Barbara Sleasman, my girlfriend; Melody

25 Johnson. And, in fact, I ran into Barbara at the movie

Page 61

1 theater the day it was released and opened in Olympia,  
 2 and I was with Melody Johnson watching the movie, and  
 3 we ran into Barbara coming with her children and a  
 4 friend. And we just got out of the show and discussed  
 5 it in the lobby.  
 6 And, in fact, other people that I didn't know was  
 7 approaching me saying they saw me in the movie. It was  
 8 kind of embarrassing that I discussed it with  
 9 strangers. I told them the story and pretty much, you  
 10 know, that was it at that time.  
 11 Q So how did Barbara Sleasman contact Michael Moore?  
 12 A Through the computer.  
 13 Q Do you know when she did that?  
 14 A After the movie was released, the day that it was  
 15 released.  
 16 Q Before the movie was released and the time that you  
 17 found out that Eric had sent the film to Michael  
 18 Moore's office, did you or anyone you personally know  
 19 try to contact Michael Moore?  
 20 A No.  
 21 MR. DORAN: Counsel, can we take a break.  
 22 MS. LIM: Sure.  
 23 MR. DORAN: It's been about an hour and 15  
 24 minutes.  
 25 (Off the record.)

Page 62

1 (Exhibit No. 1 marked for identification.)  
 2 Q Mr. Aronson, is it your testimony, then, that you did  
 3 not know that footage from the London trip was  
 4 on -- was in this Sicko film until the day it  
 5 premiered?  
 6 A To the public, yes, that's true.  
 7 Q So you never received a telephone call before that from  
 8 Eric that there was portions of the film that was used  
 9 in Sicko or that was going to be shown in Sicko?  
 10 A That they may be used.  
 11 Q Did you ever receive a phone call within a few days  
 12 before it was released out to the public from Eric  
 13 telling you that it was in the Sicko film?  
 14 A I don't think we were communicating at this time. I  
 15 don't remember. We already had a falling out prior to  
 16 the release of the movie.  
 17 Q Why did you have a falling out?  
 18 A Because I called Eric and confronted him about this  
 19 upcoming movie and what was to be possibly in it and  
 20 disagreed with it, and he told me -- he started cussing  
 21 at me on the phone, and he says, F you. You're trying  
 22 to jump on my F-ing bandwagon. And I said, Excuse me,  
 23 You're taking my footage and calling it your bandwagon.  
 24 And this was prior to the movie being released.  
 25 And I told him that if it wasn't for me and my private

Page 63

1 film of our vacation that we went on together that he  
 2 wouldn't even be in the movie. He continued ranting  
 3 and raving and cussing and hung up on me on the phone,  
 4 and we never talked again.  
 5 Q When you guys had this falling out, at this time, did  
 6 you ever attempt to contact Michael Moore?  
 7 A Myself personally?  
 8 Q Yes.  
 9 A No. I tried through friends of mine through the  
 10 Internet because I didn't know no way of contacting  
 11 him. There was no address or phone number in the phone  
 12 book for him.  
 13 Q But this was after the film had been released?  
 14 A Yes.  
 15 Q So why didn't you have your friends try to contact  
 16 Michael Moore when you had the falling out, which is  
 17 before the film release?  
 18 A Because I didn't expect -- didn't know and didn't  
 19 expect what would be used in it, especially myself, my  
 20 image, and my voice, which I would not have allowed.  
 21 Q Well, didn't your voice and your image -- wasn't it  
 22 throughout most of the entire film that you took in  
 23 London?  
 24 A Whatever is on there, yes. I narrated it all when I  
 25 shot it.

Page 64

1 Q Wasn't the majority of film involving both you and Eric  
 2 with your voices and your pictures and stuff on that  
 3 film?  
 4 A Probably, yes.  
 5 Q So if you were concerned about your voice or your  
 6 picture being used in the footage, and if most of the  
 7 footage had your voice and your footage -- your picture  
 8 along with Eric's, why didn't you contact Michael  
 9 Moore?  
 10 A I had no way of contacting him. How do you contact  
 11 somebody you can't contact? I had no way of getting  
 12 ahold of him. That's why I had others do it for me on  
 13 the Internet, trying to contact him.  
 14 Q Why didn't you have others try to contact him, again,  
 15 before the film was released --  
 16 A I never had them try to contact him before the film was  
 17 released.  
 18 Q That's my question. If you are were so concerned about  
 19 your voice --  
 20 A Because I didn't think I would be in the film or that  
 21 the footage would be in the movie until I saw it for  
 22 myself on the day it would be released. In fact, Eric  
 23 excluded me from the premiere with multiple lies that I  
 24 can prove concerning the premiere that he attended and  
 25 left me totally out of for his reasons.

Page 65

1 Q I thought you just testified that you had a falling out  
 2 because Eric told you that it was part of the film;  
 3 that some of your footage was part of the films and  
 4 that was why you had a falling out.  
 5 A Our falling out was mostly based around the fact that  
 6 he lied to me flat out on the phone when I was standing  
 7 in Home Depot in Aberdeen one day. He called me after  
 8 he'd seen the premier and revealed to me, Oh, sorry,  
 9 man, I didn't contact you. I had an hour and a half  
 10 notice to get to Seattle to watch the premier.  
 11 He never mentioned going with his sister to me,  
 12 and he put it all in the newspaper and in the karaoke  
 13 magazine that's released. And that's when I became  
 14 very angry and upset. And then I found out through his  
 15 own website information released, so on and so on. I  
 16 mean, all these times he's left me out of a lot of  
 17 things, including our CD that I helped cowrite other  
 18 songs that he wrote with him.  
 19 So anyway, that's when we pretty much broke off  
 20 our conversation after he witnessed the premier and  
 21 flat out lied to me and told me he took his sister, you  
 22 know, and had the chicken quesadillas and drinks before  
 23 the premier. He even put it in the newspaper and the  
 24 karaoke paper or something.  
 25 Q So Eric did call you before you found out that part of

Page 66

1 the the film was in the Sicko film; is that right?  
 2 A Prior to me seeing it? Yes. He did contact me and  
 3 tell me that it was going to be used, but I didn't know  
 4 what. And he didn't know what, as far as I know.  
 5 Because we hadn't viewed it at that point. It was only  
 6 after he saw the premier that I was told that it was  
 7 used in the film.  
 8 Q So your prior testimony saying you didn't know that a  
 9 portion of your videotape was used in the film until  
 10 the day you saw it on screen --  
 11 A Myself.  
 12 Q -- was not actually correct, because you were aware --  
 13 A No, it is actually correct, because I hadn't seen it  
 14 myself.  
 15 Q But you were informed that some of the footage that you  
 16 guys had taken was part of the Sicko film before you  
 17 found out, meaning before you actually viewed it?  
 18 A Well, what Eric told me on the phone. I don't know if  
 19 it was truth or not or if it was actually used in the  
 20 movie until I seen it.  
 21 Q Well, if you didn't believe what Eric was telling you,  
 22 that it was actually part of the Sicko film, why did  
 23 you get upset or have a falling out if you didn't  
 24 believe what he was saying?  
 25 MR. DORAN: Object. It mischaracterizes his

Page 67

1 testimony. He said the falling out happened after the  
 2 movie was released.  
 3 Q I thought the falling out -- let me just ask you. Did  
 4 the falling out happen before the movie was released to  
 5 the public?  
 6 A The falling out was before the movie was released to  
 7 public.  
 8 Q Okay. And so if you knew -- if Eric had told you that  
 9 a portion of the film was used in Sicko before it was  
 10 actually released to the public and you didn't believe  
 11 him until you actually saw it, why would you have to  
 12 get upset if you thought he was lying? Does that make  
 13 sense?  
 14 A No. I don't understand what you are asking me.  
 15 Q So if a guy tells you, Hey, a part of our film is being  
 16 used in Sicko, and you think he's a liar, why would  
 17 there be any need to be upset at him -- at the fact  
 18 that some of your film was being used in Sicko?  
 19 MR. DORAN: Objection. Argumentative.  
 20 A Because, once again, I didn't know what part of the  
 21 footage was being used. I would have assumed that he  
 22 would only be using Eric's moment of hurting himself  
 23 and then, you know, his story about hurting himself and  
 24 the ordeals of social medicine. I didn't realize that  
 25 I was going to appear in the movie myself and narrating

Page 68

1 and my song and all the other stuff in the movie.  
 2 Q Mr. Aronson, I'm going to hand you what's been marked  
 3 as Exhibit 1. Can you tell me if you've seen this  
 4 document before.  
 5 A Yes. I've seen this before.  
 6 Q And, for the record, the Exhibit 1 is a complaint for  
 7 damages filed by you and your attorneys; is that right?  
 8 A Yes.  
 9 Q If you take a look at page 2 of Exhibit 1, paragraph  
 10 3.1, it notes that plaintiff, which is you, brought a  
 11 home videocamera and recorded over six hours of the  
 12 trip. Is that what it states there?  
 13 A That's what it states there.  
 14 Q So after reading this, does it refresh your memory as  
 15 to how long the videotape was? Because you previously  
 16 testified that it was roughly around four hours or so.  
 17 A I don't know how long the videotape is still to this  
 18 day.  
 19 Q Well, do you know how --  
 20 A I would have guessed like the VHS thing, say, if you  
 21 put them on certain speeds you can play it up to six  
 22 hours, and two hours minimum and four hours in the  
 23 middles and six hours maximum. It depends on the speed  
 24 of your VHS player that you set it on. So I don't  
 25 know. I mean, I don't know how long the actual video I

Page 69

1 shot was. I never had the need to time it or even  
 2 think about timing it even to this day.  
 3 Q Well, can you tell me, then, how whoever drafted this  
 4 had six hours?  
 5 MR. DORAN: Objection. Attorney-client  
 6 privilege.  
 7 Q Did you ever tell your attorneys that the film was over  
 8 six hours?  
 9 MR. DORAN: Objection. Attorney-client  
 10 privilege.  
 11 Q Do you recall saying --  
 12 MR. DORAN: I'm instructing the witness not  
 13 to answer any questions that refer to his  
 14 correspondence with his attorneys.  
 15 MS. LIM: That's fair enough.  
 16 Q When it makes mention that this recorded camera had  
 17 over six hours, do you have any reason to object that  
 18 this is six hours or deny that it was over six hours,  
 19 or was it less than six hours?  
 20 MR. DORAN: Object. That's a compound  
 21 question. Furthermore, I think it's been asked and  
 22 answered. Witness has already testified he doesn't  
 23 know how long it is.  
 24 A I don't know how long it was.  
 25 Q So paragraph 3.1, is that an accurate statement if you

Page 70

1 don't know how long that was?  
 2 A It's accurate as far as the possibility the length of  
 3 the tape could have been, it would be accurate. If it  
 4 held up to six hours and I recorded that many hours, I  
 5 don't know. I just filmed it until the tape ran out on  
 6 the cassette, probably.  
 7 Q All right.  
 8 A I don't know how many hours.  
 9 Q And you don't know why -- you don't know how it --  
 10 A Well, I used -- possibly based on the information off  
 11 the VHS tape that Eric gave me. I think they go up to  
 12 six hours, and that's what I would have put. It  
 13 took -- I think it went through whole end of the tape.  
 14 That's how I concluded that that would be six hours.  
 15 Q So did you make that conclusion, then, on paragraph 3.1  
 16 that it was six hours?  
 17 A Yes.  
 18 Q Okay. Now, looking at the same page, paragraph 3.3,  
 19 the second sentence of that paragraph says: When asked  
 20 about the original, defendant explained that he sold it  
 21 to someone for \$40 and then changed his story saying  
 22 that it had been stolen.  
 23 Can you tell me who the someone is that you are  
 24 referring to -- that this paragraph refers to for the  
 25 \$40.

Page 71

1 A The someone is Eric. He told me that.  
 2 Q Eric said he sold someone the tape for \$40?  
 3 A No. Eric told me when this all started to be shuffled  
 4 off to Michael Moore, Oh, do you remember that you sold  
 5 it to me for \$40 or for a bag of weed. And I said, Why  
 6 would I do that? That's my memories of my vacation. I  
 7 wouldn't sell you -- and especially something that  
 8 didn't belong to me, the machine that played the tape.  
 9 I wouldn't have given him permission to keep  
 10 something that didn't belong to me. It belonged to  
 11 somebody else. And the machine -- and tape would have  
 12 been -- the machine might have cost over \$40. I don't  
 13 know what the value of it was, but I would not give him  
 14 permission keep my master tape and the machine for any  
 15 amount of money. It wouldn't have been sold.  
 16 Q So is it -- as I read this, then, that the someone on  
 17 paragraph 3.3, then, is you?  
 18 A Yes.  
 19 Q Okay.  
 20 A He was talking to me that I told sold it to him for 40  
 21 bucks. I said, No, this is the first I heard of that.  
 22 Q Now, the master, the machine that you are referring to,  
 23 could it have been the VHS -- the camera itself that  
 24 you had to have in order to view the master?  
 25 A No, it's not. Like I said earlier, the camera didn't

Page 72

1 have, to my knowledge, the viewing capabilities of what  
 2 we recorded. It wasn't that -- you know, back then it  
 3 didn't have that option of watching what you are  
 4 viewing. You had to look through it like a camera and  
 5 film.  
 6 Q Right. But is there ways to plug in onto that handheld  
 7 cameras plug-ins where it connects from the TV to the  
 8 camera to view the master from that film?  
 9 A All I had was the charger and the camera with us, so --  
 10 no, not to my knowledge. We never done that.  
 11 Q So if all you had was the camera and the charger, where  
 12 did the equipment to view the camera come into play?  
 13 A Like I said, the machine that plays the cartridge from  
 14 the camera was left with Eric in his possession as well  
 15 as my master tape that plays in a VHS player that he  
 16 recorded onto a VHS tape.  
 17 Q Did Shah give you this equipment?  
 18 A Yes, she did.  
 19 Q Did she give you the equipment before you guys went on  
 20 the trip?  
 21 A Well, I don't see how she'd hand it to me after we got  
 22 there if she's back here. Yeah, it was given to me  
 23 prior to going.  
 24 Q So you are saying that the equipment was left at Eric's  
 25 place when you guys took off for the trip?

Page 73

1 A I brought the camera with us on the trip. I had no  
 2 need to bring the viewing machine when I had no VHS  
 3 player with us down there. So there's no need to bring  
 4 the machine on our trip, except -- the only need -- the  
 5 only thing that was necessary to bring the film was the  
 6 camera and the cartridge that went in the camera that I  
 7 had purchased myself.  
 8 Q And the viewing machine was left at Eric's house?  
 9 A It was brought over at a later date possibly to view it  
 10 together.  
 11 Q Was it brought after you guys got back from the trip?  
 12 A Yes.  
 13 Q And Shah never asked for her viewing machine back?  
 14 A Yeah, she asked for it back.  
 15 Q And did you give it back to Shah?  
 16 A I answered earlier that I didn't. That Eric still has  
 17 it in his possession and he claimed it got stole.  
 18 Q He claimed it got stole when you guys reconnected with  
 19 each other. So before then -- again, this was over a  
 20 period of five to six years. Didn't Shah ever ask for  
 21 her viewing machine?  
 22 A We didn't talk much after we separated.  
 23 Q Did you ever pay Shah for the viewing machine?  
 24 A No, I didn't. She never requested payment, so I didn't  
 25 pay her anything.

Page 74

1 Q So really the view machine didn't belong to you; it  
 2 belonged to Shah that Eric had?  
 3 A That's correct. It's actually not a viewing machine.  
 4 It's a machine that you put into a VHS player to view  
 5 the tape. The machine itself does not put out an image  
 6 or anything. You stick it inside, you stick it in the  
 7 VHS player, then you watch it on TV.  
 8 Q It's a machine that allows you to watch the tape?  
 9 A Exactly.  
 10 Q And again this machine belonged to Shah?  
 11 A It sure did.  
 12 Q Now, look at page 2 of Exhibit 1 again. Paragraph 3.4,  
 13 the paragraph right below the one we were just talking  
 14 about, the sentence reads: In fact, defendant exceeded  
 15 his license and submitted this private video to a  
 16 filmmaker who used embarrassing portions of the video  
 17 in a feature film.  
 18 And I just want to be sure I'm clear about the  
 19 allegations you made on page 2. What is the  
 20 embarrassing portion that was in the feature film?  
 21 MR. DORAN: Objection. Asked and answered.  
 22 A I already answered that earlier.  
 23 Q Can you repeat it so that I can have an understanding  
 24 of that.  
 25 A Sure. Every image of me, every voice of me, everything

Page 75

1 that had to do with me is embarrassing to me.  
 2 Q And then in paragraph 3.5, the next one down there,  
 3 sentence reads: Plaintiff's likeness was exposed to  
 4 millions, including members of his immediate community,  
 5 in an embarrassing manner.  
 6 What likeness was exposed to millions?  
 7 A My image, my voice, my song.  
 8 Q If you turn to the next page, page 3 of Exhibit 1,  
 9 paragraph 4.3, the sentence reads: The home video  
 10 contains material highly offensive to a reasonable  
 11 person and of no legitimate concern to the public.  
 12 So what was highly offensive that's on this video?  
 13 MR. DORAN: I'll object to the extent it  
 14 calls for a legal conclusion.  
 15 Q If you know. What was highly offensive?  
 16 A Smoking marijuana in Amsterdam. I can't remember  
 17 exactly all the footage on there, but there's --  
 18 there's footage on there that I would not allow anybody  
 19 to see. You know, like I said, moments in the room, in  
 20 our room that we rented in Amsterdam. Things Eric was  
 21 doing, things I was doing, and the -- you know, it was  
 22 legal there but not here, so those are things that I  
 23 consider offensive to me that anybody else would see or  
 24 view.  
 25 Q And I think you testified earlier where there's footage

Page 76

1 of Eric smoking marijuana. That wouldn't be offensive  
 2 to Eric?  
 3 MR. DORAN: Objection. Speculation. Can't  
 4 possibly answer that.  
 5 A I consider that, you know, if it was offensive to him,  
 6 he wouldn't do it.  
 7 Q Well --  
 8 A So why would -- you know, that's kind of a --  
 9 Q You were smoking marijuana, correct, in that film?  
 10 A We were smoking marijuana and hash both.  
 11 Q Why would you do something that was offensive?  
 12 MR. DORAN: Objection. Argumentative.  
 13 A That's what I choose to do.  
 14 Q So it wasn't offensive to you for you to do that?  
 15 A No. But it would be to other eyes that may look down  
 16 on me for doing something that some people wouldn't  
 17 choose to do.  
 18 Q Would you find -- do you think as you view the film  
 19 where it shows Eric smoking marijuana -- did you think  
 20 it was offensive when you watched it?  
 21 A Well, I watched it live right there in the moment and I  
 22 filmed it. I didn't find it offensive at the time,  
 23 because we hung out for several years together doing  
 24 that on an off-and-on basis. I don't do it -- I just  
 25 would do it just casually. He's more into it on a

Page 77

1 regular basis; I'm not. I don't need it. I need it  
 2 for pain, and that's all I used it for.  
 3 Q But when you took it -- when you took the footage of  
 4 you two smoking marijuana, it wasn't offensive to you  
 5 when you took it?  
 6 A No, it wasn't offensive to me. It was a private moment  
 7 that, you know, just like if I had a relationship with  
 8 you, I wouldn't take out a video and show you and I in  
 9 our private moment -- in our bedroom together to other  
 10 people. It would be embarrassing.  
 11 Q So when you found out that somebody would send an  
 12 embarrassing film to a third party, would a normal  
 13 person -- or would you, for example, try to get that  
 14 film back?  
 15 MR. DORAN: Objection. Argumentative.  
 16 A Well, once the bullet leaves the gun, the damage is  
 17 done. Once it's down there and they've got it in their  
 18 hands, how do I know they haven't already copied it  
 19 into something else and used it? There's a time period  
 20 when they got it and I didn't hear about it. They  
 21 could have recorded it in the first five minutes of  
 22 receiving it. If I didn't hear about it that he'd  
 23 given it to them a week or a month or a year later, I  
 24 don't know how much has been used, whose eyes have been  
 25 on it.

