

1 IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
2 CASE No. 50-2011-000246 XXXX MB
3

JESS R. SANTAMARIA,

4

Plaintiff,

5

-vs-

VOLUME I

6

ANDREW F. SCHALLER,

7

Defendant.



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DEPOSITION OF ANDREW F. SCHALLER

13

Tuesday, March 13, 2012

14

10:10 a.m. - 6:00 p.m.

15

105 South Narcissus Avenue

Suite 400

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West Palm Beach, Florida 33401

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Reported By:

Pamela J. Sullivan, RPR, FPR, CLR

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Signature Court Reporting, Inc.

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APPEARANCES:

On behalf of the Plaintiff:

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I N D E X
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WITNESS: DIRECT CROSS REDIRECT RE CROSS
ANDREW F. SCHALLER
BY MR. BARSKY 4
BY MS. KITTERMAN

- - -
E X H I B I T S M A R K E D
- - -

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P R O C E E D I N G S

- - -

Deposition taken before Pamela J. Sullivan,
Registered Professional Court Reporter and Notary Public
in and for the State of Florida at Large, in the above
cause.

- - -

Thereupon,

ANDREW F. SCHALLER,

having been first duly sworn or affirmed, was examined
and testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. BARSKY:

Q. Good morning, could you state your name for
the record, please.

A. Andrew. I go by Andy F. Schaller,
S-c-h-a-l-l-e-r.

Q. What does the F stand for?

A. Francis.

Q. Do you have any other names that you're known
by?

A. No.

Q. And how old are you?

A. Forty-six.

- 1 Q. What is your current address?
- 2 A. 14306 Wellington Trace, Wellington, Florida
- 3 33414.
- 4 Q. Do you own any other property in the state of
- 5 Florida?
- 6 A. I do.
- 7 Q. What other properties do you own in the state
- 8 of Florida?
- 9 A. 9478 Rodeo Drive, Lake Worth, Florida 33467.
- 10 Q. And what type of property is that?
- 11 A. A residential home.
- 12 Q. Does somebody live there currently?
- 13 A. No.
- 14 Q. Are you seeking to lease the property?
- 15 A. No.
- 16 Q. Are you seeking to sell the property?
- 17 A. No.
- 18 Q. Why do you maintain two homes?
- 19 A. Because I own them.
- 20 Q. So the property in Lake Worth is vacant at
- 21 this point in time?
- 22 A. No.
- 23 Q. Who is there?
- 24 A. I have my business there.
- 25 Q. So you are running your business out of a

1 residential property in Lake Worth and you live in a
2 residential property in Wellington?

3 A. Correct.

4 Q. Why do you not run your business out of your
5 Wellington home?

6 A. There's a business there that runs out of
7 there as well.

8 Q. What business runs out of your Wellington
9 home?

10 A. Equestrian business.

11 Q. Who runs that business?

12 A. I do.

13 Q. What type of business is that?

14 A. I lease stalls for the winter equestrian
15 festival.

16 Q. What type of business do you run out of the
17 Lake Worth home?

18 A. Electronic banking.

19 Q. What type of electronic banking?

20 A. Recurring debits.

21 Q. Could you describe that for us a little bit
22 more?

23 A. I debit checking, savings, credit cards to
24 satisfy recurring debt or obligations.

25 Q. When you say recurring debt, what type of

1 recurring debt are you referring to?

2 A. Monthly.

3 Q. Would that be credit card bills?

4 A. Predominantly gyms, health clubs.

5 Q. So these are like monthly service contract
6 type of things?

7 A. Correct.

8 Q. Where were you born?

9 A. United States.

10 Q. What state?

11 A. Connecticut.

12 Q. What city?

13 A. Torrington.

14 Q. And can I get your Social Security Number for
15 the record and we'll redact it.

16 MS. KITTERMAN: Yeah, I don't want it on the
17 record.

18 (Discussion held off the record.)

19 BY MR. BARSKY:

20 Q. How long did you live in Connecticut for?

21 A. Eighteen years.

22 Q. Did you go to high school in Connecticut?

23 A. I did.

24 Q. Did you graduate from high school?

25 A. I did.

1 Q. Where did you go after you graduated from
2 high school?

3 A. Florida.

4 Q. Why did you come to Florida?

5 A. College.

6 Q. Where did you go to school?

7 A. Saint Leo.

8 Q. Where is Saint Leo located?

9 A. Saint Leo.

10 Q. Saint Leo, Florida?

11 A. Yes, sir.

12 Q. What did you major in at Saint Leo?

13 A. Marketing.

14 Q. Did you obtain your degree from Saint Leo?

15 A. Yes.

16 Q. What degree?

17 A. Bachelor of Arts.

18 Q. And you majored in marketing?

19 A. Correct.

20 Q. Any other majors?

21 A. No.

22 Q. Any minors?

23 A. No.

24 Q. Where did you go -- about when was that, if
25 you recall?

- 1 A. 1983.
- 2 Q. Where did you go after you graduated from
3 Saint Leo?
- 4 A. Remained in Florida.
- 5 Q. What part of Florida?
- 6 A. Palm Beach County.
- 7 Q. So you moved from Saint Leo to Palm Beach
8 County after graduating from Saint Leo?
- 9 A. Yes.
- 10 Q. Where in Palm Beach County did you move?
- 11 A. Boynton Beach.
- 12 Q. Why did you move to Boynton Beach?
- 13 A. I had friends from Connecticut who lived in
14 the area.
- 15 Q. Were these family friends?
- 16 A. Please define.
- 17 Q. Friends of your parents.
- 18 A. Loosely.
- 19 Q. These are friends that you had from high
20 school?
- 21 A. No.
- 22 Q. How did you know them?
- 23 A. A small town, neighbors.
- 24 Q. What did you start doing for employment when
25 you moved to Boynton Beach?

1 A. Stock broker.

2 Q. Who were you a stock broker for?

3 A. Originally J.W. Gant, G-a-n-t.

4 Q. Thank you. I'm sorry. I didn't hear the
5 last part of that, but the J-W.

6 A. Okay.

7 Q. So did you have your Series 7 license?

8 A. Yes.

9 Q. Sixty-three?

10 A. Yes.

11 Q. Any other licenses?

12 A. No.

13 Q. Any other certifications?

14 A. In the securities world?

15 Q. In anything.

16 A. As a child, I was certified in CPR.

17 Q. Anything else?

18 A. As a child, I had a -- prior to being 16, I
19 had a young skipper's license for driving a boat.

20 Q. Anything else?

21 A. Define certification, please.

22 Q. Anything else that you've attended a class
23 for or taken an exam for.

24 A. No.

25 Q. Do you still maintain your Series 7 license?

1 A. No.

2 Q. When did that expire?

3 MR. BARSKY: Object to the form.

4 THE WITNESS: I don't know the exact date.

5 BY MR. BARSKY:

6 Q. Do you recall approximately when?

7 A. It would be somewhere around '92, '93.

8 Q. Why would it be around '92 or '93?

9 A. If you don't perform trades within a given
10 period of time, then your license expires and needs to
11 be held with a member firm. I changed professionals.

12 Q. So you no longer had your license docked
13 anywhere?

14 A. Correct.

15 Q. For J.W. Grant, how long did you work for
16 them?

17 A. Gant.

18 Q. Gant. I apologize. For J.W. Gant, how long
19 did you work for them?

20 A. Don't know in months, for approximately two
21 years.

22 Q. Why did you cease working for J.W. Gant?

23 A. Difference of philosophies of business.

24 Q. What were those differences?

25 A. I had a conscience and would do the right

1 thing, but I was encouraged to do the money thing and I
2 would not do it.

3 Q. When you say you had a conscience and you
4 wanted to do the right thing, what are you referring to?

5 A. I was told that if I wanted to be a stock
6 broker to leave the firm. If I wanted to be a salesman
7 and make money, play ball.

8 Q. What did you think that meant by play ball?

9 A. I know what it meant. It meant to generate
10 commissions without regard for the best interest of my
11 client.

12 Q. And you didn't want to do that?

13 A. There was no way I would do it.

14 Q. So what? So you resigned from J.W. Gant?

15 A. We were independent contractors. I no longer
16 performed services for them.

17 Q. Did you work for anybody else or any other
18 entity at the same time as working for J.W. Gant?

19 A. No.

20 Q. What did you do after you ceased performing
21 services for J.W. Gant?

22 A. Sought other employment.

23 Q. What type of employment did you seek?

24 A. I stayed in the stock -- investment world.

25 Q. When you say investment world, what do you

1 mean by that?

2 A. There is more than one type of stock
3 brokerage firm. I stayed within the industry.

4 Q. What are the different types of stock
5 brokerage firms?

6 A. Technically speaking, there's an agency trade
7 and there is a broker-dealer trade.

8 Q. J.W. Gant, which was that? Agency or
9 broker-dealer?

10 A. Predominantly, broker-dealer.

11 Q. But there was some agency?

12 A. Correct.

13 Q. So were you looking, then, for a job in
14 either one of those particular technical fields?

15 A. Define looking.

16 Q. When you were applying for jobs, were you
17 only looking for agency jobs or only looking for
18 broker-dealer jobs?

19 A. No.

20 Q. Where did you wind up working next?

21 A. To my recollection, First Nationwide Bank.
22 Their division of investments was FN Investment Center.

23 Q. What did you do for them?

24 A. Same thing. Oh, well, no, that's incorrect.
25 Banks are conservative by nature, stocks are risky by

1 nature. I did fixed income planning predominantly.

2 Q. So you moved from the equity side to the
3 fixed income side?

4 A. Yes.

5 Q. What type of fixed income investment planning
6 were you doing?

7 A. More mutual fund, which is still an equity,
8 but more bond related, more safety, more guaranteed,
9 Nuveen Investments, things of that nature.

10 Q. Were you a financial planner?

11 A. My title was financial consultant.

12 Q. Were you still using your Series 7 license at
13 the time?

14 A. Yes.

15 Q. So you were still executing trades at the
16 time?

17 A. Yes.

18 Q. How long did you work for this entity?

19 A. Under a year.

20 Q. Why did you leave?

21 A. The employment package that was offered to me
22 wasn't what ended up being the case.

23 Q. How so?

24 A. The gentleman who hired me was terminated
25 shortly after I was there for misrepresenting products

1 and performance results.

2 Q. What does that have to do with your
3 compensation package, your employment package not
4 being --

5 A. My ability to offer products in the way in
6 which to offer it was directly related to my
7 compensation. I didn't see the opportunity there that I
8 was led to believe was there.

9 Q. Was that because the person who had hired you
10 had been making misrepresentations as to the products
11 and their performance?

12 A. My opinion, it was more because he overstated
13 his success to manage the brokers and the performance
14 that the brokers were doing.

15 Q. So you were led to believe that the average
16 performance at this firm was higher than it actually
17 was?

18 A. Along with a greater broad -- a broader range
19 of products to offer.

20 Q. You found that not only was performance
21 lower, but you had fewer things to offer to your
22 clients?

23 A. Correct.

24 Q. Had you brought any of those clients from
25 J.W. Gant?

1 A. No.

2 Q. How did you find clients then?

3 A. Very simply put, they wanted me to market
4 bank clients.

5 Q. These were clients who already worked for --
6 or who had accounts with the bank?

7 A. Yes.

8 Q. And what about at J.W. Gant, how were you
9 obtaining clients through them?

10 A. Cold calling.

11 Q. How did you first come into contact with
12 J.W. Gant?

13 A. Newspaper ad.

14 Q. Now, when you left the bank, where did you go
15 next for employment?

16 A. I had another position that I'm not sure as
17 to how things fall into place now, but I worked with a
18 friend having a telemarketing mailing list company that
19 provided leads to the brokerage industry.

20 Q. What was the name of that company?

21 A. Mikon (phonetic) Marketing.

22 Q. Where was it based out of?

23 A. Boca Raton.

24 Q. Did you have any ownership in it?

25 A. No.

1 Q. What year did it start?

2 MS. KITTERMAN: Object to the form?

3 THE WITNESS: I don't remember.

4 BY MR. BARSKY:

5 Q. What year did you start working there?

6 A. I believe just after J.W. Gant.

7 Q. Do you recall what year that was?

8 A. It's right around the '91 range.

9 Q. Okay. You said it was right after working
10 for J.W. Gant. So were you working for the
11 telemarketing firm at the same time you were working for
12 the bank?

13 A. It was my friend's company. I was providing
14 friendly services for him.

15 Q. Were you being paid?

16 A. Not on any kind of regular basis, no.

17 Q. You received some compensation though?

18 A. I believe if you say somebody buys you dinner
19 for helping out a friend, if that's construed as
20 compensation.

21 Q. Was there anything else other than the
22 occasional dinner?

23 A. We were friends. I don't know. Might have
24 went out to any venue or something, I don't recall. If
25 you're asking structure, there was none for payment.

1 Q. But you were working or helping your friend
2 at the same time you were working for the bank?

3 A. I don't remember, but I think.

4 Q. And after -- let me back up. Were you fired
5 by the bank, or did you resign?

6 A. I was asked to stay on by the bank. I
7 resigned.

8 Q. So after you resigned from the bank, were you
9 still working for the telemarketing firm?

10 A. Lead generation company.

11 MS. KITTERMAN: Object to the form.

12 BY MR. BARSKY:

13 Q. I apologize. I thought you said it was a
14 telemarketing --

15 A. Mailing list lead generation company.

16 Q. Okay. Were you still working for the lead
17 generation company?

18 MS. KITTERMAN: Object to the form?

19 THE WITNESS: I don't know that I was ever
20 working for them.

21 BY MR. BARSKY:

22 Q. What were you doing for income after you left
23 the bank?

24 A. I'm a pretty good saver.

25 Q. So you were just spending out of your

1 savings?

2 A. Yeah. We're talking about a very short
3 period of time, it wasn't years.

4 Q. How short of a period of time?

5 A. Weeks to months.

6 Q. So after the weeks to months' interim, what
7 did you start doing for employment?

8 A. At some point, I went to another firm.

9 Q. When you say at some point, do you recall
10 when this was?

11 A. I don't. There was a company that was being
12 a startup and, again, it was friends. And I don't
13 remember how long it took to get up and running.

14 Q. What was the name of the company?

15 A. Guardian International Securities.

16 Q. Was that a Florida based company?

17 A. Yes -- pardon me, I don't know.

18 Q. You don't know. Who started it?

19 A. A coworker.

20 Q. What was his name?

21 A. Larry Russell.

22 Q. And where was he a coworker from?

23 A. J.W. Gant.

24 Q. Had you had any issues with Mr. Russell when
25 you were at J.W. Gant?

1 A. Define issues.

2 Q. You said you left J.W. Gant because of
3 philosophical differences. Did Mr. Russell share your
4 same philosophy on investing with clients?

5 A. Yeah, he was a good guy.

6 Q. So your answer to that is yes?

7 A. From my interactions with him, he did. I
8 don't know what he felt down deep that he never showed
9 me.

10 Q. But from your personal experience with him,
11 he seemed to share the same philosophical viewpoint that
12 you shared?

13 A. Correct.

14 Q. Did you have an ownership interest in this
15 company?

16 A. No.

17 Q. How long did you work for this new company
18 then?

19 A. That lends back to the question of how long
20 my license was active; I don't know.

21 Q. Do you recall approximately how long?

22 A. Until -- under a year again.

23 Q. Why did you only work there for under a year?

24 A. Started a new career.

25 Q. Why did you decide to start a new career?

1 A. Very simply put, I didn't like dialing the
2 phone three to 500 times a day to cultivate business.

3 Q. So at this new company, you were still
4 generating clients by cold calling?

5 A. Correct.

6 Q. And you decided that you just didn't want to
7 cold call people anymore?

8 A. Correct.

9 Q. What did you decide to change careers into?

10 A. I went to work for a software company.

11 Q. What kind of software company?

12 A. Club management.

13 Q. What kind of software did they work with?

14 A. They created proprietary software.

15 Q. What kind?

16 A. Health club software.

17 Q. What kind of health club software was it?

18 A. Management software.

19 Q. Managing club operations?

20 A. Yes.

21 Q. Was it managing membership operations?

22 A. Yes.

23 Q. How did you decide to get into the software
24 business?

25 A. I wanted to learn how to program so I could

1 create my own program trading.