Page 78

1 So I can't -- at that point, it was a little too  
 2 late to request anything back. And I never knew how to  
 3 contact Michael Moore or his producers, and I still  
 4 don't to this day.  
 5 Q And you didn't make any efforts to try to do that?  
 6 A I have never made an effort to contact him.  
 7 Q Now, let's talk about your damages in the case. Tell  
 8 me what they are.  
 9 MR. DORAN: Objection. Calls for legal  
 10 conclusion.  
 11 Q What are you demanding back from Mr. Turnbow?  
 12 A Well, I'd like to get, if there's any way, shape, form,  
 13 or possibility of -- I don't know between the time he  
 14 admitted to me that somebody stole it if it's the  
 15 truth. I'd like to have Michael Moore send me back any  
 16 tapes of me, anything that he may have of me in the  
 17 form of VHS or my original tape, and the player that  
 18 played the original tape that I've never yet received  
 19 back from him, from Eric.  
 20 Q Okay. So part of your damages or demands is you want  
 21 the tapes back; is that right?  
 22 A I would like to have them back.  
 23 Q And what else?  
 24 MR. DORAN: I'm going to, again, object to  
 25 the extent that it calls for a legal conclusion. If we

Page 79

1 are going to have a settlement discussion, we can do  
 2 that off the record.  
 3 Q Well, what -- are you wanting some type of money from  
 4 Eric too for him turning the tapes over to Michael  
 5 Moore?  
 6 A Well, I would say he's the one most responsible for all  
 7 these wheels turning and it getting where it got,  
 8 because I didn't have any input or say-so over any of  
 9 it. He did it and ran with it and, sure, I think there  
 10 should be some kind of damages assessed to him.  
 11 Q So when you found out that the film was used in Sicko  
 12 and you saw it and you claimed that it was embarrassing  
 13 to you when people would come up and make comments to  
 14 you about you being in the film, did you have to go and  
 15 seek mental health counseling for it?  
 16 A I've had a lot of issues in life where I've never  
 17 sought any mental health issues or counseling or  
 18 anything. I'm not saying that I shouldn't have, but  
 19 I've never talked to a mental health person in my life.  
 20 Q What issues have you had to deal with over your life  
 21 that's caused you some mental issues?  
 22 A Just people on the street commenting, people in the  
 23 stores, at Wal-Mart. We're a small town, and everyone  
 24 knows everything about people, and especially when you  
 25 print something in the newspaper or it's on a major

Page 80

1 international movie and they see you and make reference  
 2 to what they saw.  
 3 You know, it kind of makes me feel like -- how do  
 4 you feel about what you saw, and I just feel  
 5 embarrassed by it when they ask me questions. I don't  
 6 even like talking about it.  
 7 Q I think you had testified earlier that you've never had  
 8 to go to counseling for any mental issues in your life.  
 9 A Earlier? Just a second ago, right.  
 10 Q Right. So I'm asking you: What mental issues have you  
 11 had to deal with over your life?  
 12 A There's all kinds of them I could have gone to a  
 13 counselor about.  
 14 Q Can you give me examples of some of those?  
 15 A No. Just tragedies that happened in my life.  
 16 Q Can you tell me what some of those tragedies are?  
 17 A Well, one of them is run over by an illegal,  
 18 method-out, drunken, drug-dealing young Mexican when I  
 19 was on a ladder at 9/14/02, having my head ripped open  
 20 and my mouth destroyed and surgeries at University of  
 21 Washington; had neck and back problems.  
 22 Q Does that still cause you images and nightmares from  
 23 that event?  
 24 A Not really nightmares. I can recall, you know, what  
 25 I've gone through and the pain and all I've been

Page 81

1 suffering from the damages.  
 2 Q Do you still continue to suffer from that --  
 3 A I'm still going to the -- still going to the University  
 4 of Washington and still suffering, extremely.  
 5 Q Tell me how you are suffering from that incident.  
 6 A Head, neck, and back injuries.  
 7 Q So you have constant pain from that?  
 8 A Eye problems, mouth problems ongoing, infections, eye  
 9 problem -- right eye problem, memory problem.  
 10 Q Okay. Do you have emotional problems from that  
 11 accident, as well?  
 12 A I'm sure I do. I still live with them. I mean, I'm  
 13 alive and I have to deal with what I have to deal with.  
 14 I'm not happy about what I went through, just like I'm  
 15 not happy about this.  
 16 Q What other tragic things in your life have caused you  
 17 some emotional issues besides that accident involving  
 18 the individual that struck you?  
 19 A I don't see where it would have any relevance to this.  
 20 I don't really want to go into any of my personal  
 21 affairs from when I was younger.  
 22 Q Well, what personal affairs would you be talking about?  
 23 A I just said I don't want to answer those questions.  
 24 Q Have you ever had a death in the family?  
 25 A Yeah, I've had deaths in the family.

Page 82

1 Q Any recent deaths in the family?  
 2 A Yes.  
 3 Q What death is that?  
 4 A My father.  
 5 Q When was that?  
 6 A I don't remember.  
 7 Q 2007? 2006?  
 8 A Probably 2003 or '4, I'm not sure. '5.  
 9 Q Was that a tough thing for you to handle when your  
 10 father passed away emotionally?  
 11 A I remember crying, yeah. It doesn't make you feel good  
 12 when your parents die. I don't think anybody in their  
 13 right mind would be rejoicing over it.  
 14 Q So you haven't sought any mental health counseling as a  
 15 result of the embarrassment you felt from use of some  
 16 of the footage in the Sicko film?  
 17 A I've never sought any mental health for any tragedies  
 18 or problems in my life. I've always lived through  
 19 them, got through them, and, you know, I look at  
 20 the -- you know, there's no insurance for mental health  
 21 people, and I'm not going to go out and pay tons of  
 22 money for something that I can get through and reason  
 23 in my own mind to get through it.  
 24 Q Do you expect to have any future treatments with any  
 25 mental health care counselor or doctor as a result of

Page 83

1 the embarrassing moments that you viewed in the Sicko  
 2 film?  
 3 A I haven't considered it as of yet. I don't know what  
 4 tomorrow will bring.  
 5 Q Okay. If there were some future treatments, what  
 6 future treatments would you take as a result of the  
 7 embarrassing moments from the Sicko film?  
 8 A I haven't got to that point, so I can't answer that.  
 9 Q Okay. I don't have any further questions.  
 10 MR. DORAN: I have a few.  
 11 Ken, do you want to take a break first, or are you  
 12 okay to plow through?  
 13 THE WITNESS: I need to go to the bathroom  
 14 actually.  
 15 (Off the record.)  
 16  
 17 EXAMINATION  
 18 BY MR. DORAN:  
 19 Q Ken, we've been talking about a videotape -- vacation  
 20 footage videotape. Who owned that tape?  
 21 A I own the tape.  
 22 Q Did you ever give Eric Turnbow permission to send that  
 23 tape to anybody?  
 24 A Never gave him permission to send that tape to anybody  
 25 Q Now, you had discussions -- you've testified that you

Page 84

1 had discussions with Eric about his interest in the  
 2 Michael Moore movie Sicko. During those discussions,  
 3 did he ever tell you that he intended to give Michael  
 4 Moore or anyone associated with Michael Moore the video  
 5 footage from your vacation?  
 6 A Prior to sending it? No.  
 7 Q So the first time you found out that he either  
 8 intended -- well, strike that.  
 9 The first time that you found out that he intended  
 10 to send video footage to Michael Moore or ever had the  
 11 intention of sending video footage to Michael Moore was  
 12 after he already sent it?  
 13 A Yes.  
 14 Q When did he tell you that video had been sent to  
 15 Michael Moore?  
 16 A Probably in -- a couple months prior to the movie, a  
 17 few months before the movie was released.  
 18 Q And that's the first time that you had any knowledge or  
 19 any communication from Mr. Turnbow that he had any  
 20 intention of sending the footage to Michael Moore?  
 21 A Other than him telling me of his communications on the  
 22 Internet, you know, about the experience of social  
 23 medicine that he wanted to give to Michael about what  
 24 happened to him in Amsterdam -- or in London, excuse  
 25 me.

Page 85

1 Q But during those communications, he never communicated  
 2 to you that he had any intention or interest in sending  
 3 the video to Michael Moore?  
 4 A I just knew he was just talking on the Internet with  
 5 him. Nothing to do with the video originally, no.  
 6 Q Once you found out that the video was sent, why didn't  
 7 you try to get it back from Michael Moore?  
 8 A I had no knowledge, like I said earlier, how to contact  
 9 Michael Moore or anybody associated or where he lived,  
 10 what state, address, phone number. I had no way of  
 11 contacting him. I still don't.  
 12 Q Did you feel that it would have served any purpose to  
 13 try and get it back from him?  
 14 A I figured if he already had it, then the damage was  
 15 already done.  
 16 Q If you believe Michael Moore -- strike that,  
 17 if Michael Moore were to use your video footage in  
 18 the movie, did you have any expectation as to whether  
 19 he would try to contact you?  
 20 A I would have assumed that most definitely because of  
 21 the legal ramifications behind things that he would  
 22 have contacted me. If he would have questioned Eric  
 23 concerning the video of who this is with you, whose  
 24 video is it, whose song that you are singing, and all  
 25 the questions that surround the video that he used in

Page 86

1 his movie, and nobody contacted me at all.  
 2 Q So I understand, counsel asked why didn't you try and  
 3 get the video back once you found out that it's been  
 4 used in the movie. The reasons why is you figured if  
 5 it was going to be used they would have contacted you,  
 6 you didn't believe that it was going to be used, and  
 7 you didn't think it would have done any good if you had  
 8 contacted them anyway?  
 9 A Right. I didn't know until I witnessed it for myself  
 10 the day it was released to the public if I was in it or  
 11 what part of the footage was in it. I had no knowledge  
 12 of any of that until I saw it for myself, because I  
 13 hadn't seen it.  
 14 Q Once you found out that Eric had sent the video footage  
 15 to a third person -- in this case, Michael Moore -- did  
 16 you ask for the footage back? In other words, you  
 17 said, You've sent the movie to somebody. I don't trust  
 18 you with it anymore. Give me the footage back. Return  
 19 it to me.  
 20 A Well, I'd already known from Eric that the original,  
 21 the master, was already stolen, and he told me that he  
 22 sent a copy on VHS, a poor quality copy of the master.  
 23 They wanted the master because it was better polished  
 24 or cleaner images. And that he had it stolen from him,  
 25 so I couldn't get it back. So there was no need in

Page 87

1 asking for my original master back. It was gone.  
 2 Q Now, you didn't explicitly tell -- I think you  
 3 testified that you didn't explicitly tell Eric, giving  
 4 him a clear directive, don't give the video to others.  
 5 And time frame I'm talking about is when he has it when  
 6 you get back from the trip.  
 7 And my question is: Why not? Why didn't you tell  
 8 help him specifically don't give this to a third  
 9 person? Don't share this to others.  
 10 A We just had a limited amount of friends that hung out,  
 11 mostly him and I were best friends at that time, and I  
 12 didn't see any point in having to bring it up or even  
 13 think about asking him to not show it or give it to  
 14 anybody.  
 15 So I didn't find it necessary to -- leaving it in  
 16 his safekeeping in his home. I didn't think he would  
 17 be taking it out of his house or viewing it with  
 18 anybody but maybe personal friends possibly that he  
 19 could have brought it out and showed it to. But if I  
 20 wasn't there, I would know who he showed it to.  
 21 Q Did you have a history of Eric keeping your  
 22 confidences?  
 23 A Well, yeah, we were friends.  
 24 Q You trusted him to exercise his discretion?  
 25 A I trusted him. He stayed at my house; I stayed at his

Page 88

1 house. I trusted him. I didn't have any reason not  
 2 to.  
 3 Q My last question. Did you ever give Eric permission to  
 4 send your video footage to Michael Moore?  
 5 A No, I didn't give him permission to send my video  
 6 footage to anybody.  
 7 MS. LIM: Just a follow-up.  
 8  
 9 FURTHER EXAMINATION  
 10 BY MS. LIM:  
 11 Q Mr. Aronson, you testified that from that first  
 12 accident in 1992 that you had some memory loss; is that  
 13 correct?  
 14 A That wasn't 1992. It was 2002.  
 15 Q So 2002 was when you were struck by a motorist?  
 16 A Yes.  
 17 Q And from that injury you had testified that some of  
 18 your injuries involved a memory loss issue?  
 19 MR. DORAN: I'm going to object. I think  
 20 that mischaracterizes his testimony. I don't recall  
 21 that being said.  
 22 Q Did you indicate that you still had some memory loss  
 23 from that accident?  
 24 A Well, I haven't had it, you know, medically proven, by  
 25 any means. I mean, I'm just saying from my point of



1 CERTIFICATE  
 2 STATE OF WASHINGTON )  
 3 )  
 4 COUNTY OF KING )  
 5 I, KYLIE HAMMINGTON, a Certified Court Reporter and  
 6 Notary Public in and for King County, Washington, do hereby  
 7 certify that I reported in machine shorthand the deposition  
 8 of KEN ARONSON, called as a witness at the instance of the  
 9 Defendant, for purposes of discovery in the above-entitled  
 10 cause; that the subscribing of the completed deposition by  
 11 the witness was reserved; that the foregoing transcript was  
 12 prepared under my personal supervision and constitutes a  
 13 true record of the testimony of the said witness.  
 14 I further certify that I am not an attorney or counsel  
 15 of any parties, nor a relative or employee of any attorney  
 16 or counsel connected with the action, nor financially  
 17 interested in the action.  
 18 WITNESS my hand and seal in Auburn, County of King,  
 19 State of Washington, this 29th day of January, 2009.  
 20  
 21 \_\_\_\_\_  
 22 Kylie Hammington, Notary Public  
 23 in and for the State of  
 24 Washington, residing at Auburn.  
 25  
 My Commission expires 9-9-11.

1 DEPOSITION NOTICE  
 2  
 3 Date: February 4, 2009  
 4 To: Mr. Tom Vertetis  
 5 911 Pacific Avenue, Suite 200  
 6 Tacoma, Washington 98402  
 7  
 8 Case Name: Aronson v. Turnbow  
 9 Venue and No.: THURSTON, 08-2-02542-7  
 10 Deposition/Date Taken: KEN ARONSON, January 23, 2009  
 11 The above-captioned deposition must be read and signed  
 12 within 30 days or a statement must be made in writing with  
 13 the reason for refusal to sign or the fact that signature is  
 14 waived. Failing to do so, the deposition transcript will be  
 15 filed without signature.  
 16  
 17 \_\_\_\_\_ Your deposition transcript is on file at our office.  
 18 Please call (253)445-3400 with the date you will be  
 19 reading your deposition. Our address is:  
 20 James, Sanderson & Lowers  
 21 307 29th Street Northeast, Suite 101  
 22 Puyallup, Washington 98372  
 23  
 24 XX Enclosed with your copy of the deposition is a  
 25 Change and Signature Sheet. Please instruct  
 the witness to review the transcript, record any  
 changes, and then sign and return the Change  
 Sheet to this office for filing.  
 \_\_\_\_\_ Enclosed is a courtesy copy of your deposition  
 and a Change and Signature Sheet. Please review  
 the transcript, record any changes, and then  
 sign and return the Change Sheet to this office  
 for filing.  
 Reporter: Kylie Hammington, CCR, RPR  
 License No. 2054  
 cc/Counsel  
 File

# **EXHIBIT 2**

Page 1

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF THURSTON

---

KEN ARONSON, an individual, )  
  ) Plaintiff, )  
vs.                                      ) No. 08-2-02542-7  
  ) )  
ERIC TURNBOW, et al.,       ) )  
  ) Defendants. )

---

**DEPOSITION OF ERIC TURNBOW**  
Friday, January 23, 2009

---

APPEARANCES

For Plaintiff:          THOMAS B. VERTETIS  
                              BRYAN DORAN  
                              Pfau, Cochran, Vertetis &  
                              Kosnoff  
                              911 Pacific Avenue, Suite 200  
                              Tacoma, Washington 98402

For Defendants:      SOK-KHIENG K. LIM  
                              Davies Pearson  
                              920 Fawcett Avenue  
                              P.O. Box 1657  
                              Tacoma, Washington 98401

Also Present:          Ken Aronson  
                              Miriam Dobbs

Reported by: Kylie Hammington, CCR, RPR  
License No. 2054

Page 2

INDEX

	PAGE:LINE
1 Examination by Mr. Vertetis.....	3:10
2 Examination by Ms. Lim.....	91:1
3 Further Examination by Mr. Vertetis.....	94:17
4 Further Examination by Ms. Lim.....	97:9
5	
6	
7	
8	
9	
10	
EXHIBITS	
11 1 - Complaint for Damages.....	16:15
12 2 - Printed Web Page.....	73:10
13 3 - Photocopied Article.....	80:4
14 4 - Printout of Web Page (to be provided by defendant).....	83:8
15 5 - Google Search Results.....	83:8
16	
17	
REQUESTED INFORMATION	
18 Request for Production.....	83:9
19 Request for production.....	86:15
20	
21	
22	
23	
24	
25	

Page 3

1 BE IT REMEMBERED that the deposition upon oral  
2 examination of ERIC TURNBOW was taken on Friday, January 23,  
3 2009, at 911 Pacific Avenue, Suite 200, Tacoma, Washington,  
4 before Kylie Hammington, Notary Public in and for the state  
5 of Washington.  
6  
7 ERIC TURNBOW, having been first duly sworn upon oath  
8 by the notary, testified as follows:  
9  
10 EXAMINATION  
11 BY Mr. VERTETIS:  
12 Q Mr. Turnbow, my name is Tom Vertetis. I along with  
13 Bryan Doran represent Mr. Aronson in this matter.  
14 Initially, thank you for coming for your deposition  
15 this afternoon. You've sat through Mr. Aronson's  
16 deposition that preceded yours, correct?  
17 A Yes.  
18 Q Have you ever been deposed before?  
19 A I had some union issues when I worked with the State  
20 and we did some depositions at that time, yes, back in  
21 the '90s, '92, '91.  
22 Q You have some experience in the deposition process.  
23 A A little bit.  
24 Q Just for clarity, I'm just going to advise you of some  
25 of the ground rules. One, I'm not attempting today to

Page 4

1 ask you a question that's misleading or to try to fool  
2 you in any way, so if I ask a question that's confusing  
3 or misleading to you in your own opinion, let me know  
4 and I'll rephrase it.  
5 A Sure.  
6 Q But, in turn, if you answer a question, I'm assuming  
7 you understood the question; is that fair?  
8 A Fair enough.  
9 Q Thirdly, it's important to give verbal answers.  
10 Nonverbal responses may be understood in the room, but  
11 as you know, we have a court reporter here that's  
12 taking everything down verbatim, so uh-huhs, huh-uhs,  
13 or nods of the heads or shrugs of the shoulders, they  
14 will be understood, but it's very difficult to record  
15 that. So I'd appreciate it if you could verbally  
16 respond to each answer.  
17 A Sure.  
18 Q This isn't meant to be an endurance test, so if you  
19 need a break, let me know and we gladly will.  
20 A I will do that.  
21 Q I just want to make sure that you answer the question  
22 that's posed before you ask for the break, fair?  
23 A Fair enough.  
24 Q Can you give me your full and formal name.  
25 A Eric Turnbow.