2 Q. How did you learn of this software company?

3 A. Newspaper.

4 Q. So you saw an add in the newspaper and
5 responded to it?

6 A. Correct.

7 Q. Had you had any computer programming
8 experience prior to responding to that newspaper ad?

9 A. No.

10 Q. But they decided to hire you despite your
11 lack of experience?

12 MS. KITTERMAN: Object to the form.

13 THE WITNESS: No.

14 BY MR. BARSKY:

15 Q. Do you know why they decided to hire you
16 then?

17 A. Because of the general knowledge I had of
18 computers at the time.

19 Q. What was that general knowledge?

20 A. I know how to use one.

21 Q. So knowing how to use one was the only job
22 requirement for this job?

23 A. They recognized good customer service skills
24 in me.

25 Q. What was it that they recognized, good

1 customer skills, service skills, or did they recognize
2 good computer skills?

3 A. The job required both.

4 Q. So what were your computer skills besides
5 just knowing how to use one?

6 A. Think back to the '90s, knowing how to use
7 one was everything.

8 Q. Do you recall what year this was in the '90s?

9 A. '92.

10 Q. So the fact that you could turn on a computer
11 was all that was required?

12 MS. KITTERMAN: Objection.

13 THE WITNESS: And press the buttons.

14 BY MR. BARSKY:

15 Q. So you knew how to type?

16 A. Hunt and peck.

17 Q. Okay. Did you have any specialized kind of
18 computer training at that point in time?

19 A. Define specialized.

20 Q. Had you ever taken a class on how to use a
21 computer?

22 A. Yes.

23 Q. What kind of class?

24 A. College.

25 Q. What was the name of the class?

1 A. Intro to computers.

2 Q. Do you remember if you took any other classes
3 in college relating to computers?

4 A. Word processing.

5 Q. Any other classes?

6 A. Not from memory.

7 Q. What did you learn in intro to computing, if
8 you recall?

9 A. What a TRS-80 computer was.

10 Q. That's a model number of computer?

11 A. It was the original Radio Shack personal
12 computers.

13 Q. Did you learn how to program a TRS-80?

14 A. I learned Basic.

15 Q. Basic is a programming language; correct?

16 A. It was the only programming language for the
17 most part at that time.

18 Q. Do you still know how to use Basic?

19 A. It was an introductory class, you never
20 really learned how to do that.

21 Q. At the time, those computers didn't have an
22 operating system like we know it now; correct?

23 A. Not like we know it now.

24 Q. So you did have to know some computer
25 programming at that time to be able to even use a

1 computer?

2 A. I basically learned in the class how to make
3 a line appear on the screen or print it out on a piece
4 of paper.

5 Q. So when you went to work for the software
6 company, had you learned any other programming languages
7 by that time?

8 A. No.

9 Q. Did you learn any programming languages while
10 you were at the software company?

11 A. Nothing that could ever be considered
12 proficient.

13 Q. But what did you learn that would be
14 considered not proficient?

15 A. A general overall knowledge of vocabulary.

16 Q. In which computer language?

17 A. Delphi.

18 Q. Do you know any other computer programming
19 languages?

20 A. I wouldn't stretch to say I know Delphi.

21 Q. You have a knowledge of Delphi?

22 A. I have knowledge of many programs, as does
23 everybody who uses any operating system, but to say that
24 I was proficient in it, I can't do that.

25 Q. But you knew how to at least use it on a

1 rudimentary basis?

2 A. No.

3 Q. No. Did you know how to use it on any basis?

4 A. I recognized vocabulary.

5 Q. So you understand vocabulary for computer

6 language called Delphi, but you don't know how to

7 actually write a program in it?

8 A. That is correct.

9 Q. Have you learned --

10 A. I know some vocabulary for the program.

11 Q. Have you learned vocabulary for any other

12 programming language?

13 A. Not enough to say that I did.

14 Q. What about today?

15 MS. KITTERMAN: Object to the form.

16 THE WITNESS: What about today, sir?

17 BY MR. BARSKY:

18 Q. Do you know any vocabulary from any

19 programming language as of today?

20 A. We've continued to work with Delphi.

21 Q. When you say we've continued to work with

22 Delphi, who is we?

23 A. The entity that I became originally involved

24 with, as well as my own entity.

25 Q. Do you still work for that -- the entity that

1 you originally became involved with, are you referring
2 to the software company?

3 A. Yes, sir.

4 Q. Are you still involved with that software
5 company?

6 A. Define involved.

7 Q. Well, you said that we've continued to use
8 Delphi. And then you said -- I asked you who is we, and
9 you said that's the company that you were originally
10 involved with and that was the software company. So it
11 implies that you have some involvement with them as of
12 today. I'm asking what that involvement is.

13 A. They refer customers to me.

14 Q. Do you still work for them?

15 A. No.

16 Q. Do you receive any compensation from them?

17 A. No.

18 Q. Do you pay them any compensation for
19 referring customers to you?

20 A. Yes.

21 Q. And those customers, when we spoke earlier
22 about your current business, the electronic bank
23 business that you have, you said that they are for debit
24 cards and monthly debt transactions, and we discussed
25 that was for health clubs. Is that where that time

1 comes in, it's the health club software company that you
2 used to work for sends customers that use that part of
3 why your business, the electronic banking business?

4 A. Correct.

5 Q. How long did you work for the software
6 company?

7 A. Approximately two years.

8 Q. Why did you stop working for them?

9 A. Created my own company.

10 Q. Is that the electronic bank?

11 A. Yes.

12 Q. What's the name of it?

13 A. Palm Beach Financial Exchange, Inc.

14 (Discussion held off the record.)

15 BY MR. BARSKY:

16 Q. Do you recall about what year you started
17 that?

18 A. '94.

19 Q. And you've continued to run that company
20 through today?

21 A. Correct.

22 Q. You're going on about 18 years now?

23 A. Yes, sir.

24 Q. Has the company been successful over those
25 18 years?

1 A. Define successful.

2 Q. Making a profit?

3 A. Most years.

4 Q. Have profits increased over the years?

5 A. If you're asking me for a bell curve, there's

6 ups and downs. So I don't know what time frame you're

7 referring to.

8 Q. Well, since the start of the business

9 overall, generally speaking.

10 A. From the start of the business, I had no

11 customers and no income. Did it go up from there, yes.

12 Q. Over the last five years?

13 A. Please define what you're asking me.

14 Q. I'm asking you over the last five years, has

15 business been increasing?

16 A. As compared to the previous ten years plus?

17 Q. No, just over the last five years.

18 A. So are you asking me from year one to five

19 years now, am I more business now than I was five years

20 ago?

21 Q. Yes.

22 A. No.

23 Q. What about over the last ten years?

24 A. My business reflects the economy. The ups

25 and downs show the ups and downs of my business.

1 There's no straight lines.

2 Q. At some point you started this stall leasing
3 business that you mentioned at the beginning of your
4 deposition; correct?

5 A. I did.

6 Q. When did you start that?

7 A. 2004.

8 Q. Why did you start that business?

9 A. Because I had one.

10 Q. Because you had one, what do you mean by
11 that?

12 A. Stalls to rent.

13 Q. How did you -- you acquired them when you
14 purchased the property in Wellington?

15 A. No.

16 Q. When did you acquire those stalls?

17 A. Upon my certificate of occup -- certificate
18 of occupancy when the building was completed.

19 Q. Which building is it?

20 A. My home.

21 Q. So you built the home in -- when you say your
22 home, you're referring to the property in Wellington?

23 A. I am.

24 Q. So when you moved into that home, you
25 purchased raw land?

1 A. I did -- when I moved into the home, there
2 was a house built on it.

3 Q. Okay.

4 A. After the purchasing of raw land.

5 Q. Was there a structure there before?

6 A. No.

7 Q. So you purchased raw land and built a home on
8 it?

9 A. Correct.

10 Q. Did you build the stalls just for the purpose
11 of renting them?

12 A. No.

13 Q. Why did you build the horse stalls on that
14 property?

15 A. To house horses.

16 Q. Did you own any horses at the time?

17 A. Yes.

18 Q. Do you still own any horses?

19 A. No.

20 Q. Is there a reason why you no longer own any
21 horses?

22 A. Got bored.

23 Q. Did you ride before?

24 A. Define ride.

25 Q. Ride a horse.

- 1 A. That was the purpose for having one, sir.
- 2 Q. Were you a polo player?
- 3 A. No.
- 4 Q. Were you a hunter jumper?
- 5 A. No.
- 6 Q. Were you a dressage person?
- 7 A. No.
- 8 Q. When did you finish -- complete the
9 construction of the house in Wellington?
- 10 A. 2004.
- 11 Q. Before 2004, were you living in the house in
12 Lake Worth?
- 13 A. Yes.
- 14 Q. You mentioned that you went to work for the
15 software company because you wanted to learn how to
16 write a trading program. Did you ever create that
17 trading program?
- 18 A. No.
- 19 Q. Why not?
- 20 A. Because I found out about recurring
21 transactions.
- 22 Q. Is that something you learned while you were
23 working at the software company?
- 24 A. Yes.
- 25 Q. Does your current company, Palm Beach

1 Financial Exchange, Inc. -- did I get that right?

2 A. Correct.

3 Q. Palm Beach Financial Exchange, Inc., does it
4 operate using computer programs?

5 A. Yes.

6 Q. Who wrote those programs?

7 A. Programmers.

8 Q. Do you know who those programmers are?

9 A. Yes.

10 Q. Who are they?

11 A. Be a long list.

12 Q. Was it anything that is custom software for
13 your company?

14 A. All custom.

15 Q. Can you tell us who those programmers are,
16 please?

17 A. I can't be specific on all names.

18 Q. Well, can you tell us the names that you
19 remember right now?

20 A. You're going to have to more clearly define,
21 who worked on the programs, because things were brought
22 along, done by programmers. Shared information --
23 shared information came along. Software is a work in
24 progress. The other company, the software company, were
25 using high school kids at the time who were doing

1 different work related, work study type environments.
2 There was a number of people. If I were to mention
3 names like John and Wayne, I don't think that has a
4 great deal of relevance.

5 Q. Well, I guess that's for me to determine what
6 has relevance or not. If you know any of the names,
7 would you please tell us what those names are?

8 A. John, Wayne Bartnick, Greg, Art Sterling,
9 Jeff Colon, Linda Caine, Javier Geiger, Stacey Brodsky.
10 It's probably the best of my recollection right now.

11 Q. Do you still maintain a relationship with any
12 of these people?

13 A. Define relationship.

14 Q. Do you still talk to them?

15 A. Yes.

16 Q. Which ones?

17 A. Stacey Brodsky. Jeff Colon.

18 You're going to have to define something for
19 me. I got a "How you doing" on Facebook. Does that
20 mean I'm maintaining a relationship after not speaking
21 with somebody for years?

22 Q. Yes.

23 A. Okay. I have a relationship with
24 Wayne Bartnick. Again, if you consider one Facebook
25 "how you doing" out of not speaking to somebody in many,

1 many years of a relationship, by your definition, I
2 guess I do.

3 Q. You said there was a company that you had
4 worked with. What was the name of that company?

5 A. I don't know what you're referring to.

6 Q. You had mentioned a minute ago when we were
7 talking about programming the software, that there was a
8 software company that you had worked with.

9 A. That was the company that I said I went to
10 out of the newspaper ad.

11 Q. So that software company wrote the programs
12 for your current business?

13 A. We shared resources.

14 Q. What do you mean by we shared resources?

15 A. Programmers.

16 Q. So those programmers wrote the programs for
17 your current business, Palm Beach Financial Exchange,
18 Inc.?

19 A. The software evolved. I'm not sure how much
20 was written way back when. We're talking about an
21 18-year period. I'm not sure how much Legacy software
22 is still around.

23 Q. The original software was written by people
24 from that software company you had worked for?

25 A. Correct.

1 Q. Did the software company itself write the
2 software for you, or did you retain the programmers you
3 had met at the software company to write the software
4 for you?

5 A. I paid the original software company for the
6 services of the programmers.

7 Q. So you didn't write the programmers' checks
8 individually?

9 A. Correct.

10 Q. You wrote a check to the company?

11 A. To the original company, that is correct.

12 Q. When you say original company, is there a
13 different company now?

14 A. I have my own firm now.

15 Q. Your own firm, meaning Palm Beach Financial
16 Exchange, Inc.?

17 A. Correct.

18 Q. Is Palm Beach Financial Exchange, Inc.,
19 writing its own software?

20 A. Correct.

21 Q. Who is Palm Beach Financial Exchange, Inc.,
22 hiring to write that software?

23 A. We're currently not hiring.

24 Q. Who was Palm Beach Financial Exchange, Inc.,
25 hiring to write its software?

1 A. Are you asking my programmer's name?

2 Q. Yes.

3 A. Stacey Brodsky.

4 Q. Does she still work for that prior software
5 company that you had worked for as well?

6 A. No.

7 Q. Does she work for Palm Beach Financial
8 Exchange, Inc., exclusively?

9 A. Yes.

10 Q. You said you're currently not hiring. So is
11 she not doing anything for Palm Beach Financial
12 Exchange, Inc., right now?

13 A. I'm not expanding my workforce.

14 Q. So she's still being paid as an employee?

15 A. Correct.

16 Q. Is she a full-time employee?

17 A. Yes.

18 Q. Do you know if she works for anybody else?

19 A. I have no knowledge of any outside consulting
20 firms that she worked for.

21 Q. You said no knowledge of any outside
22 consulting firms, but I asked if you knew whether she
23 worked for anybody else, that includes things other than
24 outside consulting firms. Do you know whether or not
25 she works for anybody else?

1 A. Are you asking if she's on the payroll of any
2 other company?

3 Q. I'm asking if you know whether she works for
4 anybody else.

5 A. I think she designs websites for her friends.
6 If you're asking me for the name of anybody who has
7 compensated her, I couldn't give you one.

8 Q. No, I was just asking you whether you knew if
9 she worked for anybody else or not?

10 A. In my opinion, the word work is ambiguous
11 because if you do, quote, work to provide something and
12 you do it for a friend or whatever, I'm not sure if it's
13 work in the context of paid employment. Does it take
14 effort under a regular definition? She expends effort.
15 I have no idea what her compensation would be.

16 Q. So the answer to the question is yes, you are
17 aware that she is performing services for somebody other
18 than Palm Beach Financial Exchange, Inc.?

19 MS. KITTERMAN: Object to the form.

20 THE WITNESS: I don't think I'd phrase it
21 that way.

22 BY MR. BARSKY:

23 Q. Well, you said she's programming websites for
24 friends.

25 A. She's not hired by Palm Beach Financial to

1 create websites.

2 Q. Okay. But she's creating websites for other
3 people?

4 A. I believe she did one for her mom.

5 Q. Who created Palm Beach Financial Exchange,
6 Inc.'s website?

7 A. Which one?

8 Q. Any of them.

9 A. I can't answer that question originally.

10 Q. You don't know who created the original
11 website?

12 A. No. The original website was done at a time
13 when I think we took a template from Freeware. I have
14 no idea.

15 Q. Okay. Who created the current website?

16 A. Stacey.

17 Q. How long has Stacey been working for Palm
18 Beach Financial Exchange, Inc.?

19 A. Define working for.

20 Q. How long has she been an employee?

21 A. Probably four years now.

22 Q. Before that, was she working for the prior
23 software company you had been working for?

24 A. Yes.

25 Q. And she was one of the programmers that was

1 being shared with Palm Beach Financial Exchange, Inc?

2 A. That's correct.

3 Q. Is there anybody else who works on the Palm
4 Beach Financial Exchange, Inc., software as of today?

5 A. No.

6 Q. Does Stacey Brodsky, you said her name was,
7 Miss Brodsky assist you in any other endeavors outside
8 of Palm Beach Financial Exchange, Inc.?

9 A. We're friends.

10 Q. Did she assist you with your campaign for
11 District 6 commissioner?

12 A. Define assist.

13 Q. Did she do anything for that campaign?

14 A. Might have held a sign, might have wore a
15 T-shirt.

16 Q. She didn't help you with campaign planning?

17 A. No.

18 Q. She didn't help you with campaign research?

19 A. No.

20 Q. She didn't help you with campaign design?

21 A. I'm color deficient, perhaps I asked her for
22 help with what color looked good.

23 Q. Color deficient, are you color blind?

24 A. I'm not color blind, I'm color deficient.

25 Q. What does that mean?

1 A. I don't see shades like everybody else does.

2 Q. What about your campaign website, who created

3 that?

4 A. WordPress.

5 Q. WordPress is a blogging program?

6 A. An aspect you could use it for.

7 Q. Does it do other things as well?

8 A. It puts text on a screen.

9 Q. So were you the person who used WordPress to

10 create your campaign website?