Page 9

1 Karaoke.

2 Q Over the past five years, have you received any other

3 revenues or royalties other than your efforts from

4 Cosmic Karaoke?

5 A Yes. I've done some CDs I've invested in, I've gotten

6 interest on them. Mostly that's it and some other

7 investments, mutual funds, retirement and stuff.

8 Q But you have no other monies from other businesses?

9 A No. The digital DJ is my main source of revenue.

10 Q Can you explain that business for me. What do you do

11 to make income for that business?

12 A Well, I have one house job, and we sing karaoke and we

13 play music for them to dance to. And I also go out and

14 perform a lot at weddings and private dance events,

15 teenage dances and whatnot at schools.

16 Q What's the house job that you have?

17 A It's in Lacey. It's called The Viking.

18 Q What is The Viking?

19 A It's a lounge.

20 Q Where is that located?

21 A It's in Lacey on Martin Way. I think it's 6318 Martin

22 Way, and we run seven days a week.

23 Q So you work there seven days a week?

24 A I work five to seven, and I have a subcontractor that

25 fills in on the other two days under my supervision.

Page 10

1 Q And you're the DJ at The Viking?

2 A I'm the DJ and the owner of the business that services

3 The Viking.

4 Q And what type of establishment is The Viking? Is it

5 for over 21?

6 A It's a pretty younger crowd. It's between 20 and 50.

7 There's all kinds. But I think the majority of the

8 crowd would be around 25 to 30.

9 Q Criminal history. Since the age of 18 have you ever

10 been arrested?

11 A Yes.

12 Q How many times?

13 A Well, there's one in --

14 Q I'm not asking for details. Just a number of times

15 you've been arrested.

16 A Once.

17 Q Was that for a felony?

18 A Yes.

19 Q What was that for?

20 A It was for a marijuana charge.

21 Q What year was that?

22 A Would have been 1990.

23 Q Did that lead to a plea or a trial?

24 A I plead.

25 Q What was your sentence?

Page 11

1 A 90 days and was committed to 60 with good time and work

2 release. I was able to work and get that taken care

3 of, and then there was some fees, \$1500 lawyer fee or

4 something.

5 Q Fair enough. Since 1990 have you been arrested?

6 A No, I haven't.

7 Q Today are you under the influence of any narcotics or

8 medicines that could affect your ability to testify

9 truthfully?

10 A Just caffeine.

11 Q Have you been married?

12 A Never. Not yet. Working on that one.

13 Q Do you live with anyone?

14 A Yes, I do.

15 Q Who do you live with?

16 A Right here to the left, Ms. Miriam, dash, Turnbow

17 Dobbs.

18 Q And who is Miriam?

19 A She's my girlfriend. She's right here.

20 Q How long has Miriam been living with you?

21 A Since January of this year officially. We've been

22 dating since June 1st, last year.

23 Q When did you first meet Miriam?

24 A August of 1997.

25 Q And you started officially dating June of 2008 --

Page 12

1 A June of 2008.

2 Q From August of 1997 to June of 2008, how often would

3 you see Miriam?

4 A I called her a couple times on the phone, and she'd

5 come in the club every now and again, but not too often

6 until we hooked up in June and then it's been every

7 day.

8 Q Does Miriam have a formal last name of Turnbow?

9 A No.

10 Q Or is it just a name she's just adopted?

11 A No. I kind of adopted it to her, but her actual name

12 would be Dobbs.

13 Q Fair enough. Since 1995 have you lived with anyone?

14 So roughly the last 13 years.

15 A 13? Yes. It didn't work out very well. It was about

16 ten-month relationship which dissolved in May of 2000.

17 Q So why don't we just -- and I understand I'm going back

18 from a lot of time, so just take a second to collect

19 yourself. But starting in 1995 and moving forward, can

20 you give me a chronology of who, if anyone, you were

21 living with.

22 A That's it. Just -- her name was Veronica Rhodes

23 [phonetic]. And it was a very short-lived experience,

24 very unpleasant one.

25 Q I'm sorry to hear that.

Page 13

1 A I'm not.  
 2 Q You lived with her for ten months?  
 3 A Ten months.  
 4 Q And that was in the 2000 time frame?  
 5 A '99 to 2000.  
 6 Q Do you know where Veronica is now?  
 7 A I believe she's somewhere in -- no, I don't know for  
 8 sure. I got an email from her. I believe she might be  
 9 in Idaho. I'm not really a hundred percent sure where  
 10 she is. I haven't spoken with her for a long time  
 11 except by email.  
 12 Q Fair enough. Your current residential address?  
 13 A 1713 Northeast Tullis, Olympia, Washington 98506. Been  
 14 there since May of 1997, and I am the homeowner.  
 15 Q How long have you owned the home?  
 16 A Since May of 1997. Since about 21 years, almost 22.  
 17 Q And since May of '87 have you lived with anyone else  
 18 other than Veronica Rhodes there?  
 19 A No. Yes, I did live with somebody in the '80s. '87,  
 20 '88, '89, for three years. I thought you were saying  
 21 from '95. So if you go back that far, there was  
 22 another girl I did live with for three years about, two  
 23 and a half.  
 24 Q Who was that?  
 25 A Her name is Christy Caldwell. That's going back to

Page 14

1 something like 20-something years.  
 2 Q Have you talked with Ms. Caldwell in the last 20 years?  
 3 A Yes. She's come into the club, and we spoke.  
 4 Q Where does she live?  
 5 A I have no idea. Probably in Olympia, I would guess, or  
 6 Tumwater. I really don't know.  
 7 Q Have you ever spoken to her about the matters  
 8 surrounding this lawsuit?  
 9 A Absolutely not. I haven't spoken to anyone about the  
 10 lawsuit.  
 11 Q Okay. Fair enough. When did you start working your  
 12 business with Cosmic Karaoke?  
 13 A It was March of 1993.  
 14 Q Has that been your primary business interest and income  
 15 generator --  
 16 A Yes, as a digital DJ. I've really evolved and  
 17 developed and stuck with it for a long time. We've  
 18 come a long ways from the time I've started to the time  
 19 I am at now, technology and stuff.  
 20 Q Fair enough. If you could just let me finish my  
 21 question. And, again, I appreciate your answering it,  
 22 Mr. Turnbow, but if you step on the question, it's very  
 23 hard for the court reporter to try to get two people  
 24 down. I'll re-ask the question, but I appreciate your  
 25 efforts.

Page 15

1 A No problem.  
 2 Q Since March of 1993, have you had any other business  
 3 endeavors other than Cosmic Karaoke and Digital DJ?  
 4 A Not really. Just the CD investments. I'm pretty big  
 5 on that and mutual fund that I started.  
 6 Q What are your hobbies and interests? What do you like  
 7 to do?  
 8 A I've got a ton of them. I go to a lot of concerts. I  
 9 love to go to movies. I like to go out dining. I like  
 10 to go out skating.  
 11 Q Roller skating or ice skating?  
 12 A She wants to ice skate, but I'd like to try it. I'm  
 13 talking roller skating.  
 14 Q Okay.  
 15 A There's lot of them. I could sit here for about an  
 16 hour and talk about what I like to do. I like to read.  
 17 I'm definitely into the Internet. I'm an Internet  
 18 wizard. I'm operating five websites right now that I'm  
 19 in control of as the admin.  
 20 Q Do you perform music?  
 21 A Yes.  
 22 Q Do you consider yourself a musician as well as a DJ?  
 23 A Yes.  
 24 Q How long have you been a musician?  
 25 A Let's go back to seventh grade. How about 1972 is when

Page 16

1 I started singing and playing.  
 2 Q Have you ever had a formal band?  
 3 A Yes, several times. About 20 of them.  
 4 Q 20 bands? Okay. Are you currently in a band?  
 5 A No. Only a cyber band. I still do some recording and  
 6 I do a lot of writing. And we have a website, but it's  
 7 kind of all Internet related. I've sort of evolved  
 8 into DJ because there's a lot more money in it, so  
 9 that's what I do.  
 10 Q Fair enough. What I wanted to do is mark as Exhibit  
 11 1 -- is a copy of Mr. Aronson's complaint and a copy of  
 12 your answer and affirmative defenses. So I'm going to  
 13 give you a copy of that.  
 14 A Thank you.  
 15 (Exhibit No. 1 marked for identification.)  
 16 Q Mr. Aronson, have you ever reviewed a copy of -- excuse  
 17 me. Mr. Turnbow, have you ever reviewed Mr. Aronson's  
 18 complaint for damages?  
 19 A Yes, I have.  
 20 Q You were actually served with that, correct?  
 21 A Yes, I was.  
 22 Q What I wanted to do is to ask you if you've ever seen  
 23 your answer and affirmative defenses, which is marked  
 24 as the following exhibit.  
 25 A Who was I answering to?

Page 17

1 Q It's the answer to Mr. Aronson's complaint. Have you  
 2 ever seen that document?  
 3 A What page am I on, please?  
 4 Q It would be the second document that's stapled and  
 5 attached. That's correct.  
 6 A All righty, then. What was the question again?  
 7 Q Have you ever seen that document?  
 8 A You know, I have seen this.  
 9 Q What I'd like to do is go through that document.  
 10 A Okay.  
 11 Q Mr. Turnbow, I'm going to ask you to look at 3.1 of the  
 12 complaint.  
 13 A Which one is that, the second one?  
 14 Q That's in your left hand.  
 15 A This one.  
 16 Q Now, if you can, move the answer over, and we're going  
 17 to compare the two documents.  
 18 So what I want you to do is read 3.1 together and  
 19 then I want to look at your response to --  
 20 A And where on this document would you like me to --  
 21 Q It would be on the second page.  
 22 A Second page.  
 23 Q And we will read and answer 3.1.  
 24 A Yes, sir.  
 25 Q So 3.1 reads from the complaint, which is in your left

Page 18

1 hand, it reads: Plaintiff and defendant accompanied  
 2 one another on a trip to Europe.  
 3 A Yes, sir.  
 4 Q You would agree that you and Mr. Aronson went on a trip  
 5 to Europe together?  
 6 A I would. I disagree on the time frame, but, yes, we  
 7 went.  
 8 Q Fair enough. Mr. Turnbow, we are going to be here for  
 9 a while today, and I promise you, you are going to have  
 10 a fair opportunity to really express your opinion. I'm  
 11 going to give you that. But in order to get our  
 12 deposition done effectively and efficiently, if you  
 13 could just answer the question that I'm asking you, it  
 14 will go a lot faster.  
 15 A Fair enough.  
 16 Q So looking at 3.1, it says: Plaintiff and defendant  
 17 accompanied one another on a trip to Europe.  
 18 Do you agree that occurred?  
 19 A Yes, sir.  
 20 Q The second sentence reads: Plaintiff brought with him  
 21 a videocamera and recorded over six hours of the trip.  
 22 Do you agree with that?  
 23 A Yes.  
 24 Q Would you agree that what was video'd included  
 25 embarrassing situations that were intended to be kept

Page 19

1 private?  
 2 A No, I would not agree with that.  
 3 Q What part of that clause do you not agree with?  
 4 A All of it. It wasn't embarrassing. It was America's  
 5 Home Video. It was a homemade video. Nothing  
 6 embarrassing about it. I wouldn't have shot it if it  
 7 was embarrassing.  
 8 Q So, Mr. Turnbow, it's your testimony that nothing on  
 9 the hours of video that was captured was embarrassing  
 10 at all?  
 11 A That is my testimony.  
 12 Q What was on that video?  
 13 A There's a number of stuff. Do you want me to go  
 14 through it? Do you want me to --  
 15 Q Well, let me ask you this: Was there criminal  
 16 activity --  
 17 A No.  
 18 Q -- on that tape?  
 19 A No.  
 20 Q Was there photographs or depictions of people being  
 21 partially clothed or naked on the video?  
 22 A No. I don't think so.  
 23 Q There isn't video footage of people in their underwear  
 24 on that video?  
 25 A I might have been half dressed when I woke up at the

Page 20

1 hotel in Amsterdam. I don't know if I was in my  
 2 underwear or not. Maybe a pajama top or something.  
 3 But, no, not -- nothing that I can recall that was  
 4 embarrassing or half naked. I walk around in shorts  
 5 all the time.  
 6 Q Fair enough. So it's your opinion that nothing on that  
 7 tape was embarrassing --  
 8 A Certainly not to me. At all.  
 9 Q And is it your intention that nothing on that tape was  
 10 ever intended to be kept private?  
 11 A It was a home video. You take them, you show them to  
 12 your friends. Nothing private about it. There was a  
 13 lot of public people that were walking around, and  
 14 there was videocameras in London at all.  
 15 Q Respectfully, Mr. Turnbow, I'm not asking that. I'm  
 16 asking: The video footage that was taken, is it your  
 17 testimony under oath that you felt that there was no  
 18 intent for any of that to be kept private?  
 19 A Yes.  
 20 Q Let's look at paragraph 3.2 of the complaint. It said:  
 21 Defendant offered to make a VHS copy of the recording  
 22 and plaintiff agreed.  
 23 The defendant in this matter would be you and the  
 24 plaintiff in that sentence would be Mr. Aronson. Do  
 25 you agree with that sentence?

Page 21

1 A Yes, I do. And a copy for myself. It doesn't really  
 2 express the entire agreement we had made. But I will  
 3 agree with that, yes.  
 4 Q So you agree that the defendant offered to make a VHS  
 5 copy of the recording and plaintiff agreed?  
 6 A Yes, I do.  
 7 Q And the next sentence reads: Plaintiff gave defendant  
 8 the home video recording to defendant for the limited  
 9 purpose of making a VHS copy for plaintiff.  
 10 Do you agree with that sentence?  
 11 A He gave me the masters. Actually -- okay, yes, I'll  
 12 agree with that for now, sure, yes.  
 13 Q 3.3: The defendant, which would be you, supplied  
 14 plaintiff, which would be Mr. Aronson, with a VHS copy  
 15 but retained the original.  
 16 Do you agree with that sentence?  
 17 A I'll agree with that. This is back in 1997, by the  
 18 way, not '99, '97. And that would be true, yes.  
 19 Q When asked about the original, the defendant, which  
 20 would be you, explained that he sold it to someone for  
 21 \$40, then changed his story saying that it had been  
 22 stolen.  
 23 A That is totally untrue. I bought the tape or was -- I  
 24 gave the \$40 to Ken. And there was actually more than  
 25 one tape. There was four tapes. It was \$10 a tape for

Page 22

1 each master tape. And I never claimed they were  
 2 stolen, nor were they stolen, but I did purchase them  
 3 at the time.  
 4 Q Let's examine that.  
 5 A Sure.  
 6 Q So it's your testimony under oath that --  
 7 A Yes.  
 8 Q -- you bought four separate tapes for \$10 each from  
 9 Mr. Aronson?  
 10 A Yes, sir.  
 11 Q Why don't you explain to me how that came about.  
 12 A Okay. We had a camera that was borrowed from the  
 13 before-mentioned Shah, his girlfriend at the time, and  
 14 he had to return the camera to her. So the tapes  
 15 needed to be viewed, not on an apparatus. There was  
 16 never an apparatus. They had to be put into the camera  
 17 and played. So if you didn't have the camera, you  
 18 couldn't watch the videos.  
 19 So, of course, when we got back from our trip, we  
 20 were excited to see the videos. There was only one way  
 21 to do that, and that would be to plug the tape into the  
 22 camera, plug the camera into the apparatus you are  
 23 viewing it on, in the VCR, whatever it is, and watch  
 24 it; otherwise, you couldn't see it.  
 25 So he had to bring the camera back to her, and of

Page 23

1 course we wanted our home movies preserved. So we made  
 2 an arrangement for me to make copies for both of us.  
 3 Mine happened to be in three tapes, because I wanted  
 4 the highest possible quality purposes. Ken elected to  
 5 put his all onto one tape, a six-hour tape, with  
 6 everything on it in chronological order along with a  
 7 list of what was on the tape.  
 8 And I purchased those tapes. I went to the store  
 9 and I bought them. And I did the production on it and  
 10 made the tapes for both of us. He had his copy, and I  
 11 had my copy.  
 12 Q I think the question was about the original.  
 13 A Well, the originals I gave him. He was going to record  
 14 over them. He didn't care to keep them, because he  
 15 doesn't own the camera. They probably would have gone  
 16 back to the owner of the camera, and she probably would  
 17 have taped over them. So I agreed -- I said, this is  
 18 important information. In case my tape gets jammed in  
 19 the player or breaks, I would love to have those tapes.  
 20 So he said, Well, you can buy them from me, and we  
 21 negotiated the price of \$40.  
 22 That's where the \$40 came from. There was never a  
 23 third party involved. I gave the \$40 to Ken, and he,  
 24 in turn, gave me the videotapes, the masters, which we  
 25 copied. And, actually, I've never played again since

Page 24

1 then. My tapes are in the custody of my lawyer. She  
 2 has my copy. I gave them to her to keep them safe  
 3 along with the DVD of the movie.  
 4 Q Let's take a step back.  
 5 A Okay.  
 6 Q How many tapes did you make from that original --  
 7 A I made --  
 8 Q -- footage -- if you could let me finish -- from  
 9 England? How many copies of tapes from the original  
 10 tape did you make?  
 11 A I made one tape for Ken, and the exact same information  
 12 I transported to my tapes, and I chose to make mine on  
 13 three tapes, but it's the same six hours. So I would  
 14 say two copies: one for Mr. Aronson, one for  
 15 Mr. Turnbow.  
 16 Q So you gave Ken a copy --  
 17 A Yes.  
 18 Q -- and you made -- is it three copies for yourself?  
 19 A One copy on three tapes.  
 20 Q So you decided to break the one copy into --  
 21 A Because I wanted to best quality possible.  
 22 Q -- into two-hour segments?  
 23 A It was the same information. Exactly.  
 24 Q I just want to understand. So you made yourself one  
 25 copy, but you made it on three tapes, two hours apiece?

Page 25

1 A Yes, sir. In high speed.  
 2 Q In a higher speed, which you think would be a better  
 3 quality?  
 4 A I made him his the way he asked for it. You know, we  
 5 were trying to preserve our memories, and I had the  
 6 knowledge and the technology to go ahead and make the  
 7 copies, so I went ahead and did it. This is back, by  
 8 the way, in 1997.  
 9 Q I understand. So you made no other copies?  
 10 A No.  
 11 Q So you made one copy for Mr. Aronson and one copy for  
 12 yourself?  
 13 A Yes.  
 14 Q So when you finished making the copies, there were  
 15 three copies of your footage from England: There was  
 16 the original, a copy that you possessed, and a copy  
 17 that Mr. Aronson possessed.  
 18 A Exactly.  
 19 Q Now, the tape that was the original --  
 20 A Right.  
 21 Q -- that was not your tape, correct?  
 22 A It was my tape. I gave him \$40 for it, and I purchased  
 23 it from him, so, yes, it was my tape.  
 24 Q Whose tape was it originally?  
 25 A I don't know. I don't have a receipt for that.

Page 26

1 Q You used the term in the beginning of your statement  
 2 here saying "it was our videocamera."  
 3 A It was Shah whatever her name was.  
 4 Q It wasn't your videocamera?  
 5 A It was not mine, no. It was not his, either. We  
 6 borrowed it from a third party.  
 7 Q You would agree that Mr. Aronson brought the  
 8 videocamera with him on the trip, correct?  
 9 A We agree that he borrowed the camera from Shah and  
 10 brought it. Sure, sure, I would agree with that.  
 11 Q So you didn't bring the videocamera with you, did you?  
 12 A No. I brought the 110, and I made copies of all of my  
 13 stuff. And I gave it to him, about four or five rolls  
 14 of film. In exchange, he got -- as part of our deal,  
 15 I copy the tapes; he got the still videos -- the still  
 16 shots that I took on the 110. I made doubles. And I  
 17 kept a copy, which I have at home, and I gave him a set  
 18 of the prints as well. So we were sort of commingling  
 19 our memories and sharing the experience together.  
 20 Q And, again, Mr. Turnbow, please listen carefully to my  
 21 question. You're volunteering a lot of information  
 22 that, frankly, I may ask or may not ask. But my  
 23 question wasn't what you just responded to.  
 24 A Okay.  
 25 Q And just in an effort to get out of here today, if you

Page 27

1 could just listen to the question.  
 2 A I have to go to work. I can't stay all day.  
 3 Q And trust me, I don't want to keep you here any longer  
 4 And also, if you could just pause for one second before  
 5 you answer the question, and I'll try to do the same  
 6 for you.  
 7 But you would agree that you did not bring a  
 8 videocamera with you on the trip to England, correct?  
 9 A No, I brought a 110 Instamatic.  
 10 Q So the answer is, no, you didn't bring a videocamera to  
 11 England.  
 12 A No.  
 13 Q Mr. Aronson brought a videocamera to England.  
 14 A Yes. He borrowed one from Shah as we said.  
 15 Q Now, when you came back, the tape that was the  
 16 original, did you ever purchase that tape, or was that  
 17 tape, to the best of your knowledge, what was in that  
 18 videocamera when you first went to England?  
 19 A I purchased it from Ken for \$40, \$10 a tape.  
 20 Q I'm not asking that. I'm asking, when you got back,  
 21 before you believe that you purchased it, was that your  
 22 tape at any time?  
 23 A It became my tape eventually, sure, because we made a  
 24 deal. He wouldn't have had a copy on VHS if I hadn't  
 25 produced it. So I retained the master --

Page 28

1 Q So that's your testimony under oath --  
 2 A Yes, that is the truth. I don't lie, sir. I will not  
 3 lie to you.  
 4 Q I'm going to hold you that. You're testifying here  
 5 that you're not going to lie to me at any time.  
 6 A Right.  
 7 Q It's your testimony, just so I'm clear, that you felt  
 8 it was appropriate to give Mr. Aronson \$40 for this  
 9 original tape?  
 10 A We negotiated it, because he was -- I didn't want them  
 11 to be taped over. I thought they were important  
 12 information. And I might have destroyed one of my  
 13 tapes or lost it, so I bought the tapes from him.  
 14 Q When did you purchase --  
 15 A When we got back from the trip.  
 16 Q Hang on. You have to let me finish the question.  
 17 When do you believe you purchased the original  
 18 tape for \$40?  
 19 A I believe it would have been in April of 2007, shortly  
 20 after we returned from our trip within the two  
 21 weeks -- probably in that same month. It could have  
 22 been into May, but I doubt it, because we pretty much  
 23 locked it down right away and got it taken care of,  
 24 because we wanted to share our memories with people.  
 25 It was really an exciting time.

Page 29

1 Q You just testified April of 2007.  
 2 A Of 1997, sorry.  
 3 Q Of 1997. So just so we're clear, your testimony is  
 4 that in April of 1997 you believe that you paid \$40 to  
 5 Mr. Aronson --  
 6 A I did.  
 7 Q -- for the original tape? Okay.  
 8 When you were making that offer, did you believe  
 9 that Mr. Aronson owned that original tape, or did you  
 10 believe it was Shah's tape?  
 11 A I had no idea. I didn't see a receipt.  
 12 Q Where is this original tape now?  
 13 A I don't have any idea. I could -- I -- it's not  
 14 around. I don't have it.  
 15 Q I thought this was a fantastically important tape.  
 16 A Yeah. And I've scrounged and looked for it. You're  
 17 not the first person who's asked me for it. Michael  
 18 Moore wanted it as well. I could not find it for him,  
 19 I couldn't find it for Sok-Khieng, and I'm still  
 20 tearing my house apart looking for it. I've had a lot  
 21 of things disappear in my home lately; DVDs and things  
 22 too. I don't know where it is.  
 23 Q When was the last time you saw this original tape?  
 24 A I stored it away with the rest of my tapes back in  
 25 April of '97 because I was viewing the videotape. I

Page 30

1 considered the video the master, because I couldn't  
 2 play those tapes anyway. They were unplayable without  
 3 the camera, and there was no apparatus.  
 4 Q So what do you think happened to that original tape?  
 5 A I wish I knew because a lot of people have asked that  
 6 very question, and I have no idea. If I had them, I  
 7 would be more than welcome to show them. The tapes I  
 8 do have are in possession of my attorney. She has them  
 9 at her office.  
 10 Q What tapes have you provided to Sok-Khieng?  
 11 A The only tapes. My three tapes that are the copies of  
 12 the information from the vacation. And Ken has an  
 13 identical copy. He already has a copy.  
 14 Q Do you believe that tape, the original tape, was  
 15 stolen?  
 16 A No. I think it's misplaced. Could be in a box  
 17 somewhere. It could have been, but I don't really  
 18 know. I don't know where they are.  
 19 Q You would agree that the original tape was very  
 20 important to you?  
 21 A Yes, that's why I purchased it. I wanted to preserve  
 22 those memories.  
 23 Q Now, when you placed this original tape, did you put it  
 24 in a box with other tapes?  
 25 A Actually, I stuck it on a shelf.

Page 31

1 Q In your house?  
 2 A In a shelf with all the rest of my videotapes. And  
 3 it's a real small one compared with the rest of them.  
 4 And then I had a remodel of my house. We tore  
 5 everything apart. We put a whole new floor in, all new  
 6 drapes -- got rid of the drapes and put in blinds, and  
 7 everything got boxed up and then put back on the  
 8 shelves. I think it was during that time in 2003 it  
 9 may have been misplaced somewhere. I really don't  
 10 know.  
 11 Q Have you lost any other tapes?  
 12 A Yes.  
 13 Q What tapes are --  
 14 A Way too many.  
 15 Q What other tapes have you lost?  
 16 A Too many to count. Accounts of rock concerts, personal  
 17 videos. I've lost a lot of tapes. I wish I had any  
 18 tape I ever had.  
 19 Q When you were remodeling this house, where did the  
 20 boxes go?  
 21 A Oh, they were stacked in the storage room in back. And  
 22 then we got the flooring in and the we put the shelving  
 23 in.  
 24 Q Did the boxes ever leave the physical premises?  
 25 A I don't think so.

Page 32

1 Q Have you ever represented to anyone that this tape was  
 2 stolen?  
 3 A No.  
 4 Q Never filed a police report?  
 5 A No.  
 6 Q Never contacted the police?  
 7 A Misplaced it would be a better word than stolen.  
 8 Q No. But I'm using a specific term for a reason.  
 9 A I never went to the police because there was never a  
 10 robbery. There wasn't. That's incorrect.  
 11 Q How did -- you believe that you paid Mr. Aronson \$40  
 12 for the tape.  
 13 A Yes.  
 14 Q Why -- give me your understanding of what methodology  
 15 you used to come up with 40 bucks for the tape.  
 16 A There's four tapes. I made the offer of \$10 per tape,  
 17 because I didn't want them to be taped back over. I  
 18 wanted to retain them unless I lost my master, it got  
 19 jammed. Sometimes tapes will jam in your tape player.  
 20 And I wanted to be able to copy them again, because  
 21 there was some really cool stuff that was related to  
 22 the Beatles and some personal moments in my life when I  
 23 fell down in Abbey Road and was in the hospital. I did  
 24 not want to lose those memories.  
 25 Q Sure.

Page 33

1 A I wanted to share them with my children in years to  
 2 come.  
 3 Q I agree those are important memories. But let me make  
 4 sure I understand this correctly, then. So Mr. Aronson  
 5 gives you the original tape, and you are --  
 6 A Four tapes. There's four of them.  
 7 Q There's four tapes.  
 8 A Four tapes.  
 9 Q So when we say the original, there's four?  
 10 A Right.  
 11 Q Mr. Aronson gives you those four tapes shortly after  
 12 you get back from England.  
 13 A Um-hmm. They are in a plastic container, and I had  
 14 them well written what was on them down to the second  
 15 I had a little timer on it, yes.  
 16 Q I apologize, because I'm still climbing the learning  
 17 curve, so I'm not trying to be redundant.  
 18 A That's fine.  
 19 Q But Mr. Aronson gives you four tapes shortly after  
 20 coming back from England.  
 21 A Right.  
 22 Q And those four tapes contain about six hours of your  
 23 trip?  
 24 A About an hour and a half per tape which I transferred.  
 25 Q And you agree that you going to provide a copy of it to

Page 34

1 Mr. Aronson.  
 2 A Well, he had his copy and I had my copy. We agreed we  
 3 both have copies of it have. You know, I had my copy  
 4 and I've never asked him for his copy. I got my own  
 5 copy.  
 6 Q But you made a copy for yourself, which was on four  
 7 tapes.  
 8 A No, there's four masters. I made mine on three tapes.  
 9 I made his on one tape.  
 10 Q And you wanted to keep the originals.  
 11 A I did keep the originals.  
 12 Q So you paid Mr. Aronson \$40 --  
 13 A Yes, sir.  
 14 Q -- for the right to keep those originals?  
 15 A Sure.  
 16 Q That's your testimony? That's what you --  
 17 A That is my testimony.  
 18 Q And you believe you needed to pay Mr. Aronson because  
 19 they were his tapes?  
 20 A I paid Mr. Aronson because I figured he was going to  
 21 tape over them and or give them back with the camera  
 22 and we'd never see them again, and I didn't want them  
 23 to be destroyed. So I wanted to preserve them and  
 24 archive them.  
 25 Q And you felt you needed to pay Mr. Aronson because they

Page 35

1 were his tapes?  
 2 A I think he told me I had to. He's pretty money  
 3 conscious, and he wanted his money, so we negotiated.  
 4 Q But you had no problem paying him because you --  
 5 A No, because I got the tapes.  
 6 Q -- because you knew they were his tapes, correct?  
 7 A They are my tapes.  
 8 Q Well, at the time before you allegedly paid him the  
 9 \$40, you thought they were his tapes, correct? That's  
 10 why you paid him the 40 bucks.  
 11 A I never saw a receipt. I don't know whose tapes they  
 12 are. I can't answer that.  
 13 Q Weren't you -- didn't you just testify under oath that  
 14 you paid him \$40 for the tapes --  
 15 A Well, they are my tapes now, now because I paid him the  
 16 \$40, but I don't know --  
 17 Q Mr. Turnbow, listen carefully to my question. You paid  
 18 him \$40 because you thought those four original tapes  
 19 were Mr. Aronson's, correct?  
 20 A I bought the tapes Mr. Aronson had. I did not see a  
 21 receipt. For all I know, they came with the camera.  
 22 Maybe they were Shah's tapes. I don't know whose tapes  
 23 they were.  
 24 MR. VERTETIS: I'm going to move to strike  
 25 your answer. It's nonresponsive. And I going to ask

Page 36

1 the court reporter to read it again.  
 2 A I'm going to answer the same way, because I don't know  
 3 how you -- what you're trying to get with me.  
 4 Q This isn't a complicated question, Mr. Turnbow.  
 5 MR. VERTETIS: Can you please read the  
 6 question back.  
 7 (Question read as follows:)  
 8 "QUESTION: You paid him \$40 because you thought  
 9 those four original tapes were Mr. Aronson's, correct?"  
 10 A I don't know who purchased the tapes originally. I  
 11 have not seen a receipt. Perhaps he did; perhaps Shah  
 12 did. I don't know.  
 13 Q Why are you paying him \$40 for --  
 14 A So that I could keep them so I could keep them to  
 15 archive them.  
 16 Q And you gave him the \$40, correct?  
 17 A Right.  
 18 Q And you paid --  
 19 A He wouldn't bring them back --  
 20 Q -- because you thought they were his.  
 21 A Either his or Shah's. I don't know whose they were.  
 22 How am I supposed to know?  
 23 Q But they weren't yours?  
 24 A They are now.  
 25 Q They weren't at the time you bought them, correct --

Page 37

1 allegedly bought them, correct?  
 2 A They kind of came with the camera. I don't know. I  
 3 haven't seen a receipt.  
 4 Q You would agree --  
 5 A They kind of came with the camera, you know. And I did  
 6 not want to lose the information on them. So we struck  
 7 up a deal. We negotiated a deal.  
 8 Q Did you ever talk to Shah about these tapes?  
 9 A No.  
 10 Q You'd agree the camera wasn't yours.  
 11 A No. I knew whose camera it was.  
 12 Q Whose camera was it?  
 13 A It was Shah's camera.  
 14 Q What about any of the cords or the electronics to view  
 15 the original tapes?  
 16 A There was no such apparatus. You had to take the  
 17 original tape and put it into the camera and plug that  
 18 into a VCR. That was a mistake. There wasn't one.  
 19 Had there been a part of it, it would have gone back to  
 20 her with the camera. I wouldn't have wanted it for  
 21 anything.  
 22 Q Did you ever give the camera back to Shah?  
 23 A No. I gave it back to Ken.  
 24 Q When did you give the camera back to Ken?  
 25 A Immediately after we made the copies, probably sometime

Page 38

1 in April of 1997.  
 2 Q When was the last time you saw the original tapes?  
 3 A April of 1997. I never had any way to play them. You  
 4 need the camera. I don't own a camera like that.  
 5 Q So -- I apologize. I'm using view or saw in a very  
 6 general sense. Actually physically saw the tapes --  
 7 let me finish. -- physically saw the tapes rather than  
 8 played them and saw the contents.  
 9 A I believe that when I did remodel on the house is when  
 10 they got misplaced, which would have been 2003.  
 11 Q So you believe from 1997 to 2003 the original tapes  
 12 were --  
 13 A On a shelf.  
 14 Q -- on a shelf in your home.  
 15 A Absolutely.  
 16 Q And sometime after 2003 you lost possession of the  
 17 original tapes?  
 18 A Right. I don't -- I don't -- I didn't ever use the  
 19 word stolen. I think they got misplaced.  
 20 Q I didn't use the word stolen. I said lost.  
 21 A I saw the word stolen.  
 22 Q I'm asking you -- I'm not asking about the complaint.  
 23 I'm asking you since 19- -- strike that.  
 24 Since 2003, have you seen the tapes?  
 25 A No.

Page 39

1 Q So you haven't seen the original tapes since 2003?  
 2 A No. And I've tried to find them, and I can't find  
 3 them. They are misplaced is the word I would use.  
 4 Q From 1997 to the remodel in 2003, do you recall seeing  
 5 the original tapes in your home?  
 6 A I think so. I think they may have been hidden behind  
 7 another VHS tape. There's a big wall of about 1,000  
 8 tapes in my library, so, yes, I think I did see them.  
 9 Q Where did you keep your copy of the original?  
 10 A I've got a middle bedroom in my home which I call the  
 11 library. We keep all of our media in there.  
 12 Q So your three tapes, which were the copy of the  
 13 originals, were --  
 14 A In the library. And if I pulled it out to watch it,  
 15 I'd watch it and then put it back. Right now they are  
 16 in the custody of Sok-Khieng.  
 17 Q Of your attorney. Fair enough.  
 18 If I could focus you to 3.5 of the complaint.  
 19 A That would be this one here?  
 20 Q Correct.  
 21 A Yes, sir.  
 22 Q It says: Plaintiff's likeness -- meaning  
 23 Mr. Aronson -- was exposed to millions including  
 24 members of his immediate community in an embarrassing  
 25 manner.