11 A. I didn't make the original templates, if

12 that's what you're asking.

13 Q. I'm asking who actually sat down and used the

14 WordPress software to create the website that you used

15 for your campaign for County Commission District 6?

16 A. I performed the day-to-day functions in it.

17 Q. Who created the original website?

18 A. I got it from a template. I have no idea.

19 Q. Were you the first person to use the template

20 to create the website you used as your campaign website?

21 A. It came from a free site. I have no idea.

22 Q. I understand the template itself came from a

23 free site, but somebody modified the template. My

24 question is: Who is the first person who modified that

25 template for use as your campaign website?

1 A. I don't know.

2 Q. You don't know if it was you?

3 A. First, no, I don't know.

4 Q. For your personal campaign website.

5 MR. BARSKY: Object to the form.

6 THE WITNESS: Correct. If I downloaded it, I

7 guess I was the first person to use it.

8 BY MR. BARSKY:

9 Q. Well, who else could it have been then?

10 A. It could have been Stacey.

11 Q. So she might have helped you with your

12 campaign website?

13 A. She might of.

14 Q. Anybody else who might have helped you with

15 your campaign website?

16 A. Yes.

17 Q. Who?

18 A. PayPal.

19 Q. What did PayPal do to create your campaign

20 website?

21 A. We accepted donations.

22 Q. Anything else?

23 A. We ultimately, meaning my campaign, me,

24 used -- I can't think of the name of it, but it was a

25 different elections site, an election contribution

1 collection site.

2 Q. Who would you consider the webmaster for your
3 campaign election site?

4 A. The site was my responsibility.

5 Q. You were the person who day-to-day operated
6 the site?

7 A. I did.

8 Q. Other than Miss Brodsky, in the last ten
9 years, who else has worked on the Palm Beach Financial
10 Exchange, Inc., software, if anybody?

11 A. I don't know.

12 Q. Why do you not know?

13 A. If the other software company used a
14 programmer and code happened to show up that I needed to
15 use to interface with that company, I'd have no
16 knowledge of who they hired.

17 Q. Who would have been responsible for importing
18 that code from the other software company into Palm
19 Beach Financial Exchange, Inc.'s software?

20 A. Stacey.

21 Q. How long ago was it that Palm Beach Financial
22 Exchange, Inc., stopped paying the other software
23 company that you worked for directly for programming
24 services?

25 A. Probably four years ago.

1 Q. Is that when you hired Miss Brodsky directly?

2 A. Correct.

3 Q. I have a couple of questions that we missed
4 at the beginning. Are you under the influence of any
5 medications, alcohol, drugs, any medical conditions that
6 prevent you from testifying here today accurately?

7 A. No.

8 Q. And you heard your attorney yesterday give
9 instructions on how to respond to deposition questions
10 and you appear to be very well prepared for today. Do
11 you have any questions about responding or anything that
12 is unclear to you?

13 A. No.

14 Q. If there is any question that I've asked you
15 prior to now that you did not understand, please let me
16 know; okay?

17 A. Say it again?

18 Q. Was there any question that you did not
19 understand?

20 A. Not without asking you to clarify.

21 Q. And continue to ask me to clarify in the
22 future as you need to.

23 Are you married?

24 A. No.

25 Q. Have you ever been married?

1 A. No.

2 Q. Do you have any children?

3 A. No.

4 MR. BARSKY: It's been about an hour at this
5 point. If we want to take a quick break because
6 I'm going to have a series of questions, probably
7 going to take us another hour to get through, give
8 or take.

9 (A brief recess was taken.)

10 BY MR. BARSKY:

11 Q. Mr. Schaller, do you know why you're here
12 today?

13 A. For a deposition.

14 Q. And do you know why you're being deposed?

15 A. I'm being sued.

16 Q. Do you know why you're being sued?

17 A. No.

18 Q. Have you seen the complaint in this case?

19 A. I have.

20 Q. And have you reviewed the complaint in this
21 case?

22 A. I have.

23 Q. I take it from your prior answer that you
24 think the complaint is meritless.

25 A. No, sir, I know it is.

1 Q. You know it is. And why do you know it is?

2 A. I have no malice or contempt whatsoever for
3 Mr. Santamaria. I don't even dislike the man.

4 Q. Are you familiar with a motion to dismiss
5 that was filed on your behalf in this case?

6 A. Yes.

7 Q. And I just want to be clear in the next
8 series of questions I'm asking, I'm not asking for you
9 to disclose anything that you talked to your lawyers
10 about.

11 A. (The witness nods.)

12 Q. So, you know, don't feel like that's what I'm
13 asking you.

14 A. Uh-huh.

15 Q. And if I word the question improperly, your
16 attorney will object, direct you not to answer, and I
17 will try to rephrase it so that I'm not asking about
18 things that you spoke to your attorney about, or your
19 attorneys about.

20 So you're familiar that a motion to dismiss
21 was filed on your behalf?

22 A. Yes.

23 Q. Did you personally write the motion?

24 A. No.

25 Q. Did you review it before it was filed?

1 A. I don't know.

2 Q. You don't remember?

3 A. I don't recall the first time I saw it.

4 Q. Okay. So you've seen it but you don't know

5 if it was before it was filed or after it was filed?

6 A. That's correct.

7 Q. Are you aware that that motion was denied?

8 A. Yes.

9 Q. Are you aware that a motion for summary

10 judgment was filed on your behalf?

11 A. Yes.

12 Q. Did you write the motion for summary

13 judgment?

14 A. No.

15 Q. Are you aware that there was an affidavit,

16 your affidavit that was attached as an exhibit to the

17 motion for summary judgment?

18 A. Yes.

19 Q. Did you write that affidavit?

20 MS. KITTERMAN: Objection. That could lead

21 into privileged information.

22 MR. BARSKY: I'm just asking whether or not

23 he wrote it or not.

24 MS. KITTERMAN: Yeah, but he could have had

25 the assistance of counsel. And if he did, he can't

1 answer that question. So maybe --

2 MR. BARSKY: Well, he could say he had
3 assistance of counsel and then that's it, that's
4 all I could ask about.

5 MS. KITTERMAN: Maybe you could ask him
6 whether those things that are in the affidavit were
7 true.

8 MR. BARSKY: No, I mean, I can ask.

9 BY MR. BARSKY:

10 Q. And I'm asking, did you write it? I'm not
11 asking what you talked about with your client -- with
12 your attorney. I'm just asking whether or not you wrote
13 it.

14 A. I'm sincerely not trying to be difficult.
15 What does it mean to write it?

16 Q. And I understand what your position is. Did
17 you edit the affidavit in any way?

18 A. Well, I'm sure.

19 Q. You might not have written the first draft,
20 but at some point, you had involvement in the actual
21 wording that went into the affidavit?

22 A. I did.

23 (Plaintiff's Exhibit 1 was marked for
24 identification.)

25

1 BY MR. BARSKY:

2 Q. You're aware that this lawsuit stems from
3 actions that occurred during the campaign for the county
4 commissioner's seat for District 6, Palm Beach County,
5 from 2010; correct?

6 A. I'm aware of that.

7 Q. Why did you decide to run for the county
8 commissioner's seat for District 6?

9 A. In my heart of hearts, I knew and believed
10 that I could do a better job.

11 Q. Why did you know you could do a better job?

12 A. My experience with the incumbent was proof
13 enough to me that I could do a better job.

14 Q. And what was that experience with the
15 incumbent?

16 A. Many and numerous, but I'll give you the very
17 first time I spoke with him. Mr. Santamaria recommended
18 in a public forum that I went down to speak in front of,
19 the County Commission. After the meeting, I spoke with
20 him personally. He asked me where my property was
21 located, my area of concern. I told him. He told me it
22 was not his area of concern and he would not help me.

23 I told him he was being unfair. He told me
24 that nobody has ever said he was unfair up until that
25 point in his life. He asked me a series of numbered

1 questions, meaning monetary questions, what it would
2 cost to get something done. And he offered me
3 personally \$10,000 out of his pocket to go away, meaning
4 handle this problem your own, yourself. He said, and I
5 will not help you further.

6 Q. Is that when you decided to run for the
7 county commissioner's seat?

8 A. No, sir.

9 Q. So there is some other events that occurred?

10 A. A compilation of nearly 2 1/2 years brought
11 me to that decision.

12 Q. And, ultimately, you decided to run for
13 County Commissioner District 6 seat?

14 A. Correct.

15 Q. Do you recall about when that was you made
16 that decision?

17 A. I filed my paperwork June 16th, 2010.

18 Q. So you made the decision to run sometime
19 before then?

20 A. I believe I made my decision on June 16th,
21 2010.

22 Q. So as soon as you made the decision, you
23 went -- you filled out the paperwork and you submitted
24 the paperwork?

25 A. Correct.

1 Q. And we talked about your campaign website,
2 andrewschaller.com; correct?

3 MS. KITTERMAN: I just want to clear
4 something for the record for you.

5 MR. BARSKY: Uh-huh.

6 MS. KITTERMAN: When we were talking about
7 his campaign website, you didn't say
8 andrewschaller.com. So if you want to just
9 establish that that is his campaign website.

10 THE WITNESS: I don't believe we talked about
11 the campaign website. You asked me about Palm
12 Beach Financial's website.

13 BY MR. BARSKY:

14 Q. Well, we also talked about your campaign
15 website.

16 A. I stand corrected. I apologize.

17 Q. And just for the record, that is
18 andrewschaller.com?

19 A. It is.

20 Q. Did you register that domain,
21 andrewschaller.com?

22 A. Yes.

23 Q. Did you register it through any entity?

24 A. You have to.

25 Q. Which entity did you use, if you recall?

1 A. My assumption is Go Daddy.

2 Q. But you're not sure about that?

3 A. I'm not sure.

4 MS. KITTERMAN: Don't make any assumptions.

5 If you don't know, you don't know.

6 THE WITNESS: Fair.

7 BY MR. BARSKY:

8 Q. Did you register a domain named upinarms.net?

9 A. Yes.

10 Q. Do you own that website?

11 A. I do.

12 Q. Do you administer that website?

13 A. Yes.

14 Q. You seem a little unsure about that one.

15 A. The website hasn't been updated in a long

16 time. Was I the last -- pardon me. I have not

17 maintained the website in a long time.

18 Q. Okay. When it was being updated, were you

19 the person who was maintaining it?

20 A. Yes.

21 Q. Was anybody else maintaining it?

22 A. No.

23 Q. Was anybody else maintaining

24 andrewschaller.com?

25 A. No.

1 Q. Have you ever registered jesssantamaria.com?

2 A. Yes.

3 Q. Do you still own jesssantamaria.com?

4 A. No.

5 Q. Do you know who does?

6 A. Yes.

7 Q. Who?

8 A. Who what, sir?

9 Q. Who owns jesssantamaria.com?

10 A. My attorney.

11 Q. Your attorney Miss Kitterman?

12 A. Yes.

13 Q. When did Miss Kitterman come to own

14 jesssantamaria.com?

15 MS. KITTERMAN: Object to form. It's

16 attorney-client privileged information. I instruct

17 him not to answer.

18 BY MR. BARSKY:

19 Q. Was it during the course of this litigation?

20 MS. KITTERMAN: Object to form.

21 I'm instructing you not to answer.

22 BY MR. BARSKY:

23 Q. How long has Miss Kitterman been your

24 attorney?

25 A. Since the beginning of this proceeding.

1 Q. So you owned jesssantamaria.com prior to the
2 beginning of this proceeding, the current lawsuit?

3 A. I owned it. They registered it.

4 Q. Did you still own it the day that this
5 lawsuit was filed?

6 A. What was the date the lawsuit was filed, sir?

7 Q. It was sometime in the first couple of weeks
8 of January of 2011. I can try and get you the exact
9 date if you want.

10 MS. KITTERMAN: Will it help you out,
11 according to the motion for summary judgment it
12 says January 7th, 2011.

13 MR. BARSKY: That's approximately correct.

14 If we want the exact date -- can I have the
15 security code for the wireless?

16 (Discussion held off the record.)

17 BY MR. BARSKY:

18 Q. According to the clerk and comptroller's
19 website, this case was filed on January 7th, 2011, which
20 is also what's reflected in Exhibit 1. So I think we're
21 all in agreement that's the date.

22 Did you still own jesssantamaria.com as of
23 January 7th, 2011?

24 A. Yes.

25 Q. Why did you originally register

1 jesssantamaria.com?

2 A. For search engine results.

3 Q. What do you mean by search engine, for search
4 engine results?

5 A. If someone were to search -- someone were to
6 research for District 6 results -- I shouldn't say
7 results. If somebody were to look up any information
8 about candidates for District 6, I would be able to have
9 those people doing the searches directed to something
10 that might at some point be favorable to me. I did it
11 as a defensive block.

12 Q. What do you mean by a defensive block?

13 A. Everybody would like to own their own domain
14 in this world.

15 Q. What do you mean by that?

16 A. The name jesssantamaria.com was the prior
17 website during the 2006 election of Commissioner
18 Santamaria. He let it lapse.

19 Q. And so you acquired it?

20 A. Correct.

21 Q. When did you acquire it?

22 A. I don't remember.

23 Q. Was it before or after you decided to run for
24 County Commission?

25 A. I don't remember.

1 Q. And then since the start of this litigation,
2 you've sold the domain to your attorney?

3 MS. KITTERMAN: Object to form.

4 I think you need to rephrase that question.

5 MR. BARSKY: He can answer if he knows it.

6 MS. KITTERMAN: Well, he could have sold it
7 to me or his attorney.

8 So you can answer if you understand.

9 THE WITNESS: I don't know who I sold it to,
10 sir.

11 BY MR. BARSKY:

12 Q. You don't know who you sold the domain to?

13 A. I don't know if I sold it to an individual or
14 to my attorney.

15 Q. How many attorneys do you have?

16 MS. KITTERMAN: Object to form. Time frame?

17 BY MR. BARSKY:

18 Q. Right now.

19 A. I don't know.

20 Q. You do not know how many attorneys you have
21 right now?

22 A. That's correct.

23 Q. Do you know why you don't know?

24 A. I just met an attorney today that's in the
25 room. Never met her prior, never had a conversation

1 prior. I don't know if she's representing me or if
2 she's here as a witness. I don't know.

3 Q. Okay.

4 MR. BARSKY: Is she here as a witness?

5 MS. KITTERMAN: No.

6 MR. BARSKY: She's here as counsel?

7 MS. KITTERMAN: Yes.

8 MR. BARSKY: She's not an independent?

9 MS. KITTERMAN: No. She is a partner at my
10 firm. She just joined my firm.

11 MR. BARSKY: When did she join?

12 MS. KITTERMAN: When did you join?

13 MS. DIAZ: Second, third week of February.

14 BY MR. BARSKY:

15 Q. Throughout the course of this case, how many
16 attorneys have you had, assuming that this second
17 individual who is sitting to Ms. Kitterman's left is
18 also one of your attorneys?

19 MS. KITTERMAN: Mrs. Diaz.

20 MR. BARSKY: Sorry. Mrs. Diaz.

21 MS. KITTERMAN: It's okay.

22 BY MR. BARSKY:

23 Q. Assuming that Mrs. Diaz is one of your
24 attorneys and Ms. Kitterman is one of your attorneys,
25 throughout the course of this case, how many attorneys

1 have you had?

2 A. Four.

3 Q. Who are the other two?

4 A. Ken Bender, Peter Friedman.

5 Q. Why is Mr. Bender no longer your attorney?

6 A. Because Mr. --

7 MS. KITTERMAN: I think you're going to get
8 into attorney-client privilege with this line of
9 questioning as to why people are and are not his
10 attorneys. So I'm going to instruct him not to
11 answer.

12 MR. BARSKY: Does the answer itself call for
13 attorney-client privilege?

14 MS. KITTERMAN: Absolutely.

15 MR. BARSKY: Okay.

16 BY MR. BARSKY:

17 Q. Did Mr. Bender ever make an appearance in
18 this litigation?

19 A. No.

20 Q. Was he your attorney prior to this lawsuit
21 being filed?

22 A. No.

23 Q. Is he still your attorney?

24 A. No.

25 Q. Was Mr. Friedman your attorney prior to this

1 lawsuit being filed?

2 A. No.

3 Q. Is he still your attorney?

4 A. No.

5 Q. In your mind, who did you sell
6 jesssantamaria.com to?

7 A. I don't know.

8 Q. You don't know who you thought you were
9 selling the domain to?

10 A. Correct.

11 Q. You just sold it?

12 A. Yeah. Pardon me. Yes.

13 Q. Why did you sell it?

14 A. Why does anyone sell anything?

15 Q. Well, why did you sell it?

16 A. Lack of use.

17 Q. So because it was no longer being used after
18 the start of this lawsuit, you sold it to somebody you
19 don't know who you sold it to?

20 A. Yes.

21 Q. That's a correct statement?

22 MS. KITTERMAN: Asked and answered.

23 BY MR. BARSKY:

24 Q. You can --

25 A. Yes.

1 Q. If I understand your testimony, you
2 registered jesssantamaria.com so that you could post
3 information on there so that when web searches such as
4 Google would look at it, someone would search on Google
5 for Jess Santamaria, your website would come up towards
6 the top, your search results; correct?

7 A. Incorrect.

8 Q. What would be a correct statement?

9 A. I stated it earlier, I bought it as a
10 blocking mechanism.

11 Q. To prevent Mr. Santamaria from using his own
12 campaign website?

13 MS. KITTERMAN: Object to form.

14 THE WITNESS: No.

15 BY MR. BARSKY:

16 Q. When you say blocking mechanism, what do you
17 mean by that?

18 A. There's a term called redirect. My intention
19 was to use it as a redirect.

20 Q. A redirect where?

21 A. Unknown at the time.

22 Q. Did you ever decide where you wanted it to
23 redirect to?

24 A. I don't believe I ever redirected it.

25 Q. Did you ever make a determination that you

1 wanted to redirect it somewhere?

2 A. No.

3 Q. Okay. Since then you've posted a series of
4 links on the web page.

5 A. I posted articles in the public domain.

6 Q. Did you post the text of the articles
7 themselves, or links to the articles?

8 A. To the best of my knowledge, links to the
9 articles.

10 Q. Why did you do that?

11 A. For anyone who wanted to gain further
12 knowledge.

13 Q. And you mentioned that you wanted to have
14 people who searched for -- I think you said county
15 commissioner six, to be able to see this website?

16 A. I had no specific audience in mind.

17 Q. Who receives the e-mails directed to
18 watchdog@jesssantamaria.com?

19 A. I believe it's just a placeholder.

20 Q. You don't think anybody receives those
21 e-mails?

22 A. I don't know.

23 Q. Why don't you know?

24 A. There's spam filters, there's other things.
25 I have no idea what could possibly be sent there. Any

1 time you put up an address on a website, any crawler,
2 any other company that wants to go through and data mine
3 for websites can send anything anywhere. I don't know
4 that it was ever active.

5 Q. Somebody came up with the name watchdog, did
6 they not?

7 A. Yeah, I imagine so, if it's on the website.

8 Q. And somebody put a link to send e-mails to
9 that e-mail address on the website.

10 A. Was that a question?

11 Q. Yes.

12 A. Somebody put a link or an appearance of a
13 link.

14 Q. Okay. You were the administrator of this
15 website, were you not?

16 A. Yes.

17 Q. You were the owner of the website, were you
18 not?

19 A. Yes.

20 Q. Could anybody other than you have posted a
21 link to that e-mail address on jesssantamaria.com?

22 A. Yes.

23 Q. Who?

24 A. The template maker.

25 Q. Who is the template maker?

- 1 A. I have no idea. I've got a public domain.
- 2 Q. Which public domain?
- 3 A. No clue, sir.
- 4 Q. You don't remember?
- 5 A. I don't. It's a template.
- 6 Q. Okay. So the template just happened to have
- 7 watchdog@jesssantamaria.com in it?
- 8 A. No.
- 9 Q. Then how did that e-mail link appear on the
- 10 website?
- 11 A. By taking a template, you do a copy replace.
- 12 I'm not sure what was there prior. I took a template.
- 13 Q. And you copied and replaced whatever was
- 14 there with a link to that e-mail address; correct?
- 15 MS. KITTERMAN: Object to form.
- 16 THE WITNESS: I don't know that to be
- 17 correct.
- 18 BY MR. BARSKY:
- 19 Q. You don't know that to be correct. You have
- 20 no idea how the e-mail address
- 21 watchdog@jesssantamaria.com appeared on this website?
- 22 A. For positive, no.
- 23 Q. Did anybody else have access to edit the
- 24 website other than you?
- 25 A. Not that I'm aware of.

1 Q. Who maintains the website now?

2 A. I'll give the same answer as I did upinarms,
3 I don't believe it's been edited in the recent past.

4 Q. When you say recent past, how long do you
5 think it's been?

6 A. Sometime between the time it went -- any
7 content was posted and today.

8 Q. Who has the password to access the website
9 and edit it now?

10 A. I imagine I do.

11 Q. Do you know if the person who currently owns
12 the website has that password?

13 A. I don't know that.

14 Q. Have you ever given the password to anybody
15 else?

16 A. I don't recall.

17 Q. You don't recall whether or not you've given
18 anybody else access to this website?

19 A. Correct.

20 Q. So you don't know whether you sold the
21 website, but didn't actually give the access information
22 to the website to the buyer?

23 MS. KITTERMAN: Object to form.

24 THE WITNESS: I sold the domain name, not
25 necessarily the content.

1 BY MR. BARSKY:

2 Q. So you think you still own the content?

3 A. It was public information, I never owned it.

4 Q. You never owned the order that this
5 information appears on this website?

6 A. The order?

7 Q. Yes. You didn't create this order.

8 MS. KITTERMAN: Are you asking if he owned it
9 or if he created it?

10 MR. BARSKY: Strike the question. Let me
11 rephrase it.

12 MS. KITTERMAN: Okay.

13 BY MR. BARSKY:

14 Q. You used a template to create
15 jesssantamaria.com?

16 A. Correct.

17 Q. Did you make the decision of what information
18 appeared on that website?

19 A. Yes.

20 Q. Did you make the decision as to what order
21 the information appeared on the website?

22 A. I don't know.

23 Q. You don't know?

24 A. Correct.

25 Q. How do you not know?

1 A. The template is a template. If the template
2 ordered things by columns, by space or whatever, I don't
3 know that I ever had the ability or knowledge to edit
4 that.

5 Q. You do not know HTML programming language?

6 A. Not with any degree of efficiency.

7 Q. Do you know it a little bit?

8 A. I can recognize a couple of words of
9 vocabulary, but I could not make something appear on the
10 screen.

11 Q. Other than the website for Palm Beach
12 Financial Exchange, Inc., jesssantamaria.com,
13 upinarms.net, andrewschaller.com, have you ever owned
14 any other domain names in your life?

15 A. Yes.

16 Q. Which other domain names?

17 A. Maybe too numerous for me to tell you.

18 Q. Please list the ones that you remember.

19 A. Andrewschaller.com, andrewschaller.net,
20 andrewschaller.us, andrewschaller.org.

21 Q. Are all of those the same website, or are
22 they different?

23 A. All the same website.

24 Q. They all direct -- so you own all those
25 domain names, but they all redirect to your campaign

1 website?

2 A. Same with Palm Beach Financial Exchange, it's
3 called PBF.com. A certain number for upinarms.net, but
4 not upinarms.com.

5 Q. Someone already owned upinarms.com?

6 A. Correct.

7 Q. Any other domain names?

8 A. Yes.

9 Q. Which ones?

10 A. I reserve domain names for future purposes.

11 Q. Such as?

12 A. Who knows.

13 Q. Well, what domain names have you reserved?

14 A. PBC District 1, PBC District 2, PBC
15 District 3, PBC District 4, PBC District 5, PBC
16 District 6, PBC District 6.com, .net .org. I'm not
17 sure .info. I have .coms. I'm not sure -- I don't know
18 to what degree I own .com, .org, dot whatever for each
19 of the aforementioned websites.

20 Q. Why did you register all of the
21 aforementioned websites?

22 A. Because I wanted to do good in the community.

23 Q. What were you seeking to do?

24 A. I wanted a place where each district in the
25 county could go and read news about what was happening

1 in the district.

2 Q. Have you ever actually made any websites for
3 those domain names?

4 A. Yes.

5 Q. Are they active today?

6 A. Please define active.

7 Q. Is there content on them today?

8 A. Yes.

9 Q. If I were to go to pbcdistrict1.com right
10 now, what would I see?

11 A. On the front page, probably the last posting
12 that was done. I can't tell you how long ago.

13 Q. Do you recall what that posting would have
14 been about?

15 A. No.

16 Q. What about PBC District 2?

17 A. All of the same for the above answers.

18 Q. So there would have been some kind of posting
19 on those websites?

20 A. Correct.

21 Q. You don't recall how recently a posting would
22 have been made?

23 A. That is correct. They're streaming feeds.
24 They would be updated every time one of the streaming
25 feeds was updated. If they're still active, which I

1 have no knowledge that the RSS feeds are still active,
2 it could have been any time any one of those content
3 providers changed information.

4 Q. Were you the only person who was maintaining
5 those websites, the PBC District 1 through 6 websites?

6 A. Maintaining, yes.

7 Q. Were you the only person who had access to
8 place content on those websites?

9 A. No.

10 Q. Who else had access?

11 A. Anybody that streamed RSS feeds.

12 Q. So anybody who streamed RSS feeds could put
13 their own feed on those websites?

14 A. No.

15 Q. No. Who could decide what RSS feeds appeared
16 on that website?

17 A. I need to reanswer the previous question.

18 Once I put in the RSS feed to the website,
19 whatever content was posted to the RSS feed would appear
20 anywhere an RSS feed came up. Nobody had an RSS feed
21 directly to my site.

22 Q. You were the person -- you were the only
23 person who could select what RSS feeds appeared on those
24 websites?

25 A. I was the only person who ever did.

1 Q. But did anyone ever have access to select --

2 A. My purpose for answering that question is if
3 they changed the RSS feeds -- let me give you one
4 example. Each of the different RSS feeds were from
5 content that was supposedly for that particular district
6 area. If somebody made a mistake and put it under
7 south county, under north county, then the information
8 would have changed. The RSS feeds were static.

9 Q. But the RSS feed had to be placed on that
10 website somehow; correct?

11 A. Correct.

12 Q. You were the person that had access to do
13 that?

14 A. Yes.

15 Q. You were the only person who had access to do
16 that?

17 A. They were my site.

18 Q. Anybody else have the passwords to access
19 those websites other than you?

20 A. Yes.

21 Q. Who?

22 A. Stacey.

23 Q. Anybody other than Stacey -- this is
24 Miss Brodsky; correct?

25 A. Correct.

1 Q. Anybody other than you and Miss Brodsky?

2 A. Not to my knowledge.

3 Q. What other domain names have you registered?

4 A. I'm not going to be able to recall them all.

5 Q. Well, which ones do you recall?

6 A. Breakerswest.com.

7 Q. What is that website?

8 A. I do not own it.

9 Q. Who owns it?

10 A. I don't know.

11 Q. But you registered the domain name?

12 A. 1995, I registered the domain name.

13 Q. Do you still own it?

14 A. No.

15 Q. You let it lapse at some point?

16 A. No.

17 Q. You sold it?

18 A. No.

19 Q. Then how do you no longer own it?

20 A. I gave it away.

21 Q. You gave it to someone?

22 A. Yes.

23 Q. Who did you give it to?

24 A. Breakers West.

25 Q. What is that?

1 A. It's a country club associated with the
2 Breaker's Hotel.

3 Q. Why did you register the breakerswest.com
4 domain name?

5 A. Because it was available.

6 Q. Why that domain name in particular?

7 A. The Internet was brand new. I had a friend
8 who worked for Breakers West. I registered the domain
9 at a time when my friend did not have the ability to do
10 it, nor was the Internet popular enough to know what to
11 do for most people.

12 Q. So at a time when the Internet was brand new
13 and not popular enough to do for most people, you knew
14 how to register domain names?

15 A. I'm not sure if I did it or someone did it
16 for me.

17 Q. You don't know if you hired somebody or
18 requested somebody to do this for you?

19 A. I worked for a software company, we did a lot
20 of things.

21 Q. You at least had access to be able to do
22 that?

23 A. To my knowledge, it was never even a site.
24 The name was -- the term is parked. The domain was
25 parked. It was reserved. There was nothing going on

1 it.

2 Q. In the early to mid '90s, you were a person
3 who had access that others would go to, to register
4 domain names?

5 A. No.

6 Q. But this person did?

7 A. No.

8 Q. I know you said that you had a friend who was
9 an employee of Breakers West who came to you to register
10 the Breakers West domain name.

11 A. I didn't say they came to me. I said I did
12 it for them.

13 Q. You did it for them. How did that come to
14 be?

15 A. I don't recall the exact conversation.

16 Q. Did you approach this individual?

17 A. I was friendly with this individual.

18 Q. So, at some point, there was a discussion
19 about registering that domain name and you wound up
20 being the person responsible for getting it registered?

21 A. I suppose.

22 Q. How long did you hold the Breakers West
23 domain name before you gave it to Breakers West?

24 A. I don't know the exact time.

25 Q. Do you recall approximately?

1 A. It's in years.

2 Q. It's in years. Why did you hold it for so
3 long if you were registering it for someone else?

4 A. I lost touch with the friend.

5 Q. So between the time that you talked with this
6 friend about registering the domain and the time you
7 actually registered it, you lost touch with this friend?

8 A. Correct.

9 Q. Did you ever try to have Breakers West pay
10 you any money for the domain name?

11 A. No.

12 Q. Any other domain names you've registered?

13 A. Over the years, there's been a number that
14 have lapsed that I don't recall the name of, never had
15 the content.

16 Q. Do you recall about how many of those domain
17 names you registered?

18 A. I don't.

19 Q. If you take a look at Exhibit Number 1 to
20 your deposition, it's a defendant's motion for summary
21 judgment incorporating the memorandum of law and all the
22 attachments thereto. Take a minute to look through it,
23 if you would, please, and let me know when you are
24 finished.

25 (Discussion held off the record.)

1 BY MR. BARSKY:

2 Q. Before we started talking about domain names,
3 we were talking about this lawsuit and what you know
4 about the lawsuit. You're familiar that this is -- this
5 lawsuit stems from one page of the 116-page request for
6 inquiry that you published regarding Jess Santamaria;
7 correct?

8 A. No, sir, it's 118 pages.

9 Q. I apologize, 118 pages. And it's regarding
10 one of those pages; correct?

11 A. Correct.

12 Q. And that is the page that contains the image
13 of a felony judgment against an individual in Palm Beach
14 County, Florida; correct?

15 A. Correct.

16 Q. Could you take a look, please, at Exhibit B
17 to the motion. It's your affidavit, the affidavit of
18 Andrew F. Schaller in support of defendant's motion for
19 summary judgment.

20 (Discussion held off the record.)

21 MR. BARSKY: Back on the record. We've --
22 just for clarification, we've been discussing that
23 this document has after every page of
24 Mr. Schaller's affidavit, there is a mirror copy of
25 that page. That's the way in which it was served

1 upon us. I understand that those pages were not
2 part of the original affidavit, but for
3 completeness purposes, we've included them here in
4 this document because that's the way we received
5 the document. I presume that's the way the
6 document was filed with the court.

7 MS. KITTERMAN: I'm not sure. However my
8 assistant copied it. If it's how you got it, it's
9 probably the way it was filed.

10 BY MR. BARSKY:

11 Q. So, Mr. Schaller, other than those every
12 other page that has the mirror image of the page
13 immediately preceding it, does this appear to be your
14 affidavit?

15 A. It appears to bear my signature.

16 Q. So that is on Page 3, that is your signature?

17 A. Correct.

18 Q. Do you recall signing this affidavit?

19 A. I couldn't tell you what day it was.

20 Q. I'm just asking you if you remember that you
21 signed it?

22 A. Yes.

23 Q. And do you know if it was on or about
24 October 12th of 2011? I would direct you to the notary
25 stamp on it.

1 A. On or about, yes.

2 Q. Is this the affidavit that you had input in
3 drafting? I'm not asking what you told anybody, but you
4 had some input in the creation of this affidavit?

5 A. To my knowledge, it's the only affidavit I
6 I've done.

7 Q. But you actually had some input in how this
8 affidavit reads?

9 A. Correct.

10 Q. And it's your position that all of the
11 information obtained in this affidavit is true and
12 correct?

13 A. I wouldn't have signed it otherwise.

14 Q. Take a look at the second paragraph of your
15 affidavit. The last sentence reads: The incumbent
16 running for reelection was plaintiff Jess R. Santamaria
17 ("Santamaria"); is that correct?