Page 40

1 Do you agree that Mr. Aronson's likeness was  
 2 exposed to millions of people in this movie?  
 3 A Yes, I do. Three seconds' worth. Very small.  
 4 Q In your opinion. Including members of his immediate  
 5 community?  
 6 A Sure.  
 7 Q And would you agree it was in an embarrassing manner?  
 8 A I would not.  
 9 Q How would you characterize the time that -- if you  
 10 could let me finish. How would you characterize the  
 11 time that Mr. Aronson was put into Mr. Moore's film?  
 12 A I would say it's very, very flattering for him to be  
 13 chosen to be in the film for three seconds. We're  
 14 singing; we are dressed up nice; we are in London. It  
 15 was an exciting time for both of us. And it included  
 16 three seconds.  
 17 And if I was him, I would be honored and thrilled  
 18 to be in the movie. It's not embarrassing at all. In  
 19 fact, it's a miracle that we're in that movie, because  
 20 it was a 500-hour movie cut down to two hours, and  
 21 there was 25,000 emails. So it a miracle and a  
 22 blessing to be in the movie. There's nothing  
 23 embarrassing about it.  
 24 Q And you would agree that your efforts in contacting  
 25 Mr. Moore or his production company were what got both

Page 41

1 you and Ken in the movie.  
 2 A I would say Michael Moore contacted me via email,  
 3 because I'm a member of his fan club.  
 4 Q How long have you been a member of Mr. Moore's fan  
 5 club?  
 6 A Probably since about 2005, maybe 2004. And I got the  
 7 email in February of 2006. And they even show it in  
 8 the movie, the actual email I got. They show it as  
 9 part of the movie, because he got 25,000 responses.  
 10 Q So let me ask you this. What prompts you to get into  
 11 Mr. Moore's fan club in 2004?  
 12 A I'm a big fan of his movies. I think he's great. He's  
 13 kind of a rebel, and I think his filmmaking is  
 14 tremendous. I respect him and admire him.  
 15 Q And from 2004 up until February 2006, had you gotten  
 16 emails from Mr. Moore?  
 17 A Yes. Only on forwarding. My sister was a member of --  
 18 my sister Marilyn, I mentioned earlier, she had been a  
 19 member longer than me, and at that point she was  
 20 forwarding me his emails. And at that point, I was  
 21 enjoying the content and going to his website. I went  
 22 ahead and signed up to get them directly from his  
 23 office.  
 24 Q When did you sign up to directly get emails from  
 25 Mr. Moore's --

Page 42

1 A Probably about 2004, 2005, somewhere in there. Because  
 2 the email he sent was in 2006. It was a couple years  
 3 before that.  
 4 Q So February of 2006 you get an email from Mr. Moore.  
 5 A Yes.  
 6 Q What does that email detail?  
 7 A My attorney has a copy of it if you'd like to review  
 8 it. It's pretty long and lengthy.  
 9 Q Okay. But, in general, what did the email state?  
 10 A He said his next project was coming up and it's very  
 11 secretive, but he needs help from his fans to talk  
 12 about any health care-related issues. Not specifically  
 13 socialized medicine. That's kind of what it boiled  
 14 down to in the long run. But I had other things other  
 15 than the England trip that -- in my response. I wrote  
 16 him back a five-page letter, and I mentioned in that  
 17 letter the trip to London, which is what caught his  
 18 eye.  
 19 Q The trip to London back in '97?  
 20 A Um-hmm. He thought that was intriguing.  
 21 Q You said uh-huh. Is that yes?  
 22 A Yes.  
 23 Q So you responded back to Mr. Moore's email?  
 24 A Yes, I did.  
 25 Q Did Mr. Moore respond back to you from your initial

Page 43

1 email to him?  
 2 A They actually called me.  
 3 Q Who's "they"?  
 4 A He's got a number of assistants that I was working  
 5 with. The main one, her name was Christine Fall. I  
 6 don't believe she's with him at the time, because I  
 7 can't make contact with her now; I've tried. She  
 8 called me on the telephone, and we spoke many times  
 9 back and forth.  
 10 Q Mr. Turnbow, how much time went by from your response  
 11 to Mr. Moore's initial email did you get a call from  
 12 Christine Fall?  
 13 A I think it might have been a couple months. I really  
 14 couldn't say exactly, but it was within a couple  
 15 months.  
 16 Q How did she get your phone number?  
 17 A I sent it in the email along with the links to my  
 18 website.  
 19 Q Ms. Fall contacts you?  
 20 A Um-hmm. And I talked to several other people on the  
 21 staff.  
 22 Q You said "uh-huh." What does that mean?  
 23 A Yes.  
 24 Q So Ms. Fall contacts you?  
 25 A Yes.

Page 44

1 Q What did Ms. Fall say to you?  
 2 A She wanted to know more about my experience with the  
 3 medical -- my medical experience. It was a lot more  
 4 detailed than just the thing in London. About two  
 5 months after we came back, I had major surgery  
 6 around --  
 7 Q This is for the peritonitis?  
 8 A Yes. And she was real curious about that whole thing,  
 9 and we discussed at length my entire case of the  
 10 illness and how it went down. There's a number of  
 11 things we talked about.  
 12 Q Did Ms. Fall represent that she worked for Mr. Moore's  
 13 production company?  
 14 A Yes. I knew who she was.  
 15 Q How long did you talk with Ms. Fall in that first  
 16 conversation?  
 17 A I would estimate at least 15 minutes maybe. I'm not  
 18 sure exactly.  
 19 Q Did you send any other emails to --  
 20 A Oh, yeah. We emailed back and forth a lot.  
 21 Q Do you still have those emails from Ms. Fall?  
 22 A I could probably dig up some of them, yes.  
 23 Q Okay.  
 24 A I have some of them posted at my website even.  
 25 Q So you talk to Ms. Fall; you give her information about

Page 45

1 your peritonitis and also your trip to England,  
 2 correct?  
 3 A Um-hmm. We reviewed my whole letter I'd sent.  
 4 Q And then in response to that phone conversation, what  
 5 is the next contact you have with either Ms. Fall or  
 6 someone from Mr. Moore's production company?  
 7 A It was ongoing all summer long. The thing happened in  
 8 February, and it was ongoing.  
 9 Q So how many phone calls do you think you had with  
 10 Ms. Fall?  
 11 A I'd say 10, 15, something like that. I had their  
 12 number; I could call them in New York.  
 13 Q Ms. Fall was in New York?  
 14 A At the time. That number has been disconnected,  
 15 because I've tried to contact her regarding this  
 16 matter, and I've been unable to.  
 17 Q These 10 or 15 phone calls, what are you guys  
 18 discussing in these 10 or 15 calls?  
 19 A We were discussing my case with the peritonitis and how  
 20 the emergency room thought that I was going in there to  
 21 get a quick fix. The didn't think I was really sick,  
 22 but I was on the verge of death. And I ended up  
 23 getting treated at the rival hospital, because I didn't  
 24 trust these guys anymore. And I went and got all my  
 25 medical records and -- just a whole bunch -- the whole

Page 46

1 thing. The England thing was just a small tack-on at  
 2 end.  
 3 Q Right.  
 4 A It was a whole -- it was a whole 'nother matter that  
 5 Michael Moore chose not to include in the movie. He  
 6 wanted the thing of Abbey Road was what he was focusing  
 7 on most; that he thought he could use it because of the  
 8 socialized medicine there and the way it tied into his  
 9 film.  
 10 Q So did you talk with anyone else other than Ms. Fall  
 11 from Mr. Moore's production company?  
 12 A Yes. There was a couple of people I talked to. I've  
 13 got their names somewhere. I think one of them might  
 14 have been Cory. In fact, different departments would  
 15 call me up and tell me or send me an email saying,  
 16 Look, we are going to post up a bunch of stuff about  
 17 you on our website. Would you, you know, give us more  
 18 information or send us a few more pictures. They knew  
 19 I took pictures at the premier. And I gave them  
 20 permission to use whatever they wanted to, because I  
 21 was absolutely thrilled to be in the movie and be a  
 22 part of project.  
 23 Q Sure. So you were talking with Ms. Fall and you were  
 24 talking with Cory. Is Cory a man or a woman?  
 25 A I think he might have been the webmaster. I really

Page 47

1 don't know. I think it was a man.  
 2 Q He was a man. Any other people that you can recall  
 3 other than Ms. Fall?  
 4 A I had correspondence with several of his office guys.  
 5 MS. LIM: Eric, make sure you wait until Tom  
 6 finishes the question before you answer.  
 7 THE WITNESS: Sure.  
 8 Q You are doing fine, Mr. Turnbow, but I appreciate it.  
 9 So over these 10 or 15 conversations, you are  
 10 talking about your peritonitis, you are talking about  
 11 your trip to England and what happened to you at Abbey  
 12 Road?  
 13 A Yes.  
 14 Q And you forwarded to those individuals with Mr. Moore's  
 15 production company some photographs from what period of  
 16 time?  
 17 A Well, actually, this would probably be later  
 18 after -- what you are referring to with the Cory guy  
 19 was after the movie had already come out. They did  
 20 some -- they posted my blog. It's still up at  
 21 michaelmoore.com, the blog that I wrote about going to  
 22 the premier and being involved in the process along  
 23 with pictures of me and my sister at the premiere.  
 24 And I gave them extra stuff in case they wanted to  
 25 use it, but they basically verbatim copied my personal

Page 48

1 website, which is still up there -- in fact, I think  
 2 you might have a copy of it right there.  
 3 Q I do. I've seen it. So during these 10 to 15 calls  
 4 that you had with Ms. Fall or someone from Mr. Moore's  
 5 production company, did the calls just generally start  
 6 gravitating towards what happened in England rather  
 7 than your complications here in the United States?  
 8 A You know, I'd say yes. That was the focus of interest  
 9 eventually. It took us a while to get to that, but  
 10 that's what caught Michael Moore's eye.  
 11 Q How do you know that caught Michael Moore's eye?  
 12 A I was told it.  
 13 Q Who told you that?  
 14 A Probably Christine. She was pretty much the main  
 15 liaison, and I got to meet her in Seattle as well.  
 16 Q So during these phone calls that were leading to a  
 17 determination of whether you were going to be in his  
 18 film, did you ever talk to Michael Moore personally?  
 19 A No, not until the premier.  
 20 Q So you never talked to Michael Moore prior to the  
 21 premier?  
 22 A Not personally. Only by email.  
 23 Q Only by email.  
 24 A Yes. Reading his emails.  
 25 Q But they weren't emails directly to you.

Page 49

1 A No, not at all.  
 2 Q So basically your information was forwarded and you  
 3 received comments back from people that work for  
 4 Mr. Moore?  
 5 A Yes. The main liaison was Christine Fall. I would say  
 6 she was 90 percent of it all. And then after the fact,  
 7 I talked to some of his other agents for webmastering  
 8 purposes.  
 9 Q And then did you ever forward anything to Mr. Moore for  
 10 consideration in his movie?  
 11 A Forward?  
 12 Q Give to him.  
 13 A Yes. I sent him lots of information. I gave him  
 14 physical -- I gave him the tapes that we are talking,  
 15 the tapes that she has in her custody, the actual,  
 16 physical tapes. I consider them the masters, because I  
 17 couldn't play the other masters, and they had been  
 18 mislocated. He wanted them; I couldn't find them. We  
 19 went through that. So I mailed him -- I did not  
 20 mail -- I did not mail him all of them. I only mailed  
 21 him what I thought would be pertinent for the movie. I  
 22 left a lot of it out. It was very edited. He did not  
 23 see all six hours of it. I only gave him a limited  
 24 amount.  
 25 Q So it's your testimony under oath that you didn't send

Page 50

1 him all six hours?  
 2 A No, I did not.  
 3 Q How much film do you think you sent him?  
 4 A I think I sent him four hours, not six. Two of the  
 5 three tapes that I had.  
 6 Q Which tapes did you give him?  
 7 A I gave him No. 2 and 3, I believe.  
 8 Q So you didn't give him Tape No. 1?  
 9 A I don't think so, no.  
 10 Q Is it chronological, Tapes 1, 2, and 3?  
 11 A Yes.  
 12 Q So it's your testimony that the first two hours of the  
 13 footage that would be found on these tapes were not  
 14 forwarded to Mr. Moore?  
 15 A He didn't see any of it. He never saw it.  
 16 Q So he saw what started out from hour two through hour  
 17 six?  
 18 A Yeah, hour three, probably, because one and two are on  
 19 first tape -- the second tape. Right. Mainly all he  
 20 wanted was the Abbey Road. That's the only thing he  
 21 wanted. And we -- because of the way that our  
 22 chronological -- of going, we went to Abbey Road twice.  
 23 So we went, filmed, I had the accident. That's the  
 24 major thing that he needs. Then we came back to Abbey  
 25 Road to document right before we caught our airplane,

Page 51

1 because we wanted our picture op we missed because I  
 2 was slung down in the hospital. So we went back. So  
 3 it all kind of got mixed together because of the way  
 4 that we conducted our vacationing.  
 5 Q But it's your testimony here that you only sent the  
 6 second and third tape --  
 7 A Yes.  
 8 Q -- of the copies that you made --  
 9 A My copies. My master copy.  
 10 Q Right.  
 11 A And I got them back from him.  
 12 Q And just so we're clear, when you say "master copy,"  
 13 that isn't the original anymore --  
 14 A No.  
 15 Q -- that is your copy of the original, correct?  
 16 A I could not locate the originals, so I gave them the  
 17 best copy I had, which was high-speed VHS tape. The  
 18 only copy.  
 19 Q So you gave him --  
 20 A I mailed it to him physically to the mail, and I even  
 21 paid the postage.  
 22 Q So you made an executive decision just to send to  
 23 Michael Moore's company the second and third tape?  
 24 A Actually, I sent them a very edited copy first. Very  
 25 edited. Just the fall. But it was too grainy. All it

Page 52

1 had was the fall, and it had the Abbey Road experience.  
 2 It had nothing of the rest of the stuff. And I never  
 3 got that tape back. It was like 30 minutes at the  
 4 most. It was very, very edited. And they liked it  
 5 enough to say they wanted the originals. And they  
 6 asked me to locate the originals. And I tried my best  
 7 to find them, and I could not.  
 8 Q Who is "they" when you said they asked --  
 9 A Michael Moore's office.  
 10 Q Was it Ms. Fall?  
 11 A I would say so.  
 12 Q Let me make sure I understand you. You send just  
 13 initially about a 30-minute edit of what you thought  
 14 would be the pertinent information, which you thought  
 15 was your fall at Abbey Road?  
 16 A Yes. And it included film from another trip I took to  
 17 England that didn't even involve Mr. Aronson, because  
 18 my footage was way better. I had way better shots of  
 19 Abbey Road and way better stuff. So I took some of the  
 20 '92 trip that I initially took for 21 days, and I  
 21 edited that onto a tape along with the fall. And I  
 22 kind of lumped it all together in one 30-minute  
 23 potpourri, as you would say.  
 24 Q That 30-minute, quote/unquote, potpourri, did you get  
 25 that tape back from Mr. Moore?

Page 53

1 A No, he has it.  
 2 Q So after you sent this 30-minute potpourri from --  
 3 A The two trips.  
 4 Q -- these two trips, you get a call from Mr. Moore's  
 5 office saying, This is good stuff; we want more.  
 6 A Yes.  
 7 Q Who was the person that said we like this stuff; we  
 8 want more?  
 9 A Christine Fall.  
 10 Q What did she say about what she saw on the tapes?  
 11 A She said it was awesome and that the quality was a  
 12 little grainy. And, if at all possible, Michael would  
 13 like to have the original tapes that were actually  
 14 inserted in the camera. I said, I will make every  
 15 effort to find them, because I do own those tapes. I  
 16 purchased them, and I have them in my archive. And I  
 17 made every attempt to find them, and I could not find  
 18 them. So we went with the next best thing, which was  
 19 my master copy.  
 20 Q So that 30-minute tape that you sent, what specifically  
 21 was on that?  
 22 A Well, it had a lot of the '92 trip, because my  
 23 photography is really good. So I wanted to really  
 24 document Abbey Road and all the Beatles people. They  
 25 go and they sign all the sidewalks and everything else.

Page 54

1 Q Sure.  
 2 A So a lot of that from '92 is on there. And then  
 3 specifically from the trip I took with Ken was the fall  
 4 on Abbey Road and the subsequent stop at the hospital  
 5 where I was treated and not charged -- and only charged  
 6 six dollars for my incredibly good meds and that's it.  
 7 Most of it was probably from the '92 trip on the  
 8 initial --  
 9 Q Was the plane ride on that first 30-minute tape?  
 10 A No.  
 11 Q Was the "Oh, England" song on that tape?  
 12 A No. That came later. This was the initial 30-minute  
 13 tape.  
 14 Q You didn't think those original vignettes were good  
 15 stuff to send to Michael?  
 16 A I didn't know what he wanted. I had no idea. I was  
 17 just really happy to be called.  
 18 Q You don't think he'd want the -- you didn't think he'd  
 19 want "Oh, England"?  
 20 A I didn't know what he'd wanted. I'm not him.  
 21 Q Okay. But you sent that 30-minute potpourri --  
 22 A Yes.  
 23 Q -- and you --  
 24 A From the two trips, '92 and '93.  
 25 Q -- and you get a call back from Mr. Moore's office

Page 55

1 saying we like it; we want more.  
 2 A We want the masters.  
 3 Q But did they want more content as well?  
 4 A Sure.  
 5 Q So then what happens? You send them another tape?  
 6 A I sent them two tapes. But I did not send them the  
 7 entire six hours. I sent them two master tapes.  
 8 Q Which covers hours --  
 9 A Tapes 2 and 3, four hours.  
 10 Q What do those tapes contain, the four hours?  
 11 A Basically our memories of the trip. We stopped off  
 12 actually first off in Minneapolis for the night and  
 13 went to the mall. And I think the tape that I sent him  
 14 had none of that. And perhaps our arrival in London.  
 15 The second tape on mine -- which would be  
 16 different than his, which is all in one tape --  
 17 basically, we are taking trips on a bus, and we are  
 18 taking photographs of each other. He handed me the  
 19 camera; I'd take pictures of him. He'd hand it back to  
 20 me. I'd take pictures on my 110. And we were just  
 21 documenting our time together on vacation. A couple of  
 22 little buddies experiencing the Beatles.  
 23 Q Sure. So did you send him anything else other than  
 24 those two tapes?  
 25 A Besides the 30-minute one, no. Maybe some email

Page 56

1 correspondence, some blogging. He had access to my  
 2 website. But, no, no other tapes besides those two and  
 3 the 30-minute potpourri.  
 4 Q And what comments do you get back now after you send  
 5 him the two tapes that are just copies of your master  
 6 tape, then?  
 7 A They liked what they saw; said there was a chance it  
 8 could make the movie, but there was 25,000 other  
 9 entries and they had a 500-hour movie content. And  
 10 that the chances of any of it making it in was very,  
 11 very slim.  
 12 Q When did this conversation come back?  
 13 A I can't give you an exact date, but I would like to say  
 14 sometime summer or maybe September of 2006. Because  
 15 the movie was released on June 29th, and I went to the  
 16 premier on June 14th. So I don't have an exact date on  
 17 that, but maybe he would.  
 18 Q Did you ever send him anything else other than that  
 19 30-minute potpourri and the two tapes from your  
 20 three-tape master?  
 21 A No other videos. Just the emails.  
 22 Q Did you send him any other audio, any CDs, any music,  
 23 anything else?  
 24 A I sent him a couple photographs, mostly -- and I sent  
 25 him a copy of the CD that I produced called I'm Alive.