18 A. That's what I see.

19 Q. The third paragraph of the affidavit reads:
20 During the campaign, I searched Santamaria's name on the
21 Palm Beach County clerk and comptroller's website
22 ("Clerk's website") and discovered a 1991 felony
23 judgment for burglary against a man by the name of Jesus
24 R. Santamaria. Is that accurate?

25 A. That's exactly what it says on this page.

1 Q. Is that what you did?

2 A. It is.

3 Q. When did you do that search?

4 A. I don't recall.

5 Q. Do you recall approximately when you

6 conducted that search?

7 A. During the election.

8 Q. Do you recall what part?

9 A. Sometime between June 16th when I filed and

10 the October election date.

11 Q. You don't recall whether it was at the

12 beginning of the election -- or beginning of after you

13 filed for the election?

14 A. June 16th is the day I filed to run. So it

15 was after that time.

16 Q. You don't recall whether it was closer to

17 June 16th or closer to the actual election date?

18 A. You'd have to count calendar days. I don't

19 know.

20 Q. You don't recall approximately?

21 MS. KITTERMAN: Asked and answered.

22 BY MR. BARSKY:

23 Q. You can answer.

24 A. You're asking me to speculate on days closer

25 to one day or the other.

1 Q. You don't recall just approximately? I'm
2 allowed to ask approximation.

3 A. I'm trying to be honest with you.

4 Q. And you just don't have any recollection?

5 A. The date of the request for inquiry is
6 September 13th. So it would be prior to that. I don't
7 know calendar days, if it was closer to June 16th or
8 closer to October 2nd -- or November 2nd. I don't know.

9 Q. Why did you search the clerk's website for
10 Santamaria's name?

11 A. On June 16th when I filed my election
12 paperwork, I asked an employee at the supervisor of
13 elections who verifies our information. She told me it
14 was up to the opponents, basically, to do the vetting
15 process.

16 Q. So you decided to go and search for
17 Santamaria's name on the Clerk's website?

18 A. I had two opponents.

19 Q. Santamaria and?

20 A. John Carroll.

21 Q. So you went to the clerk's website and
22 searched for both Santamaria and John Carroll?

23 A. Correct.

24 Q. What did you find when you searched for
25 John Carroll?

1 A. Normal documents for a man who would own a
2 house. Nothing that stands out in my mind that I would
3 have a question upon.

4 Q. What name did you search for John Carroll?

5 A. John Carroll.

6 Q. Did you search for Jonathan Carroll?

7 A. Don't believe I did that.

8 Q. Did you search for any different spellings of
9 the first name John?

10 A. No. I might have used the E because I
11 believe he ran under John E. Carroll.

12 Q. But you didn't search for anything other than
13 John Carroll or John E. Carroll?

14 A. I don't remember every keystroke.

15 Q. So you don't recall?

16 A. I don't recall if I did anything other than
17 what I've mentioned.

18 Q. What about for Santamaria, what did you
19 search?

20 MS. KITTERMAN: Object to the form.

21 THE WITNESS: In general or in specific that
22 related to the document?

23 BY MR. BARSKY:

24 Q. Let's start with general.

25 A. Jesus Santamaria, Jess Santamaria. I don't

1 believe from memory that you can use initials in the
2 Clerk's site. If you could, that may have been
3 something I had done.

4 Q. Which one of those searches returned the
5 felony record?

6 A. Jesus.

7 Q. In your affidavit, you stated that the search
8 that you ran was for Jess Santamaria and that was the
9 search that returned the felony record.

10 A. I knew the gentleman to be one and the same.
11 I'm referring to the person that I did the search upon.

12 Q. So the reference in this affidavit that you
13 relied on to try to obtain summary judgment in this case
14 and this case without having a trial isn't completely
15 accurate?

16 MS. KITTERMAN: Object to the form.

17 THE WITNESS: I don't know that I said that.

18 BY MR. BARSKY:

19 Q. Well, your Paragraph 2 says that you
20 searched for Jess -- that you define Santamaria as Jess
21 R. Santamaria; correct?

22 A. Paragraph 2, it says the incumbent running
23 for reelection was plaintiff Jess R. Santamaria.

24 Q. What's the rest of that sentence say?

25 A. I'm not an attorney. It looks like it says

1 Santamaria, in parentheses, to be able to define who
2 this is talking about as a formal label for the rest of
3 the document.

4 Q. So then you used that formal label in
5 Paragraph 3, did you not? During the campaign, I
6 searched Santamaria's name.

7 A. I don't know in the editing process if I put
8 Santamaria in or that was part of the help that someone
9 would have done for a legal document. I did not prepare
10 this legal document.

11 Q. You testified earlier that you had input into
12 this document, though?

13 A. I have input. I don't know how to form the
14 top that says in the Circuit Court of the 19th -- or
15 15th Judicial Circuit, I don't know how to put case
16 numbers. I don't know how to prepare a legal document.
17 If something was put in that refers to the tone or
18 reflection of the legal document, that would not have
19 been my input.

20 Q. But you read this document before you signed
21 it?

22 A. I did.

23 Q. You could have made changes to this document
24 before you signed it?

25 A. The purpose for having an attorney is to help

1 me. I didn't know if I should take 15th Judicial and
2 write 16th or 13th. There's a certain amount of
3 reliance upon my attorney.

4 Q. So you don't understand how to properly style
5 a case, you don't know what goes in there, but you do
6 know if I were to tell you to type this on a page, you
7 could retype this on a page, could you not?

8 A. If you're asking me to parrot your words down
9 exactly the way you told me to do, I believe I have the
10 mental capacity to be able to do as you asked.

11 Q. Okay. But you just don't under -- the
12 technicalities of what the 15th Judicial Circuit in
13 Florida is versus the 14th and the 16th, you don't know
14 what the difference between those is?

15 A. I have no previous knowledge of lawsuits in
16 general.

17 Q. Is this the first time you've ever been sued?

18 A. No.

19 Q. No. How many times have you been sued?

20 A. Once.

21 Q. And what was that lawsuit about?

22 A. A new owner came into the building, wanted to
23 raise everybody's rents, he sued everybody for the
24 contracts that they had. He withdraw the lawsuit for
25 everyone in the building of which I was a part of,

1 The way in which it gets conveyed on a piece of
2 paper is not my forte nor my expertise.

3 BY MR. BARSKY:

4 Q. So to the extent that this affidavit says
5 that the only search you performed was for the name
6 Jess Santamaria, that's not accurate?

7 A. I apologize. I don't read the same thing
8 into this that you do. I don't see where it says only
9 saying singular or one. I see something in my words, if
10 I had part of the editing, referring to the person.

11 Q. So when you say referring to the person, why
12 would you say that Jess Santamaria has any other name,
13 any other name used for conducting these searches at the
14 Clerk's website?

15 A. My name is Andy Schaller, my name is also
16 Andrew Schaller. There is an opportunity for
17 Mr. Santamaria to have more than just Jess for a name.
18 It was my understanding through previous conversations
19 with himself, I believe the first time I heard his name
20 was Jesus Santamaria came from him during a meeting he
21 and I had.

22 Q. When was that meeting?

23 A. Prior to the elections.

24 Q. Do you recall approximately when?

25 A. I had many meetings with

1 Commissioner Santamaria, many in the terms of five, six,
2 seven, perhaps more. I don't recall.

3 Q. And this is -- these meetings extend back
4 over that -- you said it was about a 2 1/2-year period,
5 I think you said, that you were working with
6 Commissioner Santamaria on an issue?

7 A. My county issue started on March 6th of 2008.
8 I believe I started interacting with
9 Commissioner Santamaria as an individual probably after
10 the June meeting in June of 2008, the June Board of
11 County Commission meeting.

12 Q. So sometime between June 2008 and the
13 election in 2010 is when you had a meeting with
14 Commissioner Santamaria and Commissioner Santamaria told
15 you that his name was Jesus?

16 A. My recollection is the first time I heard it
17 was from him.

18 Q. How many other times have you heard it?

19 A. I don't remember.

20 Q. You don't recall approximately?

21 A. No.

22 Q. Have you heard it any more times other than
23 that one time you heard it from Mr. Santamaria?

24 A. Yes.

25 Q. From whom?

1 A. I don't recall.

2 Q. Do you recall approximately when?

3 A. No.

4 Q. Do you recall approximately how many times?

5 A. No.

6 Q. But you're certain the first time you heard
7 this was from Commissioner Santamaria himself?

8 A. I did not use the word certain.

9 Q. You believe it to be the case then, the first
10 time you heard about the name Jesus was from
11 Commissioner Santamaria?

12 A. At the time, it wasn't important. I don't
13 have a specific event that stands out in my mind as to
14 the first time I heard it.

15 Q. Okay. Do you know if it was before you
16 decided to run for election?

17 A. Absolutely.

18 Q. You say that with an amount of certainty.
19 Was it a long time before you decided to run for
20 election?

21 A. I don't know what your definition is of a
22 long time. It was sometime between June of 2008 and
23 June of 2010. I'm not sure what your definition of a
24 long time is.

25 Q. Was it closer to June of 2008 or closer to

1 June of 2010?

2 A. 2008.

3 Q. Okay. So at the time Commissioner Santamaria
4 told you that his name was Jesus, it wasn't an important
5 issue for you and you didn't think anything of it?

6 MS. KITTERMAN: Objection.

7 THE WITNESS: Two gentlemen talking.

8 BY MR. BARSKY:

9 Q. But after you decided to run for
10 County Commission, you decided it was important
11 information?

12 MS. KITTERMAN: Object to form.

13 THE WITNESS: The man was important, his name
14 wasn't important to me.

15 BY MR. BARSKY:

16 Q. So you decided to search for Jesus because
17 Commissioner Santamaria told you that was his name?

18 MS. KITTERMAN: Object to form.

19 THE WITNESS: I decided to search because the
20 Supervisor of Elections told me, paraphrasing, that
21 it was my responsibility to vet my opponents.

22 BY MR. BARSKY:

23 Q. So you decided to vet your opponents?

24 A. In the limited time I had running an
25 election, a business, putting my signs up, I did the

1 best I could in the given amount of time.

2 Q. When you decided to vet your opponents, what
3 was the first thing that you did?

4 A. I don't remember the order.

5 Q. If you don't remember the order, what do you
6 remember were the other things that you did then?

7 A. I couldn't even tell you that.

8 Q. You don't recall everything that you did to
9 vet your appointments?

10 MS. KITTERMAN: Are you saying vent or are
11 you saying vet?

12 MR. BARSKY: To vet.

13 MS. KITTERMAN: Okay.

14 THE WITNESS: Conversations that people have
15 leading up to time, I can't tell you who I talked
16 to, when. Part of running on an election trail is
17 talking to people, shaking hundreds, maybe
18 thousands of hands where people say different
19 things along the way. They may tell you your name,
20 you may remember, they may give you a card. I have
21 no idea of all of the people that I spoke to in the
22 period of time in which I ran for election or prior
23 or in the last period of time since I had cause to
24 go in front of the board in 2008.

25

1 BY MR. BARSKY:

2 Q. But the question was what did you do to vet
3 your opponents?

4 A. I spoke with everybody I could possibly speak
5 with.

6 Q. What else did you do?

7 A. Let me rephrase or redress my answer. Spoke
8 with everybody I could speak with along the way for my
9 benefit. During those periods of time, other people
10 would volunteer different things. I didn't specifically
11 seek the people out or their stories to vet my opponent,
12 but that was part of the process.

13 (Discussion held off the record.)

14 BY MR. BARSKY:

15 Q. So other than that, what else did you do to
16 vet your opponents?

17 A. Public records requests.

18 Q. Which public records did you request?

19 A. I don't remember the list.

20 Q. Did you do public records requests for both
21 of your opponents?

22 A. No.

23 Q. Only one of the opponents?

24 A. Correct.

25 Q. Only for just Santamaria?

1 A. Correct.

2 Q. Why did you not do public records requests
3 for your other opponent?

4 A. The other opponent never served office in
5 Palm Beach County as a commissioner.

6 Q. Didn't he have some other role in Palm Beach
7 County as an official?

8 A. If he did, it didn't pertain to the job. I
9 was only interested in the job.

10 Q. What was the other opponent's job prior to
11 running for election?

12 A. Palm Beach County sheriff's officer.

13 Q. You didn't want to do any kind of public
14 records search regarding his time as Palm Beach County
15 sheriff's officer?

16 A. No.

17 Q. Why not?

18 A. Didn't pertain to the job.

19 Q. So his service as Palm Beach County sheriff's
20 officer had nothing do with the job as commissioner?

21 A. Two different agencies, two different roles,
22 two different positions.

23 Q. Didn't you do a search on Jess Santamaria for
24 things unrelated to his job as county commissioner?

25 A. You asked about a public records request.

1 I'm answering that I didn't do a public records request
2 for anybody other than the incumbent I was facing.

3 Q. And so your public -- well, you were
4 facing -- let me rephrase that.

5 Other than the incumbent you were facing,
6 which was Jess.

7 A. Uh-huh.

8 Q. Mr. Santamaria was the only incumbent at the
9 time?

10 A. Correct.

11 Q. So you only did a public records request for
12 Mr. Santamaria relating to his time as county
13 commissioner?

14 A. That is correct.

15 Q. Yesterday at the deposition of
16 Mr. Santamaria's wife, your attorney showed two
17 documents that are federal government forms. How did
18 you acquire those?

19 A. I think it was ancestry.com.

20 Q. From ancestry.com?

21 A. I think so.

22 Q. The document -- the documents that were shown
23 and that you've given to us as part of your exhibit list
24 aren't Xeroxes of the original documents, are they?

25 A. I don't know.

1 Q. You don't know?

2 A. Huh-uh.

3 Q. You don't recall whether or not they are
4 photographs of the document?

5 A. It was provided on ancestry.com. I don't
6 know if it's a -- I don't know if it's a scanned image,
7 I don't know if it's a Xerox'd image, I don't know if
8 it's a mimeographed image, I don't know what was
9 available at the time that produced that document for
10 ancestry.com.

11 Q. You have no idea who put that document on
12 ancestry.com?

13 A. None.

14 Q. You just found it there?

15 A. Correct.

16 Q. When did you find it?

17 A. During the course of this litigation.

18 Q. So sometime between January 7, 2011, and
19 yesterday?

20 A. Yeah. Prior to you getting it. So weeks
21 ago, whatever.

22 Q. Between January 7th, 2011, and a couple of
23 weeks ago? I don't remember when we got the CD from
24 you.

25 A. Something like that.

1 Q. Okay. Why did you decide to do that search
2 engine?

3 MS. KITTERMAN: Real quickly, I'm going to
4 object to form and advise him not to answer if
5 you're seeking work product information. I didn't
6 realize that he had done the search since this
7 litigation had started. So anything that he's done
8 in preparation of the litigation to defend his case
9 is work product as to how he got it.

10 MR. BARSKY: I disagree. Authenticity of
11 documents is absolutely something that we can
12 inquire about.

13 MS. KITTERMAN: Well, you can object to the
14 authenticity, but -- and we can try to find out a
15 way for it to be admitted. So if that's what
16 you're trying to figure out. Obviously, he's not
17 going to be able to testify as to the authenticity
18 of the document. But as to how he went about
19 getting it, since it started after litigation would
20 be work product. But I understand your objection
21 about authenticity.

22 BY MR. BARSKY:

23 Q. Why didn't you do a search on ancestry.com
24 during the election?

25 A. I don't see how it pertained to the

1 incumbent. I was running for a job, not against a man.

2 Q. So even though you were not running against a
3 man, you registered jesssantamaria.com?

4 A. I was running for a position. I wasn't
5 running against a person. I was running against a
6 position.

7 Q. All right. What other searches did you do
8 relating to Mr. Santamaria other than the search on the
9 Palm Beach County clerk and comptroller website?

10 MS. KITTERMAN: Time frame?

11 BY MR. BARSKY:

12 Q. During --

13 MS. KITTERMAN: Before litigation? I'm
14 asking you if that's how you want to define it.

15 MR. BARSKY: You're going to object for work
16 product if I ask --

17 MS. KITTERMAN: During litigation.

18 MR. BARSKY: -- during litigation.

19 And I'm going to still say that I don't -- to
20 the extent that you're creating evidence to use,
21 I'm not sure that you can --

22 MS. KITTERMAN: First of all, I'm not
23 creating evidence. So that should be stricken.

24 MR. BARSKY: To the extent that you are
25 preparing documents.

1 MS. KITTERMAN: Preparing for trial, yes.

2 MR. BARSKY: Right. Okay. So you're going
3 to object. And I'm not sure that you can do that,
4 but I will --

5 BY MR. BARSKY:

6 Q. Prior to the commencement of this litigation,
7 so we can get around the part that your attorney is
8 going to direct you not to answer, what other searches
9 did you do for Mr. -- regarding Mr. Santamaria, other
10 than the one for the Palm Beach County Clerk and
11 Comptroller's office?

12 A. Palm Beach County Board of County
13 Commissioners' website.

14 Q. Any other searches?

15 A. Media searches, newspapers.

16 Q. How did you conduct those media searches?

17 A. Go to Palm Beach Post website, type in
18 Santamaria. Go to the Sun Sentinel, type in Santamaria.

19 Q. So you didn't use a search engine or anything
20 like that?

21 A. I'm sure I did.

22 Q. What other searches did you do prior to
23 commencement of the litigation?

24 A. I can't possibly remember every one.

25 Q. Describe for us the searches that you do

1 remember.

2 A. Fargo, Fargo Road, Santamaria, Santamaria
3 opponent. My name was in the paper many times, search
4 on my own name.

5 Q. What was the purpose of all these searches?

6 A. I was running for a position. To refresh, to
7 gain further knowledge that would help me do the better
8 job as the better candidate, as the better acting
9 commissioner once elected.

10 Q. Did you do the same type of searches for the
11 other candidate for the position?

12 A. Yes. There were prior opponents in four
13 years prior.

14 Q. Did you do the same searches for both
15 candidates?

16 A. You're asking to do a comparison of
17 keystrokes. I don't believe I have the mental capacity
18 to remember that.

19 Q. Same general searches?

20 A. General.

21 Q. The only difference that you had was not
22 doing a FOIA request for your other opponent because he
23 hadn't been a county commissioner?

24 A. I'll say in general. And if that falls under
25 general, yes.

1 Q. And understand, I'm not trying to hold you to
2 being able to remember every single key that you pushed.
3 But what I'm suggesting -- or when I say general, I mean
4 you did a search on the clerk and comptroller's website
5 for both of their names, you searched the websites for
6 both of their names, you searched newspapers for both of
7 their names?

8 A. I could not search the Board of
9 County Commission, the county website for John Carroll's
10 name. He never served.

11 Q. So for things that he -- you couldn't because
12 he never was in that position. Obviously, you couldn't
13 do a search?

14 A. I can't search for something that's not
15 there.

16 Q. Correct. But for everything else where there
17 would have been a possibility of having both candidates
18 having results, you did a search for both candidates?

19 A. To my knowledge, but my focus wasn't on, I'll
20 call it an equal, two people running for an incumbency.
21 The incumbent is always harder to unseat because they
22 have the power of the office. My focus was not on
23 John Carroll, my focus was on the incumbent. It was on
24 the position, not the person.

25 MR. BARSKY: We've been going for about an

1 hour since the last break. I don't know if you all
2 want to take a break for lunch. I'm at a decent
3 stopping point right now.

4 MS. KITTERMAN: Oh, you are?

5 MR. BARSKY: Yeah. You know, we'll resume
6 kind of along the same lines, but this is a decent
7 place to take a break if you all want to grab a
8 bite to eat.

9 MS. KITTERMAN: If you're good with that,
10 that's fine.

11 MR. BARSKY: What do you all think,
12 45 minutes?

13 (A luncheon recess was taken at 12:21 p.m.)

14 BY MR. BARSKY:

15 Q. Okay. So we're back from lunch and I just
16 wanted to kind of recap where we were at. And we were
17 talking about the different searches that you've done on
18 your opponents during the period of the campaign for
19 County Commissioner District 6 seat. And it's my
20 understanding that since then, you've also done
21 additional searches because your attorney objected as to
22 work product; correct?

23 A. I don't know what she objected to. So I
24 don't know how to answer you.

25 Q. All right. Well, I'll go through some and

1 we'll see what we come up with then. But did you do
2 searches on Jess Santamaria after the fact, and by after
3 the fact, I mean after the election was over?

4 A. I think the term is demonstrative aides.

5 Q. Demonstrative aides. What do you mean by
6 that?

7 MS. KITTERMAN: Wait. Just real quickly, I'm
8 going to clarify. If I've asked you to do
9 something, you can't talk about it no matter what
10 you think a demonstrative aide is.

11 THE WITNESS: I don't know what I'm saying,
12 sir.

13 BY MR. BARSKY:

14 Q. Okay. Have you done searches regarding
15 Jess Santamaria since the conclusion of the 2010
16 election?

17 A. Yes.

18 Q. Have all of those searches been done because
19 of direction from counsel?

20 A. No.

21 Q. Okay. The searches that were not done at the
22 direction of counsel, what searches have you conducted?

23 A. I was part of an election. There was
24 different things that were written about the election
25 aftermath, things like that. Follow up to the election.

1 Q. So you were looking at newspaper articles?

2 A. Among others.

3 Q. What other things were you looking at?

4 A. I have a deep interest in my community,
5 District 6. Commissioner Santamaria continues to
6 preside over issues that appear in front of him. I look
7 at the county minutes. I look at -- I'm at county
8 meetings. I've gone back if I was in a meeting in the
9 morning, to watch it in the afternoon. He is one of
10 seven people on the board. So I have done things on
11 him, as well as the topic that pointed back to him.

12 Q. Have you done searches on any of the other
13 county commissioners?

14 A. I think I just answered that in the sense of
15 if you look at a topic or who said what in a quote, it
16 brings you back to where it came out in the meeting or
17 something like that. So I think I've done the searches
18 more on topics that led me to the commissioners than
19 saying individually done -- there is seven
20 commissioners, who did I look at and who did I not.

21 Q. Have you searched on any searches
22 specifically for the name Jess Santamaria since the
23 election, not at the direction of your attorney?

24 A. I think I answered that.

25 Q. And your answer is that yes, you have?

1 A. Uh-huh. I'm sorry. Yes.

2 Q. What was the purpose of those searches?

3 A. I think I just stated that.

4 Q. It was simply for keeping in touch with --

5 A. I'm a member of the community, decisions are
6 made around me constantly. I like to know what they
7 are.

8 Q. Going back in time, your testimony was that
9 Jess Santamaria told you that his name was Jesus?

10 A. I said I believe the first time I heard it
11 was from him.

12 Q. And you've heard it additional times since
13 then?

14 A. Correct.

15 Q. But you don't remember who told you?

16 A. You mean besides Mr. Santamaria?

17 Q. Yes.

18 A. Mr. Santamaria told me again.

19 Q. So Mr. Santamaria told you twice?

20 A. In his response to the answers, it said my
21 birth name was Jesus R. Santamaria. That sounded like
22 clarification to me.

23 Q. Okay. So he told you once in the discovery
24 that's been conducted in this case, and he told you once
25 in a conversation sometime between when you first

1 approached him regarding an issue that you had and when
2 you decided to run for county commissioner?

3 A. Correct.

4 Q. Has anybody else ever told you that
5 Mr. Santamaria's name was Jesus?

6 A. Yes.

7 Q. Who?

8 A. I don't recall.

9 Q. When?

10 A. Between the time that I originally approached
11 Mr. Santamaria as you're describing in June of 2008, and
12 when we're sitting here.

13 Q. Do you recall with any more specificity when?

14 A. Yesterday, when his wife admitted that was
15 his name.

16 Q. Any other times?

17 A. Not with specificity.

18 Q. Do you recall other than his wife, who told
19 you?

20 A. I do not.

21 Q. Do you recall how many times you've been told
22 this?

23 A. I do not.

24 Q. Is it more than five?

25 A. I don't remember.

1 Q. Was Mr. Santamaria telling you that his name
2 was Jesus, the reason that you searched the clerk and
3 comptroller's website for Jesus Santamaria?

4 A. The reason was to gain knowledge.

5 Q. Why did you choose that name specifically to
6 search?

7 A. When you do a background search on
8 Jess R. Santamaria, first alias comes up -- the first
9 alias that comes up in a number of searches is Jesus R.
10 Santamaria from Royal Palm Beach, Florida.

11 Q. Did you do those searches prior -- or during
12 the election?

13 A. Yes.

14 Q. You did those searches during the election?

15 A. Yes.

16 Q. Where did you conduct those searches?

17 A. The Internet.

18 Q. Which, specifically, sites did you use?

19 A. To the best of my recollection, Intelias,
20 Peoples Search, and BeenVerified.com. In fairness,
21 there is a number of different places that would lead me
22 to the different front ends that would lead me to some
23 similar databases.

24 Q. And by front ends, you're referring to those
25 three websites you just told us about, People Search,

1 Intelias, and BeenVerified?

2 A. Correct.

3 Q. You don't personally know what databases
4 those things search?

5 A. That's proprietary.

6 Q. Right. Proprietary to those companies, but
7 you don't know?

8 A. Correct.

9 Q. But you used those three websites during the
10 election campaign to search for Jess Santamaria?

11 A. Correct.

12 Q. When did you use those websites?

13 A. I don't know.

14 Q. Was it before you published the request for
15 inquiry?

16 A. Absolutely.

17 Q. Were those sites the reason that you searched
18 the Clerk and Comptroller's website using the search
19 term for Jesus Santamaria?

20 A. Yes.

21 Q. Did you search for any of the other aliases
22 that those search engines returned?

23 A. Yes.

24 Q. What were the results of those?

25 A. Many cross-references.

1 Q. Did you use any or all of those
2 cross-references on the clerk and comptroller's website?

3 A. No.

4 Q. Why not?

5 A. Because some of them aren't him.

6 Q. How could you tell?

7 A. I don't believe Jess Santamaria is
8 Christopher Santamaria. I don't believe Jess Santamaria
9 is Victoria Santamaria and on down the line.

10 Q. So it's obvious, then, that those cross
11 results and aliases listed, some of them are not
12 accurate?

13 A. I think you're confusing two things. They
14 put up search results for possible relatives. That
15 doesn't say possible aliases. I didn't say, nor do I
16 want you to have the idea that Christopher Santamaria
17 would be Jess. You asked if I searched all of the
18 results that came up, I said no.

19 Q. So you didn't search -- how did you make that
20 determination, which ones you would search and which
21 ones you would not?

22 A. It's listed.

23 Q. It's listed how?

24 A. Possible relatives.

25 Q. What about under the aliases, did you search

1 for every possible alias that those three websites
2 returned for Mr. Santamaria?

3 A. I don't know.

4 Q. Why do you not know?

5 A. Because there are a lot and I don't know if I
6 got every single one.

7 Q. When you say a lot, about how many do you
8 think there were?

9 A. Each site returned Jess R. Santamaria as
10 Jesus R. Santamaria. There were others. I did not make
11 a table to make sure that every single one
12 cross-referenced. If one site had five, one site had
13 four, and one site had seven, I did not put them
14 together, cross each one of them off and go from there.

15 Q. But you think they all had returned between
16 four and seven aliases?

17 A. I used that as an example. I don't remember.

18 Q. You don't remember how many. Do you recall
19 if it was more than five?

20 A. I don't remember.

21 Q. You don't recall if it was less than five?

22 A. I don't remember.

23 Q. Can you walk me through what you did? So you
24 went to -- let's take BeenVerified, for example. You
25 went to the BeenVerified website?

1 A. Correct.

2 Q. And you did this sometime between when you
3 started your election campaign and the time you
4 published the request for inquiry?

5 A. Correct.

6 Q. But you don't recall the exact date?

7 A. No, sir.

8 Q. You don't recall whether it was closer to the
9 start of your campaign or closer to the request for
10 inquiry?

11 A. You're asking me to choose days. I don't
12 know.

13 Q. Okay. So you just don't remember where and
14 the time it was?

15 A. I don't remember the exact date or if it
16 was -- if you drew a half line down the middle, if it
17 was closer to the beginning of the first half or the
18 second half. I don't remember.

19 Q. Did you save the results of these searches?

20 A. Save them?

21 Q. Yes.

22 A. No.

23 Q. Why not?

24 A. Because it's publicly available. Why do you
25 have to save something that's publically available?

1 Q. You didn't print it out and say he's got this
2 alias?

3 A. I'm pretty much a nonpaper office. I don't
4 do a lot of printing of anything.

5 Q. You didn't save a screen shot or save a file
6 or anything like that?

7 A. It wasn't important at the time.

8 Q. So you didn't think it was important at the
9 time that you found out that Mr. Santamaria had
10 numerous, allegedly numerous aliases?

11 A. I said it wasn't important to save a document
12 that could be very easily retrieved.

13 Q. So you just assumed, I can get this document
14 back from where I got it from the first time if I ever
15 needed to?

16 A. Found it that time, why wouldn't I get it
17 again?

18 Q. So you used -- let's start with this
19 BeenVerified --

20 A. Uh-huh.

21 Q. -- for instance.

22 You went to their website, what did you do?

23 A. Typed in first name Jess, last name
24 Santamaria, clicked on the pick list that said Florida.

25 Q. When you say pick list, what is a pick list?

1 A. Pick list is a number of predetermined search
2 criteria. In this particular case, it would be all
3 50 states. So I clicked on the one that said Florida,
4 not the one that would start with Alaska, Alabama, so on
5 and so forth. I clicked on Florida.

6 Q. So it basically was a box that you selected
7 which state is what you're saying?

8 A. Correct.

9 Q. And that's called a pick, p-i-c-k?

10 A. List, l-i-s-t.

11 Q. Is that a technical term?

12 A. No more technical than cursor, mouse, or
13 keyboard.

14 Q. I've just never heard it.

15 A. Uh-huh.

16 Q. Okay. So you selected Florida, and then what
17 did you do?

18 A. Pressed it.

19 Q. What was the result?

20 A. Jesus R. Santamaria.

21 Q. That's exactly what it came up with as the
22 result?

23 A. Across the top, it puts the name of the
24 searches.

25 Q. Uh-huh.

1 A. And then it puts in possible aliases in
2 Florida, along with Royal Palm Beach, Florida,
3 approximate age at the time of the search, possible
4 relatives, it brings you right to Jesus R. Santamaria.

5 Q. It brings you right to, that's what it says
6 across the top?

7 A. We mentioned three search engines. I believe
8 in two of the three, it's the first listing. And I
9 believe on one other, it's the second listing. But I
10 could be mistaken on that.

11 Q. But it says across the top for BeenVerified,
12 if you can recall, across the very top it says
13 Jesus Santamaria, even though you typed in Jess?

14 A. No, sir.

15 Q. Okay.

16 A. It says Jess Santamaria should -- the way the
17 system works is it returns your search criteria across
18 the top.

19 Q. Okay.

20 A. Then immediately below that is possible
21 aliases. So you have in large heading, the name that
22 you searched on, Jess Santamaria, and then the location
23 of Florida. Then it has listed in the left-hand side
24 column top to bottom, top listing, Jesus R. Santamaria.

25 Q. Okay.

1 A. Second listing, Jesus R. Santamaria,
2 somewhere in that regard.

3 Q. Was this individual from Royal Palm Beach,
4 the only person that was returned in that search?

5 A. Yes.

6 Q. There was no others?

7 A. Other than aliases and possible relatives
8 associations is the only one that came back, to my
9 recollection.

10 Q. To your recollection. Were there any other
11 options that you could select once you got to that
12 screen?

13 A. No.

14 Q. There was nothing else you could click on?

15 A. Yes. You could click on an extensive
16 background and pay the fee.

17 Q. Okay. And you didn't do that?

18 A. For everything that came up?

19 Q. Well, for -- let's say this search in
20 particular, where you typed in Jess Santamaria in
21 Florida and it returned across the top, it said his name
22 and it had an alias, the first alias was Jesus, did you
23 select the more extensive report?

24 A. I don't recall.

25 Q. Do you know if you ever selected a more

1 extensive report for Mr. Santamaria?

2 A. Please define your time frame for ever.

3 Q. During the time period from when you first
4 had interaction with Mr. Santamaria, through the date of
5 the election.

6 A. I don't recall.

7 Q. Now, when you asked me to define, does that
8 mean -- and you don't recall during that time period,
9 does that mean that you have subsequently ordered a more
10 extensive report for Mr. Santamaria?

11 A. I'm going to refer to my attorney.

12 Q. Well, your attorney can object or not, but
13 you can't refer to her.

14 A. Perhaps I'm using the wrong vocabulary. From
15 my understanding of we talked about earlier, again, I'm
16 not an attorney, I think you're asking me to go down a
17 road which she already objected to and you agreed to.