Page 57

1 And I gave him permission to use it if he'd like to in  
 2 the film. I was hoping he would. It would be good  
 3 exposure.  
 4 Q Sure. Sure. The photographs that you sent him, what  
 5 photographs did you send?  
 6 A Just of me walking on my hands across -- the ones that  
 7 are at the website. A photograph of me sitting on the  
 8 steps of the Abbey Road Studios.  
 9 Q This CD that you sent him, refresh me. You said I'm  
 10 Alive?  
 11 A I produced a CD in 1998. It had a lot to do with my  
 12 medical experience. And that's why it's called I'm  
 13 Alive. And it was a concept album that I wrote and  
 14 created and produced and paid for.  
 15 Q Is this a CD that's got a number of songs on it?  
 16 A Yes. It's got 15 songs on it.  
 17 Q Did you have it professionally packaged --  
 18 A Yes.  
 19 Q -- or is this kind of just something you burned on your  
 20 own computer?  
 21 A No. I had it professionally done.  
 22 Q Did you actually buy a bunch of these CDs --  
 23 A Yes. I had a thousand of them made, all professionally  
 24 packaged and ready to go. And I've sold most of them.  
 25 Q You sold most of them. You said you sent one of those

Page 58

1 CDs to Mr. Moore's production company?  
 2 A I did.  
 3 Q Was it one of the professionally packaged ones?  
 4 A Yes.  
 5 Q Was it one that you had opened before, or was the --  
 6 A No. Still shrinkwrapped.  
 7 Q And then inside the shrink wrap, was there an inside  
 8 cover that talked about the songs?  
 9 A Yes.  
 10 Q And is that song, "Oh, England," contained on that I'm  
 11 Alive CD?  
 12 A Yes. Which I own the copyright to. I've got the  
 13 copyright.  
 14 Q When did you get the copyright on that?  
 15 A When I up -- did it in '98, I bought the copyrights to  
 16 the entire thing, including "Oh, England."  
 17 Q Who wrote "Oh, England"?  
 18 A We co-wrote it. I'd say I wrote about 80 or 90 percent  
 19 of the music and about 80 percent of the lyrics, but I  
 20 give credit to Ken for 50 percent of that song, because  
 21 he came up with the hook: "Oh, England," oh, oh" was  
 22 him. And then I got out my books on England from prior  
 23 trips, and I pretty much fashioned -- he doesn't play  
 24 the guitar like I do. Maybe he does now. But I pretty  
 25 much fashioned it. But I'd say 50/50 collaboration in

Page 59

1 the spirit of Lennon and McCartney, cowritten.  
 2 Q So you and -- it's your opinion that both you and  
 3 Mr. Aronson cowrote that song?  
 4 A That song, yes, sir. And it's -- I gave him credit for  
 5 it on the album.  
 6 Q When you were -- when you forwarded this material, the  
 7 second -- I want to make sure I understand this. So  
 8 you send the 30-minute potpourri. And then how much  
 9 time goes by before you send the second and third  
 10 tapes?  
 11 A I couldn't say for sure but maybe a month or two. I'm  
 12 just guessing.  
 13 Q That's fine.  
 14 A I don't know the exact date.  
 15 Q I appreciate that, Mr. Turnbow. I'm just asking for  
 16 estimations. Would you estimate a couple months went  
 17 by?  
 18 A Yes.  
 19 Q That second time when you sent the two tapes of your  
 20 three-set master, when you sent the two, did you also  
 21 send the pictures and the shrinkwrapped CD at that  
 22 time, or is that a different time?  
 23 A I actually sent about three packages, and I don't know  
 24 which package contained what. But that's -- the movies  
 25 went out pretty quick. Probably on the first one I

Page 60

1 threw the CD in there also, and I was hoping he would  
 2 use some of my music in the movie.  
 3 Q So it's your belief that at least the musical CD went  
 4 out with the 30-minute potpourri?  
 5 A I think so. Not -- I don't know. One of them. I sent  
 6 him about four packages. I don't know what went with  
 7 which. I paid for the postage on most of them until I  
 8 got a Fed Ex number from them and then I started doing  
 9 it that way.  
 10 Q Did you ever have any comments from anyone at  
 11 Mr. Moore's production company that they had listened  
 12 to the CD?  
 13 A Yeah. They listened to it and liked it very much.  
 14 Q What specific comments did you get?  
 15 A They said, We like your work. We think you have  
 16 potential. We enjoy it. We might use some of it in  
 17 the movie.  
 18 Q Did they make any specific comments about any other  
 19 songs?  
 20 A No. I didn't know what was going to go in the movie.  
 21 I didn't get to review it.  
 22 Q Sure. Did they talk about the "Oh, England" song to  
 23 you at all?  
 24 A I think -- she didn't mention it by name, but she  
 25 mentioned that I was singing a cappella in the London

Page 61

1 hotel room and that a few seconds of that had made the  
 2 movie. She did not mention the song by title. I  
 3 didn't know what it was until I saw the premier on the  
 4 14th of June, 2007, in Seattle. I had no idea what was  
 5 on there.  
 6 Q Sure. I understand that.  
 7 A I didn't have control of that.  
 8 Q When did you find out that some of the footage that you  
 9 sent to Michael Moore made the movie?  
 10 A Not until about one month before the premier in about  
 11 May of 2007 is when I knew.  
 12 Q How did you find out?  
 13 A Christine called me and said, I got good news. You  
 14 made the cut, and we'd like to invite you to the  
 15 premier.  
 16 Q The Seattle premier?  
 17 A Um-hmm.  
 18 Q That's a yes, sir?  
 19 A That's a yes.  
 20 Q Did you ever meet anyone from Mr. Moore's production  
 21 company in person before the premier?  
 22 A No.  
 23 Q Did Mr. Moore's production company ever send you any  
 24 requests to sign releases --  
 25 A Yes. I did.

Page 62

1 Q Let me finish. I know you know where I'm going, but  
 2 you have to let me finish.  
 3 At any time did Mr. Moore's production company  
 4 send you any releases or waivers for you to review and  
 5 sign?  
 6 A Yes, sir, I did sign a waiver.  
 7 Q When did that waiver come to you?  
 8 A I don't know the exact date again. It happened about  
 9 the time that we were sending the original packages.  
 10 It is not in May. It was long before that.  
 11 Q Did you receive the waiver before or after you sent the  
 12 materials to Mr. --  
 13 A After.  
 14 Q So they -- you sent the materials to Mr. Moore, they  
 15 had an opportunity to review the materials. And then  
 16 they sent you a waiver to sign?  
 17 A Yes, sir.  
 18 Q Do you remember what that waiver said?  
 19 A I basically was not going to be paid any monetary  
 20 compensation.  
 21 Q They made that clear?  
 22 A They made that very clear. I agreed to that. And then  
 23 they were going to use excerpts of my CD, if they chose  
 24 to, and excerpts from the home movies, the home videos,  
 25 from my vacation which I had sent. And I signed off on

Page 63

1 that. And, unfortunately, I did not make a copy. And  
 2 I have learned a lesson that I will do that in the  
 3 future. I'll keep you a copy.  
 4 Q Oh, I see. So you signed it and just sent it back?  
 5 A I did not keep a copy. I just signed it and sent it  
 6 back without copying it not knowing that I might need  
 7 it in the future.  
 8 The only way we can get it, probably, is from  
 9 Michael Moore, and I've tried and -- unsuccessfully to  
 10 this point.  
 11 Q Why have you been unsuccessful at this point?  
 12 A Ask Michael Moore. He has not returned my phone calls  
 13 He has not returned my emails. I've tried and so has  
 14 my attorney. We would like to get that for you.  
 15 Q Sure. How many phone calls have you put in to  
 16 Mr. Moore's production company?  
 17 A Many, many.  
 18 Q Over ten?  
 19 A Yes.  
 20 Q Over 20?  
 21 A Well, the numbers that I had have all been  
 22 disconnected, because at the time they were working out  
 23 of New York. And he's moved his operation probably  
 24 back to Flint, Michigan. I don't know where he is.  
 25 But I've had unsuccessful numbers of contacts. And

Page 64

1 I've had no response from the emails, and I sent a hard  
 2 copy twice through the mail, and I've kept it, with a  
 3 postmark date, but nobody was at that address. It's  
 4 not an address anymore for Dog Eat Films.  
 5 Q Have you tried to send an email or make a phone call to  
 6 his current production company?  
 7 A Yes, I have. I've tried all that stuff, and so has my  
 8 attorney. No success.  
 9 Q Do you know if Ms. Fall still works for Mr. Moore?  
 10 A I have no idea. She did say that she was moving on to  
 11 other things, and she had given me the number of that  
 12 other guy that I mentioned to correspond with him  
 13 instead, because she was done with this project and was  
 14 moving on.  
 15 Q Is this Cory that you were saying?  
 16 A I think so. That information is at ericturnbow.com.  
 17 So I don't know exactly, but that's basically -- she  
 18 said that she was moving on to other things; that the  
 19 movie was already out. And I think they closed that  
 20 office in New York, is what I'm thinking, because it  
 21 comes back undelivered twice, the hard copy. And the  
 22 emails, nobody wrote me back. I just never heard  
 23 anything, and I sent them to every address I had in my  
 24 file.  
 25 Q Have you got all the emails you sent -- how many emails

Page 65

1 do you think you've sent to someone at Michael Moore's  
 2 production company?  
 3 A I don't know. Over the years?  
 4 Q No. Just specifically asking for a copy of this --  
 5 A It's say at least ten.  
 6 Q Have they come back undeliverable?  
 7 A Not the emails; only the hard copy.  
 8 Q With regards to Mr. Aronson, you'd agree that the  
 9 materials that you forwarded to Mr. Moore's production  
 10 company included Mr. Aronson's likeness?  
 11 A Sure.  
 12 Q He's on the video, correct?  
 13 A Yes.  
 14 Q And is his voice on the CD that you forwarded?  
 15 A Yes.  
 16 Q Did you ever talk about Mr. Aronson in any of these  
 17 conversations with Michael Moore and his production  
 18 company?  
 19 A I referred to him as my friend. I said my friend was  
 20 with me.  
 21 Q Did you ever use his name?  
 22 A I don't recall.  
 23 Q Did you ever recall in any of these 10 to 15  
 24 conversations or any of the emails that you got from  
 25 Mr. Moore's production company, did they ever ask you

Page 66

1 about Mr. Aronson?  
 2 A No. Frankly, I contacted Ken long before all this  
 3 happened, and he had no interest, so I didn't think it  
 4 was relevant, so it never came up.  
 5 MR. VERTETIS: I'm going to move to strike  
 6 your nonresponsive part of the answer.  
 7 Q And the question I just simply asked you is, in any of  
 8 the conversations you had with Ms. Fall or anyone from  
 9 Michael Moore's production company, the 10 to 15 calls  
 10 or any of emails, did they ever talk to you about  
 11 Mr. Aronson?  
 12 A I mentioned him as a friend. I'm sure his name came  
 13 up, yeah. I'm sure of it.  
 14 Q So you're sure that at least at some point in time  
 15 Mr. Moore's production company talked with you about  
 16 Mr. Aronson?  
 17 A I believe they knew I was on vacation with a friend. I  
 18 don't know the extent --  
 19 Q Well, he's in the video, is he not?  
 20 A Yes.  
 21 Q I mean, he's singing "Oh, England" in the video that  
 22 you sent him; is he not?  
 23 A I would assume he is, yes.  
 24 Q This is your -- this is a big deal to you, correct?  
 25 You're in Michael Moore's film.

Page 67

1 A Yeah, it's great, yeah. I'm excited about it.  
 2 Q And you're equivocating on whether Mr. Aronson's in  
 3 your movie or not?  
 4 A He's in the videos we shot together, yeah.  
 5 Q And this doesn't come up in any of the conversations  
 6 with Mr. Moore's production company that, hey, there's  
 7 someone in here that might not have any idea as to  
 8 what's going on?  
 9 A Well, frankly, they weren't interested in Ken's story;  
 10 they were interested in my story. They were interested  
 11 in the surgery that I had been through and the social  
 12 medicine. They didn't have any interest in his story.  
 13 The story was about me. It wasn't about him. So they  
 14 really didn't focus on him as all. They focused on  
 15 Eric and they focused on my stay in London and my  
 16 hospitalization. He was a very minor factor.  
 17 Q But was he was a factor, correct?  
 18 A Three seconds' worth in the film.  
 19 Q But he was a factor, correct?  
 20 A Sure. He was in --  
 21 Q And was that factor discussed with Michael Moore's  
 22 production company during these calls?  
 23 A I think they knew that I was there as a friend, but,  
 24 no, it didn't really come up too much because that  
 25 wasn't the focus of the movie in relationship to Eric.

Page 68

1 It had nothing to do with him. So it really did not  
 2 come up much. They knew that I went with him. That's  
 3 about it.  
 4 Q It didn't come up very much, then?  
 5 A No. Why would it?  
 6 Q Because his likeness is in the movie and his voice is  
 7 in the movie and he is the one taking the video,  
 8 correct?  
 9 A That's -- suppose -- yes. I suppose that's true.  
 10 Q Correct. Okay. Did Ms. Fall ever state that she  
 11 wanted to talk to Mr. Aronson or wanted to get  
 12 information from him and his permission?  
 13 A No. Never came up. I talked with Ken about it myself  
 14 though.  
 15 Q When did you talk to Ken about it?  
 16 A Well, I was very excited that we had this opportunity,  
 17 and as soon as I knew anything about it, I called Ken  
 18 up and he actually came to my house.  
 19 Q When did you call Ken up?  
 20 A Well, it was -- it had to be sometime in 2006. I don't  
 21 have the exact date. We tried to get the phone  
 22 records, and they were unable to give it to us. It was  
 23 like \$18,000 for one of them, and the other one didn't  
 24 carry them, and so we got the phone records -- we could  
 25 not get it that way. So, to answer your question, it

Page 69

1 was sometime in 2006 after I received the email. I  
 2 called him up and I invited him over.  
 3 Q But this is all about you. Why are you excited to  
 4 share it with Ken?  
 5 A I thought he might be excited about it; he wasn't. He  
 6 didn't want to do it. So he had no interest in it. He  
 7 didn't know who Michael Moore was. So he came over to  
 8 check it out on my --  
 9 Q Right. But this was all about you. It was your story;  
 10 it was your fall. Why are you excited to call Ken up  
 11 and get him involved in this stuff?  
 12 A I thought he might be interested at the time. We  
 13 hadn't spoken in four years. We'd had a disagreement,  
 14 and we'd reconnected. So I invited him over and I  
 15 played him the 911 movie at my house --  
 16 Q Fahrenheit?  
 17 A -- with another person there. We all were there  
 18 watching it together, and we also viewed the videos of  
 19 the trip and we reminisced and caught up. And I wanted  
 20 to let him know that there was this opportunity  
 21 available. Every opportunity was expressed to him.  
 22 Q Now, let me ask -- this call -- when you were excited  
 23 about talking to Ken, was this when you knew that there  
 24 was going to be footage in the movie with Michael  
 25 Moore?

Page 70

1 A This was when I knew that we had an opportunity to  
 2 maybe include our story very, very early on. Since the  
 3 email came in February of '06, I would say that our  
 4 meeting happened somewhere around the summer of '06 or  
 5 something. I don't nearly know the exact dates, but it  
 6 was before, at its inception.  
 7 Q Have you ever had a conversation, even after the movie,  
 8 with Ms. Fall with regards to Mr. Aronson?  
 9 A No, it hasn't come up.  
 10 Q Did you have any conversations with Mr. Moore's  
 11 production company after the premier?  
 12 A After the premier? Yes.  
 13 Q How many conversations have you had with him?  
 14 A Not too much, just a few wrap ups here and there.  
 15 Q What were the wrap ups?  
 16 A Mostly via email, like I told you. Then she said she  
 17 was moving on to another project. They thanked me over  
 18 and over and said that my part in the movie really made  
 19 the movie. It was humorous antidote [sic], is what  
 20 they said.  
 21 Q Who said that?  
 22 A Michael Moore's sister, Ann Moore. Nice antidote.  
 23 Q What did she say was the humorous part of the movie?  
 24 A When I fell.  
 25 Q When you fell? Okay. Did you get any type of

Page 71

1 discussion from Mr. Moore or his sister, anyone from  
 2 the production company as to the value of your part of  
 3 the video?  
 4 A I wasn't in it for the money. All I wanted to do --  
 5 Q I'm not asking about money.  
 6 A -- is share my story.  
 7 Q I'm not asking about money. I'm talking about value.  
 8 A I released everything to them, because I was proud to  
 9 be in it.  
 10 Q You're not listening to me.  
 11 A We did not discuss the value.  
 12 Q We are not communicating effectively in this question.  
 13 What I'm asking is did you ever receive any type of  
 14 indication from anyone from Mr. Moore's production  
 15 company that the scenes that you and Mr. Aronson were  
 16 in were of high comedic value or very important to the  
 17 success of the movie?  
 18 A No. That would be a no.  
 19 Q But you just testified and told me that Michael Moore's  
 20 sister commented --  
 21 A That was at the premier.  
 22 Q What did she --  
 23 A She said that at the premier. At the premier she said,  
 24 You're the one who provided the famous antidote or  
 25 something like that. It's in The Olympian article.