18 Q. She has to renew the objection every time.
19 So if that's --

20 MS. KITTERMAN: No, if he's going to discuss
21 something that I've directed him to search or
22 something that we searched during litigation, I'm
23 directing him not to answer that as far as work
24 product is concerned.

25 But if there is anything that you've done

1 that wasn't at my direction or it was before
2 litigation, then you are free to discuss that.

3 THE WITNESS: The purpose for me doing any
4 search was to bring the more qualified, the more
5 informed, the more document available entities to
6 do the job that I asked a question about.

7 BY MR. BARSKY:

8 Q. Well, that doesn't answer the question that
9 was posed to you.

10 A. I apologize. Please ask me the question
11 again.

12 (Discussion held off the record.)

13 BY MR. BARSKY:

14 Q. The question was whether or not you've ever
15 ordered a more extensive report on Mr. Santamaria since
16 the time of the election.

17 MS. KITTERMAN: And the objection stands.

18 That's --

19 BY MR. BARSKY:

20 Q. And the objection is your attorney's
21 position, she's not going to let you answer that
22 question if it was something that was done at her
23 direction or that was --

24 MS. KITTERMAN: That we did in preparation of
25 litigation.

1 MR. BARSKY: Correct. I'm not sure that that
2 objection is valid, but it is what it is.

3 BY MR. BARSKY:

4 Q. So you can answer if it doesn't come within
5 her --

6 A. Correct me, I want to be honest and I want to
7 answer your question. So correct me if you need to. I
8 have no other purpose to look at anything other than my
9 case.

10 Q. I can't correct you. I mean, that's your
11 determination. So --

12 A. The reason I asked you to correct me is if I
13 didn't answer your question. I have no other reason to
14 do any further searches on this particular topic that
15 did not relate to my case.

16 MR. BARSKY: So then if you're making a work
17 product objection, can you make it for the record?

18 MS. KITTERMAN: Yes, yes, yes. I instructed
19 my client not to answer based on work product
20 information because any searches that he or we have
21 done in preparation of trial in this litigation
22 would be work product privileged.

23 But I think answering further, that he
24 answered your question as to whether or not he had
25 done extensive background search on Jess Santamaria

1 or Jesus Santamaria after the election. I think
2 that's what you were talking about.

3 MR. BARSKY: That's what I was asking him and
4 you made the objection and he won't be answering
5 now.

6 MS. KITTERMAN: He basically said that --

7 MR. BARSKY: He considers everything since
8 then to be part of his --

9 MS. KITTERMAN: No. What he said was he
10 would have no reason to do an extensive background
11 search on Jess Santamaria any more because any time
12 he would do that would be because of litigation.

13 MR. BARSKY: Yeah, that's not -- okay,
14 because of litigation. Fair enough.

15 MS. KITTERMAN: Right.

16 MR. BARSKY: So you're saying anything he's
17 done --

18 MS. KITTERMAN: Because litigation.

19 MR. BARSKY: -- you're pulling that under
20 litigation.

21 BY MR. BARSKY:

22 Q. So back to my first question then, you don't
23 recall whether or not you ever did a more extensive
24 background search on Jess Santamaria prior -- between
25 the time you met him and the time of the election?

1 A. You're asking me as pertaining to
2 BeenVerified. I don't know that I did that for
3 BeenVerified.

4 Q. What about for any of those search engines,
5 the background search engines that you used?

6 A. I can't recall any.

7 Q. Can't recall. What about at all, did you
8 ever do a more extensive background check on
9 Jess Santamaria during the period from when you first
10 dealt with him -- we talked about, I think you said it
11 was about June of 2008 -- and the election?

12 A. The reason I'm getting -- please define your
13 question further.

14 Q. You've said that you had done all kinds of
15 searches, you did FOIA requests, you looked at newspaper
16 articles, you had looked at the Clerk and Comptroller's
17 website for records relating to Mr. Santamaria, and
18 you've testified that Mr. Santamaria told you that his
19 name was Jesus once prior to this litigation and that
20 other people, you don't remember who, had told you that
21 his name was Jesus prior to this litigation.

22 And I'm asking you -- and you've told me,
23 testified, that you have used three different background
24 check engines, Intelias, People Search, and
25 BeenVerified, again during the time period between June

1 of 2008 and the election to do searches on
2 Mr. Santamaria. I'm asking if you have ever done any
3 more extensive background searches on Mr. Santamaria
4 during that time period from June of 2008 until the
5 election?

6 A. Other than all of the things you
7 incorporated?

8 Q. Yes.

9 A. No, sir.

10 Q. Okay. So when you got BeenVerified.com, it
11 showed that there was something you could click on for a
12 more extensive background search, you didn't click that?

13 A. Not that I recall.

14 Q. You're not certain that you did?

15 A. I don't know why I would. My understanding
16 of all the search engines are they gather all public
17 information. The public information that I was
18 concerned with was what happened in Palm Beach County,
19 and I was concerned with what happened in his role and
20 capacity as Palm Beach County Commissioner.

21 If anything had gone on further that had
22 anything to do with the man and not the position, I had
23 no interest in it. I ran against a position. I ran
24 against somebody who was holding that position. I did
25 not run against the person.

1 My competitor opponent was a job that was
2 held by Mr. Santamaria. I had and still have no
3 interest of what Mr. Fina -- Mr. Santamaria as a person
4 in his capacity as a businessman, a wife -- a husband or
5 a father, I have no desire for that. My desire was to
6 stay focused on the job. And anything that brought me
7 away from that, I didn't care about.

8 Q. During your answer, you stumbled over and you
9 said Mr. Fina. Who were you speaking of?

10 A. Him. I was going to say his financials or
11 anything that went along; I don't care.

12 Q. So you just saw that there was some aliases
13 listed and you didn't want to click on them -- on the
14 get more information link because you were going to go
15 and look up stuff in Palm Beach County yourself?

16 A. I wanted to stick to the issue.

17 Q. What was the issue?

18 A. I was running against a man who I felt like I
19 could do a better job for.

20 Q. So --

21 A. Excuse me. Better job than.

22 Q. So even though it appeared there were more
23 documents, more information available than just this
24 overview, you didn't bother to look at it?

25 A. Your --

1 MS. KITTERMAN: Object to the form.

2 BY MR. BARSKY:

3 Q. You didn't bother to look at it?

4 A. I disagree with your question of I didn't
5 bother. I made at the time what I felt was an educated
6 decision to stick to the issue of Palm Beach County. I
7 had no desire to find out anything that would not relate
8 to the office of Palm Beach County commissioner.

9 Q. How did you know that if you clicked on the
10 button for more information that it would give you stuff
11 that was not related to Palm Beach County commissioner?

12 A. That's why I didn't do it. I didn't want to
13 taint my mindset with anything other than the
14 County Commission. So my desire was to go with any
15 information that related to the County Commission job.

16 Q. Did you then bother to put into the
17 BeenVerified engine, the Jesus Santamaria name?

18 A. When you say bother, what does that mean?

19 Q. Take the time. Did you take the time to go
20 ahead and do that?

21 A. I don't recall.

22 Q. You don't remember if you typed -- where you
23 typed in Jess Santamaria, the first name, oh, I'll put
24 in Jesus this time?

25 A. I know I did at a point. I don't recall the

1 point that I did that.

2 Q. You don't recall if it was before or after
3 the election?

4 A. I do not.

5 Q. Do you recall what the results of that typing
6 in Jesus Santamaria were?

7 A. On the search engines you just asked
8 mentioned?

9 Q. Well, we're talking about -- let's talk about
10 BeenVerified first and we'll get on to the other two
11 next. But on BeenVerified, when you typed that
12 information in, Jesus Santamaria and selected Florida,
13 what was the --

14 A. You're asking if it cross-references back.
15 And to the best of my knowledge, yes, it does.

16 Q. It does. So then BeenVerified gave you some
17 aliases. You said you didn't keep a table of all of the
18 aliases that you got from BeenVerified and People Search
19 and Intelias, so what did you do with those aliases at
20 that point if you didn't write them down?

21 A. Nothing. If you're asking if I preserved
22 them for posterity, I didn't do anything with them.

23 Q. So you just remembered that Jesus was an
24 alias and moved on?

25 A. It rang a bell. I don't know about any

1 possible, I knew about a probable. If I was told that
2 was his name and it comes up, that rings a bell. I
3 wasn't on a fishing expedition.

4 Q. What about the rest of the aliases that were
5 returned, did you do anything with that information?

6 A. I don't recall.

7 Q. You don't recall whether you searched the
8 clerk and comptroller's website for those aliases?

9 MS. KITTERMAN: Objection.

10 THE WITNESS: I think that's what I stated.

11 BY MR. BARSKY:

12 Q. Using the alias Jesus Santamaria, did you
13 search any other websites other than the Palm Beach
14 County clerk and comptroller's website?

15 A. Yes.

16 Q. What did you search?

17 A. Google.

18 Q. What were the results from Google?

19 A. I don't remember.

20 Q. You don't remember?

21 A. I don't remember.

22 Q. Was there anything in the Google search
23 results for Jesus Santamaria that led you to believe
24 that it was one and the same as Commissioner Santamaria?

25 A. No.

1 Q. Were there any results for Jesus Santamaria?

2 A. Yes, it's a popular name.

3 Q. There are --

4 A. Outside of rural Palm Beach, Florida, it's a
5 popular name.

6 Q. Now there are no others in rural Palm Beach,
7 Florida?

8 A. I can't answer that. I can only answer as to
9 what came up during my searches.

10 Q. Okay. Do you recall about how many
11 Jesus Santamarias came up during your searches?

12 A. You're -- you're asking the world. With
13 Santamaria if -- the possible returns for Jesus and
14 Santamaria are probably hundreds if not thousands of
15 pages based upon that style of search. But I don't
16 recall how many came up in the state of Florida.

17 Q. Did you search for -- what was the -- strike
18 that.

19 What was the search that you actually ran in
20 Google using the name Jesus Santamaria?

21 A. I don't recall the exact search.

22 Q. Did you use more than one search?

23 A. I don't recall.

24 Q. You don't recall whether you specified Palm
25 Beach County?

- 1 A. I don't believe I would have done that.
- 2 Q. Why not?
- 3 A. I don't know that I would have used that as a
4 search.
- 5 Q. Is there any particular reason why you
6 wouldn't have used that as a search?
- 7 A. Yeah, because I would type in Jess Santamaria
8 of Royal Palm. Anybody outside of Royal Palm was not of
9 value to me.
- 10 Q. So you would have -- did you run a search for
11 Jesus Santamaria in Royal Palm?
- 12 A. I'm going to say I don't know, and I'll
13 answer your next question. I don't know if I put in
14 Royal Palm, Jesus Santamaria, Santamaria Royal,
15 Santamaria Palm -- or the name derivatives. I don't
16 know what order I typed everything in.
- 17 Q. Do you recall whether or not you limited the
18 search for Jesus Santamaria to any geographical
19 location?
- 20 A. I testified that I said Florida already.
- 21 Q. So you limited it to Florida, but you don't
22 recall if you limited it any more than that?
- 23 A. I don't remember a specific search criteria
24 string.
- 25 Q. But when you did that search, Googled for

1 Jesus Santamaria, you didn't come up with any link
2 between Jesus, the name Jesus Santamaria and
3 Commissioner Santamaria?

4 A. I don't remember what I came up with.
5 General results wasn't what I was interested in. I was
6 interested in specific results based upon anything that
7 pertained to the election. So in the pages and pages of
8 information that can come up with a possibility of any
9 derivative between Jesus and Santamaria and Florida and
10 Palm and Beach and Royal or anything else, I was looking
11 specifically for things that caught my eye relating to
12 the office of County Commission.

13 Q. And there was nothing that caught your eye
14 with regard to that?

15 A. Taking the search further to the clerk and
16 controller's (sic) website, there was something that
17 caught my eye.

18 Q. And we'll get to that in a minute. The
19 search that you did on Google, nothing caught your eye?

20 A. I don't remember, sir.

21 Q. Is it fair to say that if something had
22 caught your eye, you would have remembered it?

23 MS. KITTERMAN: Object to form.

24 THE WITNESS: The answer is no. Everything,
25 quote, catches your eye. Maybe I'm using that too

1 liberally. I look at things. You read the
2 summation of the line that comes up. Perhaps I
3 clicked on something, found it was a dead end,
4 meaning it didn't relate to the County Commission
5 and stopped.

6 I would say that a number of things most
7 likely caught my eye, but to have significance to
8 include in my request for inquiry, if I didn't
9 include it, that's my definition of catching my
10 eye.

11 BY MR. BARSKY:

12 Q. So there is nothing that you felt rose to the
13 level of being included in your request for inquiry
14 doing these Google searches for Jesus Santamaria?

15 A. My desire for the request for inquiry was as
16 much information as possible as came from
17 Commissioner Santamaria himself. To my recollection,
18 everything except this -- pardon me, everything that I
19 put in my request for inquiry came from Palm Beach
20 County Sheriff, Palm Beach County Clerk and Controller
21 (sic) of the Court, and Palm Beach County Board of
22 County Commissioners. That's my request for inquiry.

23 Q. Just want to be clear, though, you don't
24 recall whether or not when you did a Google search for
25 Jesus Santamaria, whatever limiting terms you used,

1 whether you came up with any results that linked that
2 name to Commissioner Santamaria?

3 A. The reason I tell you I'm not clear is
4 because what you -- what is before us today is the
5 request for inquiry was limited to information from the
6 sources that I had mentioned. Anything that I may have
7 found that I did not include, I don't recall.

8 Q. Because you understand this is not just about
9 the request for inquiry, I'm asking you in general, what
10 was going on at the time. Even if you didn't include it
11 in your request for inquiry, I can inquire as to what it
12 is you looked at.

13 A. And I'm trying to be as fair and honest
14 because I do not have anything to hide. I don't
15 remember what hit -- in a very loose term, hit the
16 cutting room floor. I don't know what I looked at, I
17 don't know what -- I had a campaign going on, I had this
18 request going on, I have a business going on. If you're
19 asking me to remember what I did not include, it's going
20 to be very difficult for me to tell you that I remember
21 it.

22 Q. So the answer to the question is you just
23 don't remember whether there was a link when you did
24 that search for Jesus Santamaria on Google with whatever
25 limiting terms and Commissioner Santamaria?

1 A. I don't believe anything that would have --
2 that would point back would have the term
3 Commissioner Santamaria attached to it.

4 Q. I don't mean using the name -- I'm sorry, let
5 me rephrase. I'm using Commissioner Santamaria just so
6 we're clear, that Commissioner's Santamaria's name is
7 Jess Santamaria. You searched for the name
8 Jesus Santamaria. I'm trying to make sure that we're
9 clear on which one we're talking about.

10 A. I searched for the name Jess Santamaria and
11 it returned Jesus Santamaria.

12 Q. On Google or on these background check
13 websites?

14 A. The reason that I got to the -- I can't tell
15 you -- I don't know if part of the search results were
16 BeenVerified, Intelias, U.S. Search, which is also
17 People Search, I believe it's the same company, I don't
18 know if that's what came up that triggered me to go to
19 those sites. I want to be honest, I don't remember the
20 order. I remember the result of what I did.

21 Q. So you might have Google searched for
22 Jess Santamaria, found the name Jesus and then decided
23 to go use the three background check websites?

24 A. I may have searched for Jess Santamaria, it
25 came up with we found Jess Santamaria in Florida, click

1 here, brings you to the front-end site, you put in
2 Jess Santamaria, Florida, and it returns Jesus R.
3 Santamaria.

4 Q. Had you -- other than hearing it from
5 Jess Santamaria and on the background check websites
6 that we've discussed, had you ever seen the name
7 Jesus Santamaria used in connection with
8 Jess Santamaria?

9 A. What does seen mean? Does seen mean also
10 that somebody spoke to you about it?

11 Q. No.

12 A. I've never seen a bumper sticker or a banner
13 pointing to a picture of him with that name, if that's
14 what you're asking.

15 Q. No, I'm asking whether or not you've seen it.
16 It doesn't have to be a bumper sticker or a banner. It
17 could be a web page, it could be a document.

18 A. The answer is yes on the searches you just
19 mentioned.

20 Q. I said outside of those searches, on the
21 background search websites, had you ever seen that
22 anywhere else?

23 A. I don't recall.

24 Q. You don't recall. You don't recall whether
25 or not any Google searches returned Jesus Santamaria as

1 an alias for Jess?

2 A. The reason I say I don't recall is when you
3 put in a search as you're describing, many, many, many
4 entries come up. It may say a different place. I may
5 find Jesus R. Santamaria and Jess Santamaria in Florida.
6 You may see listings for the next ten pages of all front
7 ends that go back to the ultimate database. I don't
8 remember which ones came up.

9 I know that I got it off of the
10 BeenVerified -- the three that I mentioned, and I'm not
11 sure how many other times I may or may not have seen the
12 exact same results with a different link to the exact
13 same information.

14 Q. Using those background check websites, the
15 People Search, the Intelias, the BeenVerified, did you
16 ever cross-reference the name Jesus Santamaria to see
17 what that returned?

18 A. Yes.

19 Q. And what did it return?

20 A. A judgment record for Jesus R. Santamaria off
21 the clerk's website.

22 Q. Those three websites returned that?

23 A. No.

24 Q. Which website returned that?

25 A. You asked if I cross-referenced it, you

1 didn't ask me against which source.

2 Q. Which source returned that?

3 A. None without paying for it, I don't remember
4 I paid for it.

5 Q. So you don't think you paid for any of those
6 websites to return a more detailed report?

7 A. Those are free and available to anybody in
8 the public that decide to use them to the point that I
9 went.

10 Q. Okay. So you don't recall whether or not you
11 actually paid any of them to get even more information?

12 A. I think you've asked me that about seven
13 times so far. I'm not going to change my answer.

14 Q. Well, you've never answered it directly and
15 it's a yes or no question. And so I'm asking you to
16 answer yes or no, did you ever pay any of those websites
17 to return more information, those websites being
18 People Search, Intelias, and BeenVerified?

19 MR. BARSKY: Object to form. It has been
20 asked and answered. He's said I don't know about
21 seven times.

22 BY MR. BARSKY:

23 Q. And that's your answer, you don't know
24 whether or not you ever did?

25 A. I can't object, but I think my attorney's

1 objection before was if we are going to talk about
2 things that happened in preparation of the trial, I was
3 instructed not to answer.

4 Q. And during the time period for when you first
5 interacted with Jess Santamaria in '08, I think you
6 said, June of '08; correct?

7 A. Correct.

8 Q. And the date of the election, you don't
9 recall whether or not you ever paid any of those
10 websites to return additional information on
11 Jess Santamaria beyond the part that you said is free
12 and open to anybody who wants to take a look at it?

13 A. That is correct.

14 Q. Is there anything that you can look at that
15 will help you refresh your recollection as to whether or
16 not you ever paid any of those websites, BeenVerified,
17 People Search, or Intelias, to return more information
18 on Jess Santamaria between June of 2008 and the
19 election?

20 A. No.

21 Q. There's nothing?

22 A. Correct.

23 Q. Can't look at your credit card statements?

24 A. That is correct.

25 Q. Why not?

1 A. Because I wouldn't put my card online.

2 Q. How would you pay for it if you had?

3 A. Many of the free sites offer a one-day trial,
4 three-day trial, something along that line and you would
5 sign up for a continuing opportunity. There may have
6 been a freebie or something along the lines. It wasn't
7 that important for me to spend a credit card on
8 something that I could then take the free information
9 and go to the clerk's site the way that I did. I didn't
10 need to pay an outside source that could possibly give
11 me information that was not the focus of why I went to
12 the website in the first place.

13 Q. So you just don't recall whether or not you
14 ever accepted a free trial of any of those three
15 websites?

16 A. I don't recall.

17 Q. But you would never, you said, put your
18 credit card online?

19 A. Never is a relative term. I've used my
20 credit card in transactions before, but nothing that I
21 can remember pertaining to this case or the election or
22 anything else.

23 Q. Okay. We've talked about BeenVerified. What
24 about Intelias, how did you go about your search on
25 Intelias?

1 A. Exact same thing. You type in background
2 check, the top three that come up I believe are the
3 three that I mentioned. I went to the top three listed
4 Googles, did the first, did the second, did the third.

5 Q. What do you mean you went to the top three
6 listed Googles, did the first, did the second, did the
7 third?

8 A. If you type in background check, things are
9 listed in order on Google based upon the frequency that
10 somebody has gone to them, the number of clicks that it
11 goes to get to the top with the exception that the very
12 top could be paid sources.

13 I don't remember where in line they'd fall,
14 because many times the paid source at the top is also
15 the one that is most clicked on, so you can see
16 duplicates. I went to the top three, that I recall
17 doing. Maybe it was one -- one, two and four, but I
18 went to the top ones that were -- top search results
19 that were returned.

20 Q. Is that -- the top search results that you're
21 referring to, is that what you were trying to do with
22 the jesssantamaria.com website?

23 A. No.

24 Q. No. Okay. Do you know what key words you
25 used as search terms for that website?

1 A. You're asking my meta tags, I don't think I
2 used them.

3 Q. You don't think you used meta tags for
4 jesssantamaria.com?

5 A. No. It's a one-page, flat page that would
6 search whatever happened to come up online.

7 Q. What are meta tags, by the way?

8 A. They are indexes to enhance search results.

9 Q. So on Intelias's search, you did the exact
10 same thing you did on BeenVerified?

11 A. Correct.

12 Q. And the results that it returned were?

13 A. Same thing.

14 Q. And there is one return, it was
15 Jess Santamaria and it listed Jesus as one of his
16 aliases?

17 A. When you say one return, I'm not sure. To my
18 recollection, there was another Jesus Santamaria
19 somewhere in Florida, but the ages were way off so I
20 disregarded it.

21 Q. Why did you disregard it?

22 A. He wasn't 74 years old and living in Royal
23 Palm Beach.

24 Q. But you knew that there was another
25 Jesus Santamaria out there?

1 A. In the world?

2 Q. In Florida.

3 MS. KITTERMAN: Object to form.

4 THE WITNESS: I didn't know that there was
5 one that existed. There could be a mailbox that
6 was used by somebody who never entered this county
7 with that name associated to it that was
8 cross-referenced. I had no way of knowing that
9 there was another Jesus R. Santamaria that lived,
10 has lived, or ever lived in the state of Florida.

11 BY MR. BARSKY:

12 Q. You just testified that the Intelias search
13 returned another Jesus Santamaria, different age.

14 MS. KITTERMAN: Object to form.

15 THE WITNESS: It does not say that he ever
16 lived in Florida.

17 BY MR. BARSKY:

18 Q. It does not?

19 A. It says that there is a location. The reason
20 that the location is assumed that would possibly be in
21 the further knowledge. I have no idea why somebody
22 else's name may come up.

23 Q. But you did see another name, another
24 Jesus Santamaria?

25 A. I said I believe; I'm not sure.

1 Q. So you think you saw another
2 Jesus Santamaria?

3 A. No. Let's make sure we both understand. I
4 did the search on Jess Santamaria that returned Jesus.
5 I said I'm not sure if I ever went Jesus backwards into
6 Intelias or the search results you said to find just in
7 Royal Palm.

8 Q. I think you just testified that when you
9 did -- I want to make sure that we're clear here. I
10 asked you what search you had done, and you told me.
11 And I said it returned one result for Jess and it was
12 Jesus Santamaria, and you said you think there might
13 have been more returns.

14 MR. BARSKY: When you do a result like that,
15 you get possible inclusions because perhaps you
16 misspelled something. The website would not return
17 one return. It may be Jess, Jesse, it may be a
18 bunch of others that show up on there.

19 I don't recall every derivative of possible
20 misspellings of mine that the search site would --
21 the search engine would return. I don't know
22 everything else. The top choice that I was
23 interested in was Jesus R. Santamaria from Royal
24 Palm.

25 My recollection is there were other results.

1 I can't testify to what those other results were
2 because I was not interested.

3 BY MR. BARSKY:

4 Q. What about for People Search, the
5 People Search engine?

6 A. Same answer applies.

7 Q. Okay. So you did a search there for
8 Jess Santamaria in Florida?

9 A. Correct.

10 Q. The return was -- it returned result, the
11 one -- you've testified it was one result and it was
12 Jess Santamaria and it listed possible aliases?

13 A. I testified it was one result for a
14 74-year-old man in Royal Palm Beach.

15 Q. Were there other results?

16 A. I just said to you, I'm not sure what
17 everything else was because they include derivatives of
18 misspellings and possible matches. I don't feel
19 comfortable saying anything beyond the one that I did
20 was or was not on that list.

21 Q. Do you know if for the People Search search
22 engine, whether or not you did a cross-reference to
23 Jesus, cross-reference search for Jesus Santamaria?
24 Again, I'm talking about the time frame between your
25 first interaction with Jess and the election.

1 A. I'm not sure which order that I went to the
2 three above-mentioned search engines.

3 Perhaps I'm mistaken in the order that I went
4 to things. Once I found repetitive results, there was
5 no need for me to go on to the fourth, fifth, sixth,
6 seventh, eighth background. I felt three was enough --
7 was a sufficient number returning basically the exact
8 same result and there was no reason for me to continue
9 going on for repetitive sites showing the exact same
10 information.

11 Q. I didn't ask whether you got a different
12 site, I asked whether or not you did a cross-reference
13 search on the People Search search engine for
14 Jesus Santamaria between that June 2008 meeting with
15 Jess and the election?

16 A. And I'm responding that I did the searches.
17 I'm not sure in which order. Perhaps it was
18 BeenVerified that I told you about, perhaps it was the
19 Intelias. I don't remember which order. But when I got
20 the same results from multiple ones, I'm not sure --
21 because you're asking me specifically which site I did,
22 I'm not sure of the order that I did. Maybe it was ten
23 searches on the first, five, and by the time I got to
24 the last one, it returned the exact same information.
25 The order in which I searched, I cannot be sure of.

1 Q. But you said there might have been ten, then
2 five. So you did do more than just the search for
3 Jess Santamaria on at least one of those three websites
4 we've talked about, People --

5 A. I put in the same search criteria for each of
6 the three websites.

7 Q. Okay. Then you -- maybe I'm wording my
8 question poorly. What I'm trying to understand is did
9 you ever use, on any of those websites, the search term
10 Jesus Santamaria?

11 A. I said before I believe, I do not recall.

12 Q. When you said you did ten searches on one and
13 five on another, what were you referring to?

14 A. No. What I'm saying is the search results.
15 Some database gathering companies are more extensive.
16 So one site may have had seven possible aliases with
17 Jesus R. Santamaria at the top. The second may have
18 only had five search results. Perhaps they didn't use
19 the same data collection sites. The third one may have
20 had more or less. Again, perhaps they don't use the
21 same collection sites.

22 So when you're asking me about the search
23 results that are returned, I did not, as I said before,
24 maybe there was a higher number or lower number on each
25 of the three. I do not know which site had the greatest

1 number of returns. I know that all three sites pointed
2 to Jesus R. Santamaria as a man living in Royal Palm
3 with the approximate age of 74.

4 Q. But they didn't -- if I understand your
5 testimony correctly, they didn't point to Jesus, they
6 pointed to Jess and said he might also be known as
7 Jesus?

8 A. That's correct.

9 Q. Okay. So none of them actually returned
10 Jesus as the top name, they all listed it as a possible
11 alias?

12 A. Okay. You're confusing the issue because as
13 I said before, when you put in a search term, across the
14 top the search term comes up. So the search term of
15 Jesus -- pardon me, of Jess Santamaria comes up across
16 the top. The first thing that is listed is aliases.

17 So if you're asking me if they returned the
18 top number one alias as also known as Jesus R.
19 Santamaria, I believe I've already testified that two
20 came at the top and one came as the second choice.

21 Q. No, that's not the question. The question is
22 whether or not any of them returned Jesus Santamaria as
23 the name of the individual. Not as an alias, but as a
24 name.

25 A. That would be an impossible choice because

1 the search criteria is listed. So if I list
2 Jess Santamaria, the name will come back Jess
3 Santamaria. If I list Mickey Mouse, it will not come
4 back with Donald Duck.

5 Q. So none of these ever said that Jess's name
6 was Jesus, they all said that it was a possible alias,
7 one of multiple aliases?

8 MS. KITTERMAN: Object to form.

9 THE WITNESS: I believe that's the purpose of
10 an alias.

11 BY MR. BARSKY:

12 Q. The question is: Did it list multiple
13 aliases, Jesus being one of them and others as well?

14 A. Yes.

15 Q. Okay. None of the websites ever purported to
16 state that Jess's actual name is Jesus?

17 MS. KITTERMAN: Object to form.

18 THE WITNESS: I didn't go through the
19 extensive level that we've talked about. Perhaps
20 it did further down the line. I can't say what
21 information I was not privy to is contained in a
22 particular website that I never accessed, an area
23 that I never accessed.

24 BY MR. BARSKY:

25 Q. When you say further down, do you mean

1 physically further down on the screen or did you mean if
2 you selected more information?

3 A. More information.

4 Q. Okay. Did you actually scroll down the
5 screen to see what the other results were?

6 A. They appear on the screen.

7 Q. So you actually saw what all of the results
8 were for those searches?

9 A. It's hard for me to say because if a
10 search -- if the setup for the website was that it will
11 show five lines of information and I could only see five
12 but there were two more if I clicked on to go further
13 for more information, I viewed what was physically
14 displayed.

15 Q. Okay. I'm not asking if you clicked on for
16 more information. I'm asking whether or not you just
17 looked at what was on the screen?

18 A. I looked at what was on the screen.

19 MR. BARSKY: It's been about another hour.

20 You guys want to take a quick break?

21 MS. KITTERMAN: Please.

22 (A brief recess was taken.)

23 (Continued in Volume II of the same day.)

24 - - -

25

1 CERTIFICATE OF OATH

2 THE STATE OF FLORIDA

3 COUNTY OF PALM BEACH

4
5
6 I, the undersigned authority, certify that
7 ANDREW F. SCHALLER personally appeared before me and was
8 duly sworn.

9
10 Dated this 20th day of March, 2012.

11
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13
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15 _____
16 Pamela J. Sullivan, RPR, FPR, CLR
Notary Public - State of Florida
My Commission Expires: June 5, 2014
My Commission No.: DD 993731

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C E R T I F I C A T E

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I, Pamela J. Sullivan, Registered Professional Court Reporter and Notary Public in and for the State of Florida at large, do hereby certify that I was authorized to and did report said deposition in stenotype; and that the foregoing pages are a true and correct transcription of my shorthand notes of said deposition.

I further certify that said deposition was taken at the time and place hereinabove set forth and that the taking of said deposition was commenced and completed as hereinabove set out.

I further certify that I am not attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel of party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

Dated this 20th day of March, 2012.

Pamela J. Sullivan, RPR, FPR, CLR

1 March 20, 2012
2 ANDREW F. SCHALLER
3 C/o Christina M. Kitterman
4 CMK LAW, P.A.
5 530 S. Federal Highway, Suite 201
6 Deerfield Beach, Florida 33441
7 IN RE: SAN TAMARIA V. SCHALLER
8 CASE NO.: 502010CA000246XXXXMB

9 Dear Mr. Schaller:

10 Please take notice that on Tuesday, the 13th of
11 March, 2012, you gave your deposition in the
12 above-referred matter. At that time, you did not waive
13 signature. It is now necessary that you sign your
14 deposition.

15 As previously agreed to, the transcript will be
16 furnished to you through your counsel or counsel for
17 Defendant. Please read the following instructions
18 carefully:

19 At the end of the transcript you will find an
20 errata sheet. As you read your deposition, any changes
21 or corrections that you wish to make should be noted on
22 the errata sheet, citing page and line number of said
23 change. DO NOT write on the transcript itself. Once
24 you have read the transcript and noted any changes, be
25 sure to sign and date the errata sheet and return these
26 pages to me.

If you do not read and sign the deposition within a
reasonable time, the original, which has already been
forwarded to the ordering attorney, may be filed with
the Clerk of the Court. If you wish to waive your
signature, sign your name in the blank at the bottom of
this letter and return it to us.

Very truly yours,

Pamela J. Sullivan, RPR, FPR, CLR
Signature Court Reporting, Inc.
105 South Narcissus Avenue
Suite 400
West Palm Beach, Florida 33401
561.659.2120

I do hereby waive my signature.

ANDREW F. SCHALLER

ANDREW F.

SCHALLER

C E R T I F I C A T E

- - -

THE STATE OF FLORIDA

COUNTY OF PALM BEACH

I hereby certify that I have read the foregoing deposition by me given, and that the statements contained herein are true and correct to the best of my knowledge and belief, with the exception of any corrections or notations made on the errata sheet, if one was executed.

Dated this ____ day of _____, 2012.

ANDREW F. SCHALLER