Page 72

1 She's quoted in it.  
 2 Q I'm just asking your testimony. So, again, I just want  
 3 to be clear, Mr. Turnbow. What did Michael Moore's  
 4 sister tell you about the footage that was provided by  
 5 you for the movie?  
 6 A She said, when I met her at the premier, that I was the  
 7 comic relief in the middle of a very serious picture.  
 8 Something like that to that effect. About one  
 9 sentence. And I laughed and said, Thank you very much.  
 10 I'm very, very pleased to be a part of it. I was happy  
 11 to share my experience with you.  
 12 Q Did you ever talk with Michael Moore's sister again  
 13 after that?  
 14 A No. Just at the premier June 14 -- 15 -- 14th.  
 15 Q Did you ever advise Mr. Aronson that you were going to  
 16 the premier?  
 17 A Yes, I did.  
 18 Q When did you advise him?  
 19 A Well, it kind of came up at the last minute that I got  
 20 an email and I printed it. And I had to like fly up  
 21 there pretty quickly. But we didn't know the exact  
 22 time of day. It was kind of secretive because of the  
 23 press. The paparazzi were all over the place. Nobody  
 24 had seen the movie yet, and Michael Moore is very  
 25 secretive.

Page 73

1 So it was last minute. He lives clear down in  
 2 Hoquiam. It's a long ways away, so I had to make other  
 3 arrangements. My sister happened to live right there  
 4 in Seattle, and she was happy to be my date, as we say,  
 5 for the premier. And it was a lot of fun.  
 6 Q I'm going to mark as Exhibit 2 what I believe is a  
 7 portion of your website.  
 8 A It's my blog on cosmickaraoke.com. It's been reprinted  
 9 on Michael Moore's website.  
 10 (Exhibit No. 2 marked for identification.)  
 11 Q So I'm going to ask you to take a look at Exhibit 2.  
 12 Do you recognize that document?  
 13 A Sure.  
 14 Q What is that document?  
 15 A This is my blog that's on my website explaining about  
 16 my involvement in the movie Sicko.  
 17 Q When did you start your blog?  
 18 A Shortly after the movie was released. I would say  
 19 within the first three months. I was getting tons of  
 20 emails from everyone who thought I was an expert in the  
 21 medical field, which I'm not, and I'd forward all of  
 22 that stuff to Michael Moore's office, because it's not  
 23 my specialty. So I posted a blog so I'd sort of have a  
 24 record of it, a historic record of it.  
 25 Q So after your exposure in this movie, you received a

Page 74

1 lot of interest from the general public and community?  
 2 A Sure.  
 3 Q What kind of interest did you receive?  
 4 A Mostly it was reporters. I was on TV and on radio  
 5 and -- mostly on printed words. And they took my blog  
 6 and translated it into other languages and posted it  
 7 online.  
 8 Q Let's talk about the interviews. Who interviewed you?  
 9 A I was interviewed by -- a whole hour's worth, and I do  
 10 have that interview on CD somewhere by KAOS radio,  
 11 which was the college radio, also KOMO radio called me  
 12 and did a --  
 13 Q KOMO?  
 14 A KOMO radio called me and did a two-minute radio spot,  
 15 podcast I guess they call it. And then my local  
 16 newspaper, the daily Olympian, sent Breanne Coats over  
 17 to my house, who is the local reporter. And she used  
 18 my own image from the premier, because she couldn't get  
 19 a picture that looked as good as the one that I could  
 20 provide that had Michael in it.  
 21 Q And you also said you received a lot of Internet  
 22 interest.  
 23 A Interest, right, but never any money.  
 24 Q And as a result of this interest, you've started your  
 25 own blog?

Page 75

1 A Yeah. I would say so.  
 2 Q And that's what we have here as Exhibit 2.  
 3 A Actually, that's not the blog. It's probably been  
 4 reprinted on my blog. This is from cosmickaraoke.com  
 5 where you click on my business website to learn more  
 6 about Eric's involvement in the movie. You click on  
 7 that, and that's basically the web page you will see.  
 8 But Michael Moore also reproduced this. Just like  
 9 this but without the picture of him on it. He took  
 10 himself off and put the other two pictures on. And  
 11 that's at michaelmoore.com. It's also been translated  
 12 to all kinds of languages. It's all over in  
 13 different -- Japanese. I've seen it in Japanese. It's  
 14 kind of cool. So that my writing. I wrote it as kind  
 15 of a journal or a diary.  
 16 Q So the two and a quarter pages that's on Exhibit 2,  
 17 that's all your writing?  
 18 A Yes.  
 19 Q I just wanted to ask you a few questions about some of  
 20 the portions of your writing here.  
 21 A Sure.  
 22 Q On the second to last paragraph, paragraph that starts  
 23 with: So we checked in as VIPs.  
 24 Do you see that paragraph?  
 25 A We talked about that. There you go.

Page 76

1 Q That's what I wanted to ask you about.  
 2 It says: Michael Moore arrived with his sister,  
 3 Ann Moore, who greeted me and said, quote, You are the  
 4 one that provided some much needed comic relief in the  
 5 middle of our little picture. Thank you.  
 6 A Right. We discussed that.  
 7 Q And that was coming from one of the producers?  
 8 A Yes.  
 9 Q So it's your testimony that one of the coproducers  
 10 commented that the footage that you provided was of  
 11 much comic relief in the middle of the picture?  
 12 A Yes.  
 13 Q From the first page onto the second page, it says:  
 14 Michael -- I'm assuming that is Mr. Moore -- plowed  
 15 through four hours of my vacation videos --  
 16 A Yes.  
 17 Q -- and carefully edited them down for this transitional  
 18 time in the movie. They included, one, the plane ride.  
 19 A Yes.  
 20 Q Two, singing a cappella original song "Oh, England" at  
 21 the London hotel with my friend Ken.  
 22 A Yes.  
 23 Q Sitting on the steps --  
 24 A See, Ken's mentioned right there.  
 25 Q Sitting on the steps of the legendary Abbey Road

Page 77

1 Studios.  
 2 You provided that footage too?  
 3 A Yes, I did.  
 4 Q And your fall on Abbey Road.  
 5 A Yes.  
 6 Q And then waking up in the hospital after having your  
 7 shoulder pushed back into place?  
 8 A Yes.  
 9 Q And enjoying the "less than \$10" medication that came?  
 10 A Yes. It's all true.  
 11 Q Who took all of the footage of that?  
 12 A Well, we both actually took footage. I took some, and  
 13 he took some.  
 14 Q Well, let's go through it. Who took the footage of the  
 15 plane ride?  
 16 A We both did. I had the camera sometimes on the plane.  
 17 Q And who took the footage of singing a cappella original  
 18 song "Oh, England"?  
 19 A That was my friend, Beau Witmer [phonetic]. He had a  
 20 daughter named Carmen Cusack, who was actually  
 21 performing live in West London at the time. Les  
 22 Miserables is the name of the play.  
 23 We went to see her, couldn't get tickets so it was  
 24 sold out and she joined us. And she was the one  
 25 filming us singing.

Page 78

1 Q "Oh, England"?  
 2 A Yes. So Carmen Cusack. And she's the daughter of the  
 3 man who originally introduced us together back in the  
 4 early '90s, or he said late '80s. It could have been  
 5 late '80s. I thought it was early '90s. So that's his  
 6 daughter, Carmen Cusack, that took that one.  
 7 Q Sitting on the steps of Abbey Road Studios?  
 8 A Well, that would have been Ken that took that.  
 9 Q And then your fall on Abbey Road?  
 10 A That would have been Ken taking that. And then there  
 11 was another guy who emailed me later who was taking  
 12 stills of it -- which are on my website -- with my  
 13 camera, the 110. And that one's been publicized all  
 14 throughout the Internet of the actual fall. And  
 15 Michael Moore even used it on his website as well. So  
 16 a couple people did that, the fall.  
 17 Q I'm asking the actual video --  
 18 A That was Ken filming.  
 19 Q So Ken filmed you waking up in the hospital after  
 20 having your shoulder pushed out?  
 21 A I would say, yes, Ken did that.  
 22 Q And the portion that talks about the \$10 medication.  
 23 Was that Ken that did that as well?  
 24 A Yes. I was standing on the streets of London, and we  
 25 had just been released from the hospital. We were on

Page 79

1 our way to see Buddy Holly on Broadway. And that's  
 2 when that happened.  
 3 Q Okay. Your last page where it says, I hope he can use  
 4 his 15 minutes to drum up a bit of business, I believe  
 5 that's from your sister --  
 6 A Right.  
 7 Q -- is that correct?  
 8 A Yes.  
 9 Q Has this publicity assisted you in growing your  
 10 business?  
 11 A My business has grown considerably, but it's not as a  
 12 result of the movie, no.  
 13 Q You don't believe it was --  
 14 A No. It's helped a little, yes, but basically when I  
 15 received the job that I'm at now I mentioned earlier,  
 16 that was before the movie was ever incited, and that's  
 17 where my main -- 90 percent of my claimed income comes  
 18 from that club.  
 19 So I would say, yes, it's helped a little bit on  
 20 private parties and stuff, because I can mention that I  
 21 was in an Academy Award-nominated movie and I got to  
 22 meet the producers of the movie, but the majority of  
 23 the business growth was not because of this. It was  
 24 because of my savvy business entrepreneurship and  
 25 getting that house account in Lacey, which was before

Page 80

1 the movie.  
 2 MR. VERTETIS: I want to mark this as  
 3 Exhibit 3.  
 4 (Exhibit No. 3 marked for identification.)  
 5 Q This is an article from Northwest Karaoke --  
 6 A Right.  
 7 Q -- Northwest Karaoke Guide. Have you seen this?  
 8 A Of course I did. I was interviewed for this.  
 9 Q You were interviewed by Frank Davies?  
 10 A Yes. He's my webmaster for cosmickaraoke.com.  
 11 Q Have you seen this document before?  
 12 A Yes. I've got the original. A much better copy than  
 13 this.  
 14 Q And I also wanted to ask you, you would agree that  
 15 Mr. Aronson cowrote "Oh, England"?  
 16 A Yes, I would. It was a collaborative -- like spirit of  
 17 McCartney and Lennon. He doesn't own the copyright,  
 18 though, I might add. I own it.  
 19 Q Well, that's your opinion, but that's fine.  
 20 A Well, I've got the document.  
 21 Q Since this movie has aired, have you made any  
 22 derogatory comments about Mr. Aronson on the Internet?  
 23 A I wouldn't say derogatory. I responded to his letter  
 24 to the editor.  
 25 Q How you define the term "derogatory"?

Page 81

1 A Slander, maybe. No, I wouldn't say so.  
 2 Q What words have you used in the Internet to describe  
 3 Mr. Aronson in the past, say, two years?  
 4 A I responded, and it wasn't just Internet. I sent it to  
 5 the Aberdeen newspaper, which he went and interviewed  
 6 and expressed his discontent of not having any credit.  
 7 I responded to that, and I mailed it to them. And I'm  
 8 sure we have a copy of that document somewhere.  
 9 Q No. But didn't you actually create actually a website  
 10 page --  
 11 A No.  
 12 Q -- that said that --  
 13 A No. I've got a website blog site, and I might have  
 14 thrown something in there, but if you were to look, I  
 15 don't think you'd find anything like that.  
 16 Q Well, you would agree that you have actually taken  
 17 pages off of the Internet that had mean-spirited or  
 18 defaming comments about Ken Aronson, correct?  
 19 A Well, what I would say is this: That I responded to  
 20 the Aberdeen paper, and I produced that blog, right.  
 21 Q Have you taken that blog down?  
 22 A Yes.  
 23 Q What did that blog say before you took it down?  
 24 A Just telling them that what he said was -- some of what  
 25 he said was incorrect.

Page 82

1 Q Did you say --  
 2 A I'd have to refer to the document really. I bet we  
 3 have it somewhere. I don't know what it is.  
 4 Q You've taken it off the Internet, so I wanted to ask  
 5 you.  
 6 A I took it down at the advice of my attorney.  
 7 Q Right. Right. Because you called him a crybaby. I  
 8 think you called his lawsuit bullshit, and you made  
 9 other types of disparaging comments about him --  
 10 A I'm not sure exactly what I said.  
 11 MS. LIM: I'm going to object to the word  
 12 disparaging. I don't think it's been determined, and I  
 13 think it's a legal terminology.  
 14 Go ahead and answer if you can.  
 15 A My answer would be I don't recall the exact  
 16 terminology. I'd be happy to provide you with a copy  
 17 of the document.  
 18 Q I appreciate that. So why don't we do this.  
 19 A She has it.  
 20 Q We'll make Exhibit 4 what your attorney will produce,  
 21 and I'm asking that to be what you actually put into  
 22 public on the Internet, that comment which I have on  
 23 Google.  
 24 And we'll make Exhibit 5, which is actually my  
 25 Google search. So I will make Exhibit 5 what I've

Page 83

1 pulled on Google, but when I try to get the page  
 2 opened, it's closed on me, so --  
 3 A Well, it's been taken down at the advice of my  
 4 attorney.  
 5 Q I understand that. I'm making that Exhibit 5, and  
 6 Exhibit 4 will be actually what you were putting out  
 7 into the public.  
 8 (Exhibit Nos. 4 & 5 marked for identification.)  
 9 (Request for production.)  
 10 Q With regards to your business, it's your testimony that  
 11 you don't believe you've suffered any benefit from all  
 12 of this publicity --  
 13 A A little bit.  
 14 MS. LIM: Wait until he's done.  
 15 Q -- all of this publicity that you have gotten from your  
 16 involvement in Mr. Moore's film?  
 17 A I would say it's -- it's helped the business in the  
 18 fact that I can tell it to the clients that I was in an  
 19 Academy-nominated movie. But in terms of dollars, 90  
 20 percent of my income comes from another source, from  
 21 The Viking. So not much monetarily, but sort of  
 22 bragging rights.  
 23 Q Sure.  
 24 A It has helped; it's not hurt.  
 25 Q Sure. Has anyone commented negatively about your

Page 84

1 involvement in the movie?  
 2 A Not really that I can think of offhand.  
 3 Q You qualify that. You say "not really." Why do you  
 4 say not really?  
 5 A Because I'm not sure. I don't know.  
 6 Q So there may have been some folks in the community that  
 7 said negative things about your involvement?  
 8 A I don't think so. I think it's been a pretty positive  
 9 thing all the way around. I haven't experienced  
 10 anything negative from it myself.  
 11 Q Why don't we just take a second, Mr. Turnbow. I want  
 12 to talk to my client outside. So why don't we take  
 13 about two or three minutes to stretch.  
 14 (Off the record.)  
 15 Q You mentioned that you copyrighted your CD, I'm Alive.  
 16 A Yes, sir.  
 17 Q Did you use an attorney for that?  
 18 A No, I sent it in directly.  
 19 Q You explain to me the process. Who did you send --  
 20 A I went to the music store and they sent me -- they gave  
 21 me a kit -- it's very common -- where I gave them two  
 22 copies of the archive, and you fill out all the  
 23 paperwork, and they said there's no attorney necessary.  
 24 I also made a special deal with Ken on that, too,  
 25 to cover his portion of the royalty or whatever. And I

Page 85

1 agreed to sell him 100 -- up to 100 copies of the 1,000  
 2 that we made at less than cost so that we could mark  
 3 them up and make a profit on it and get something out  
 4 of his input. So he did that and he collected I don't  
 5 know how many copies -- I didn't really keep much of a  
 6 record of it -- as less than cost, where I lost money  
 7 on it. But he was able to mark them up and sell them  
 8 to some of his friends and family in order to get some  
 9 money out of it.

10 Q You are talking about copies of the CD to sell.  
 11 A Right. The physical 1,000 copies that I had produced,  
 12 and I paid 100 percent for it.

13 Q Why did you give Ken that deal?  
 14 A Because I wanted him to be compensated for his input on  
 15 the album. He was the only one. There was about five  
 16 other people that were helping too that never -- nobody  
 17 asked. So I did that as a -- you know, as a favor, as  
 18 a friend. Because I owned the copyright, and he knew  
 19 that outright.

20 Q We are kind of dancing around a bunch of stuff. I want  
 21 to be real specific here. When did you send the  
 22 copyright in?  
 23 A It must have been in 200- -- 199- -- either '97 or '98.  
 24 I'm thinking '98, because I used the physical -- I sent  
 25 them two copies of the physical CD.

Page 86

1 Q When you say "sent them," who is "them"?  
 2 A The copyright office.  
 3 Q The United States Copyright Office?  
 4 A Yes.  
 5 Q Did you receive anything back from the copyright office  
 6 confirming that you had the copyright?  
 7 A Yeah.  
 8 Q Do you still have any of those documents?  
 9 A No, unfortunately, I don't have the documents. But I  
 10 bet you I could obtain them if necessary. I could  
 11 probably get ahold of them.  
 12 Q I'd like you to make your best efforts to do that. If  
 13 you can forward them to your attorney, I'd appreciate  
 14 that.  
 15 (Request for production.)  
 16 Q But you don't have any documents right now that you  
 17 have in your possession saying that you have a  
 18 copyright to I'm Alive?  
 19 A There's a possibility that we could probably obtain it  
 20 on the Internet. They have a copy in their archive.  
 21 Q But you don't have anything in your possession?  
 22 A I don't.  
 23 Q When you made the application to the copyright office,  
 24 did you include Mr. Aronson as a coauthor of --  
 25 A Yeah.

Page 87

1 Q You did?  
 2 A Yeah. Because it's written right on the -- it's  
 3 written right on the CD that he cowrote that song.  
 4 Q Correct. But when you moved to get the copyright, you  
 5 included Mr. Aronson in that application?  
 6 A I'm uncertain for sure.  
 7 Q You would agree it would have been appropriate to do so  
 8 because he was a co-collaborator in the song?  
 9 A Sure. But we had a special deal where he was already  
 10 compensated.  
 11 Q What's this special deal?  
 12 A I just told you. The hundred CDs -- up to a hundred  
 13 CDs at cost, so he said that was good enough for him.  
 14 Q So let me make sure I understand this deal. It's your  
 15 testimony that you're saying that Mr. Aronson would  
 16 have given over any of his copyright protection rights  
 17 for a deal on buying a thousand CDs -- or a hundred  
 18 CDs? Is that what you're saying this deal is?  
 19 A I offered him to be a part of the copyright, and he  
 20 didn't want to pay any money. I said, Fine, I'll own  
 21 the copyright.  
 22 Q How much was the copyrighting application?  
 23 A I don't know exactly.  
 24 Q It's under \$200, correct?  
 25 A Probably. But he didn't want to pay any of it for his

Page 88

1 song. So we struck this other deal for the hundred  
 2 CDs.  
 3 Q Did you receive anything in writing from Mr. Aronson  
 4 for that release?  
 5 A I don't believe so. It was a gentlemen's agreement.  
 6 Q Does the CD that you gave to Mr. Moore or his  
 7 production company include a copyright on that CD?  
 8 A Yes.  
 9 Q Was there any discussions that you had with Mr. Moore  
 10 or his production company with regards to the CD and  
 11 the copyright?  
 12 A He knew I had copy -- he knew I owned it and I wrote  
 13 it.  
 14 Q So is the answer yes or no that you had any  
 15 conversations with Mr. Moore or his production  
 16 company --  
 17 A Perhaps.  
 18 Q -- with the copyright?  
 19 A I think they were aware of it. I'd say yes. Not a  
 20 hundred percent sure, but, yes. Said it right on the  
 21 CD.  
 22 Q And, again, is it your recollection that you included  
 23 Mr. Aronson as a coauthor or creator of the "Oh,  
 24 England" song when you made --  
 25 A Absolutely.

Page 89

1 Q -- when you made the copyright application?  
 2 A Absolutely. We cowrote the song together.  
 3 Q With regards to the CD cover that you sent within that  
 4 shrinkwrapped package, is there a picture of  
 5 Mr. Aronson within that CD?  
 6 A Yes, there is.  
 7 Q And the Fahrenheit 911 segment of your deposition  
 8 testimony, I want to bring you there. When did  
 9 you -- to the best of your recollection, when did you  
 10 have this alleged conversation with Mr. Aronson that  
 11 you showed him the Fahrenheit 911? When was that in  
 12 the timing?  
 13 A It probably would have been in the year 2006 sometime.  
 14 I'm not sure when. We did have somebody else there  
 15 that can verify that. We watched the movie together as  
 16 well as the videos. So I would say 2006 before I  
 17 entered into my involvement with sending the movies and  
 18 everything. We got together because I wanted to see if  
 19 he was interested in being included, and there was no  
 20 interest there.  
 21 Q So if I understand you correctly, you're saying that  
 22 this meeting that occurred with Mr. Aronson occurred  
 23 before you sent anything to Michael Moore?  
 24 A No. After I sent the -- I contacted by email. I  
 25 hadn't sent the videos yet.

Page 90

1 Q Okay. And I --  
 2 A We were still in that process.  
 3 Q And I think, if I remember your testimony correctly, it  
 4 was February of '06 when you got Mr. Moore's email?  
 5 A Yes, sir. February of '06.  
 6 Q So you had this alleged meeting with Mr. Aronson with  
 7 the Fahrenheit 911 video between February of '06 and  
 8 you sending some type of video to Mr. Moore?  
 9 A I believe so, but I'm really uncertain on exact dates  
 10 and exact chronological -- trying to put all that  
 11 together.  
 12 Q But that's your best knowledge?  
 13 A Yeah. Sometime in 2006. I thought he would be  
 14 delighted and want to be part of the project.  
 15 Q I want to thank you for your time. I want to thank you  
 16 for your candor. I have nothing further. But the only  
 17 thing I want to do is reserve the right to ask you some  
 18 questions about the documents that I have asked for  
 19 today from your attorney. And if they are produced and  
 20 I think I have to ask questions, which I doubt I will,  
 21 we will work out an agreeable time. We might be able  
 22 to do it via telephone, but I don't want to cause a  
 23 hassle to you. But I just want to reserve that right.  
 24 And I want to thank you for your candor today.  
 25 ///

Page 91

EXAMINATION

1  
 2 BY MS. LIM:  
 3 Q I wanted to follow up on some questions, Eric.  
 4 A Very well.  
 5 Q During this meeting where you and Mr. Aronson were  
 6 watching the Fahrenheit 911, you said there was  
 7 somebody else that was there also. Who was that?  
 8 A My friend Paul Braggett. He's upstairs right now. He  
 9 was working on my computer that day. And he's  
 10 frequently helping me with the Linux operation.  
 11 Q And at the time that you guys were viewing the 911 film  
 12 as well as the old home videos, you had not yet sent  
 13 any home video to Michael Moore's office?  
 14 A I believe I had not yet. I'm not 100 percent sure on  
 15 that time line exactly.  
 16 Q So during the time that you guys were viewing, again,  
 17 the Fahrenheit 911 movie and the home videos, did you  
 18 ever ask Ken specifically if he wanted to participate  
 19 in this Michael Moore project?  
 20 A Yes, I did. I was hoping that he would want to be  
 21 involved.  
 22 Q What did Ken say to you?  
 23 A He said it was a long shot at best. 25,000 emails.  
 24 Probably nothing would ever come of it. I don't want  
 25 to have anything to do with it. Good luck to you. And

Page 92

1 I used my own copy that I owned to send to Michael  
 2 Moore. I did not go to his copy.  
 3 Q Did Ken ever tell you prior to you sending the home  
 4 videos that you had no permission to send the videos?  
 5 A Absolutely not. If he had told me that, I would never  
 6 have done it.  
 7 Q Did Ken -- when you guys reconnected back to each  
 8 other, did Ken ask you for the original masters?  
 9 A Absolutely not. Never came up.  
 10 Q And then after you sent the videos to Michael Moore,  
 11 did you inform Ken that you had sent the videos to  
 12 Michael Moore?  
 13 A Yes, I did.  
 14 Q This is before the film actually came out?  
 15 A Absolutely. Yeah, he knew.  
 16 Q At the time you told Ken that you had sent the films to  
 17 Michael Moore, did Ken ever say to you, I want you to  
 18 get those videos back and you have no right to use  
 19 those videos?  
 20 A No. I never heard anything like that from him.  
 21 Q Did Ken ever say to you after you sent the videos to  
 22 Michael Moore when you told him that you sent them that  
 23 they were his videos and that you had no right to do  
 24 that?  
 25 A Absolutely not.

Page 93

1 Q Did Ken also know that you had sent the CD that had the  
 2 "Oh, England" song to Michael Moore's office?  
 3 A Yes. He had knowledge of that.  
 4 Q And did Ken ever say, You had no right to send the CD  
 5 to Michael Moore?  
 6 A No.  
 7 Q Did Ken ever voice any objections to you sending the CD  
 8 to Michael Moore?  
 9 A Absolutely not.  
 10 Q Do you know if any of that music on that CD was used in  
 11 Michael Moore's film?  
 12 A Yeah. About three seconds of us singing a little bit  
 13 of the "Oh, England" song was used, but none of the  
 14 actual CD itself made it, and I was very disappointed  
 15 it did not. I was hoping they would use it, but they  
 16 didn't. It was just the a cappella. And I would say  
 17 it's three seconds of screen time.  
 18 MR. VERTETIS: So the answer is yes?  
 19 Q My question is, the CD, any of the songs on the CD, was  
 20 that used in the Michael Moore film?  
 21 A Yes.  
 22 Q What song on the CD was used in the Michael Moore film?  
 23 A About three seconds of "Oh, England" --  
 24 Q Okay.  
 25 A -- of us a cappella. Not the actual CD. Just us

Page 94

1 sitting around, La la la.  
 2 Q Was the a cappella on the home video?  
 3 A Yes.  
 4 Q So is that a cappella also on the CD?  
 5 A No.  
 6 Q So the CD was not used in Michael Moore's film, then?  
 7 A No. Not one second of it was used.  
 8 Q So the question is, were any of the songs on the CD  
 9 itself -- were any of the songs on the CD ever used in  
 10 the Michael Moore Sicko film?  
 11 A Absolutely not.  
 12 Q So the only song that was ever used or any lyrics from  
 13 song was from the home video?  
 14 A Yes.  
 15 Q I have no further questions.  
 16  
 17 FURTHER EXAMINATION  
 18 BY MR. VERTETIS:  
 19 Q I just want to clear something up.  
 20 A Can I confer with my client [sic]?  
 21 MS. LIM: Do you want to take a break?  
 22 THE WITNESS: Can we go outside for a second?  
 23 They got to go outside. I'd like that opportunity.  
 24 Q I'm just -- just so we're clear, and I want to be fair  
 25 to you, Mr. Turnbow, the song "Oh, England" is on that

Page 95

1 CD, correct?  
 2 A Yes.  
 3 Q That song is in Michael Moore's movie, correct? But it  
 4 is not from the CD. It is from you and Mr. Aronson  
 5 singing it.  
 6 A Three seconds of us singing: Oh, oh, oh, England, oh,  
 7 oh in the hotel that Carmen Cusack had filmed. And so  
 8 the answer is the CD was never used. Us a cappella  
 9 singing for three seconds --  
 10 Q Right.  
 11 A -- that's -- a little bit of that song was used.  
 12 Q But the portion of the song was the actual tag line  
 13 that Mr. Aronson created, correct?  
 14 A I would say yes to that.  
 15 Q I wanted to ask, this gentleman that --  
 16 A Can I confer with my client [sic]?  
 17 MS. LIM: Can we take a break really fast?  
 18 MR. VERTETIS: Oh, yes.  
 19 (Off the record.)  
 20 Q I just have one or two more questions for you,  
 21 Mr. Turnbow. The gentleman you are saying was with you  
 22 in this Fahrenheit 911 meeting, that was Mr. Paul  
 23 Brack?  
 24 A Braggett.  
 25 Q Braggett. And Mr. Braggett is upstairs today in our

Page 96

1 lobby. He came with you for moral support.  
 2 A Right. We were hoping he could come in, but you  
 3 objected to that.  
 4 Q Correct. But he came with you to support you today?  
 5 A Yes, he did. So did Miriam.  
 6 Q And I've already told her privately that she's a  
 7 fantastic girlfriend for sitting here.  
 8 I don't have any further questions. Thank you.  
 9 Actually, strike that.  
 10 The copyright application, what specifically did  
 11 you -- to the best of your recollections, did you try  
 12 to copyright? Was it the CD? What's the CD title?  
 13 A I'm Alive.  
 14 Q I'm Alive. Okay.  
 15 A And it was all original music that I made. I did  
 16 cowrite one of songs with Ken.  
 17 Q "Oh, England"?  
 18 A Yeah. And so 14 and a half of the songs I wrote myself  
 19 entirely. And I went to the Music 6000 to get the  
 20 package where they -- they specifically have a package.  
 21 Q What is Music 6000?  
 22 A It's a music store, and they sold me this binder that  
 23 had all the proper paperwork without having to have any  
 24 attorney. I filled it all out and I sent them a  
 25 check -- and I don't remember how much it was. It

Page 97

1 wasn't a whole lot of money -- and they sent me back  
 2 some documentation, which I don't have anymore, but I  
 3 think we could get copies from them. It's public  
 4 record somewhere. They take two copies and they put  
 5 them in the archive at the U.S. Copyright Office.  
 6 You could probably access that yourself online.  
 7 Q We'll try. Thanks for your time.  
 8  
 9 FURTHER EXAMINATION  
 10 BY MS. LIM:  
 11 Q After the movie was released, did you have any  
 12 conversations with Ken Aronson?  
 13 A Yes, I did.  
 14 Q When did that take place?  
 15 A Shortly -- a couple months after the video. I got a  
 16 phone call from him, and he was very antagonistic, and  
 17 he said he was going to sue Michael Moore for millions  
 18 of dollars and that he's glad that I did this to him  
 19 because he was going to make a million dollars off of  
 20 it, and he was going to sue me as well.  
 21 And I've never talked to him since then. I don't  
 22 even want to look at him since then, because I don't --  
 23 I didn't appreciate the comments.  
 24 Q During that conversation, did Mr. Aronson ever tell you  
 25 that you had no right to use the home footage or

Page 98

1 provide it to Michael Moore?  
 2 A No, he didn't.  
 3 Q During that conversation, did Mr. Aronson ever tell you  
 4 that there were embarrassing moments shown in the Sicko  
 5 film of him; that you had no right to use those  
 6 embarrassing moments?  
 7 A No. He expressed an interest in getting money, that  
 8 was it, millions of dollars out of Michael Moore. And  
 9 he thought it was great, and he was laughing about it.  
 10 I -- I was insulted, and I haven't talked to him since.  
 11 That was our last contact. And that would have been, I  
 12 would guess, August of 2007, shortly after the movie  
 13 was released that summer, within a window there. And I  
 14 was -- I was offended by it, and I've never spoken with  
 15 him since.  
 16 MS. LIM: I don't have any further questions.  
 17  
 18 FURTHER EXAMINATION  
 19 BY MR. VERTETIS:  
 20 Q Any other self-serving comments you want to make today  
 21 or disparaging comments about Mr. Aronson? I just want  
 22 to make sure that there's nothing else that I'm going  
 23 to hear.  
 24 MS. LIM: Objection.  
 25 MR. VERTETIS: No. No.

Page 99

1 MS. LIM: Terminology.  
 2 Q Is there anything else that you feel is --  
 3 A I could write a book, but I'm not going to do that.  
 4 I'm here at the advice of my counsel to answer your  
 5 questions in a one- -- one-sentence answer. So I'm not  
 6 going to have to say anymore, I suppose.  
 7 Q With regards to this lawsuit, do you --  
 8 MR. VERTETIS: And, Sok-Khieng, I'm just  
 9 going to ask about his coverage. I think it's relative  
 10 to ask.  
 11 Q Do you have, to the best of your knowledge, insurance  
 12 coverage that you are claiming in this matter?  
 13 THE WITNESS: Go ahead and answer that one.  
 14 MS. LIM: Objection as to any insurance  
 15 issues.  
 16 But go ahead and answer it.  
 17 MR. VERTETIS: Respectfully, I think under  
 18 CR 26 I can ask if he has coverage, and if there is a  
 19 reservation of rights.  
 20 A We have coverage at this time.  
 21 MS. LIM: Coverage ends today. There is no  
 22 coverage after this.  
 23 MR. VERTETIS: Okay.  
 24 A Today is the last day of the coverage. So are we  
 25 saying that Sok-Khieng is not going to be including --

Page 100

1 MS. LIM: A reservation of rights was  
 2 initially issued, and then a decision has been made  
 3 that there is no coverage for this, so --  
 4 A So from now on, there will be no --  
 5 Q Okay. Then I would just ask that whatever documents we  
 6 have asked for your attorney to forward that, if it  
 7 turns up coming to you, you have that same  
 8 responsibility, because you will be representing  
 9 yourself.  
 10 A I'm not going to be representing myself -- if this goes  
 11 any further, which I'm hoping it will not, I will be  
 12 retaining Sok-Khieng to represent me.  
 13 Q Okay. Fair enough, then. I think we have an  
 14 understanding. Thank you.  
 15 (Deposition concluded.)  
 16 (Signature reserved.)  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 101

1 CHANGE AND SIGNATURE SHEET  
 2 I, the undersigned, ERIC TURNBOW, do hereby certify  
 3 that I have read the foregoing deposition and that, to the  
 4 best of my knowledge, said deposition is true and accurate,  
 5 with the exception of the following corrections listed  
 6 below:  
 7 PAGE LINE CHANGE  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 Date Signature  
 22 Case name: Aronson v. Turnbow  
 23 Cause No.: 08-2-02542-7  
 24 Date taken: January 23, 2009  
 25 Kylie Hammington, CCR, RPR  
 James, Sanderson & Lowers  
 307 29th Street NE, Suite 101  
 Puyallup, Washington 98372

Page 102

1 CERTIFICATE  
 2 STATE OF WASHINGTON )  
 3 )  
 4 COUNTY OF KING )  
 5 I, KYLIE HAMMINGTON, a Certified Court Reporter and  
 6 Notary Public in and for King County, Washington, do hereby  
 7 certify that I reported in machine shorthand the deposition  
 8 of ERIC TURNBOW, called as a witness at the instance of the  
 9 Plaintiff, for purposes of discovery in the above-entitled  
 10 cause; that the subscribing of the completed deposition by  
 11 the witness was reserved; that the foregoing transcript was  
 12 prepared under my personal supervision and constitutes a  
 13 true record of the testimony of the said witness.  
 14 I further certify that I am not an attorney or counsel  
 15 of any parties, nor a relative or employee of any attorney  
 16 or counsel connected with the action, nor financially  
 17 interested in the action.  
 18 WITNESS my hand and seal in Auburn, County of King,  
 19 State of Washington, this 23rd day of January, 2009.  
 20  
 21 \_\_\_\_\_  
 22 Kylie Hammington, Notary Public  
 23 in and for the State of  
 24 Washington, residing at Auburn.  
 25 My Commission expires 9-9-11.

Page 103

1 DEPOSITION NOTICE  
 2  
 3 Date: February 8, 2009  
 4 To: Sok-Khieng Lim  
 5 920 Fawcett Avenue  
 6 PO Box 1657  
 7 Tacoma, Washington 98401  
 8  
 9 Case Name: Aronson v. Turnbow  
 10 Venue and No.: THURSTON, 08-2-02542-7  
 11 Deposition/Date Taken: ERIC TURNBOW, January 23, 2009  
 12 The above-captioned deposition must be read and signed  
 13 within 30 days or a statement must be made in writing with  
 14 the reason for refusal to sign or the fact that signature is  
 15 waived. Failing to do so, the deposition transcript will be  
 16 filed without signature.  
 17  
 18 Your deposition transcript is on file at our office.  
 19 Please call (253)445-3400 with the date you will be  
 20 reading your deposition. Our address is:  
 21 James, Sanderson & Lowers  
 22 307 29th Street Northeast, Suite 101  
 23 Puyallup, Washington 98372  
 24 Enclosed with your copy of the deposition is a  
 25 Change and Signature Sheet. Please instruct  
 the witness to review the transcript, record any  
 changes, and then sign and return the Change  
 Sheet to this office for filing.  
 Enclosed is a courtesy copy of your deposition  
 and a Change and Signature Sheet. Please review  
 the transcript, record any changes, and then  
 sign and return the Change Sheet to this office  
 for filing.  
 Reporter: Kylie Hammington, CCR, RPR  
 License No. 2054  
 cc/Counsel  
 File