

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE No. 50-2011-000246 XXXX MB

JESS R. SANTAMARIA,

Plaintiff,

-vs-

ANDREW F. SCHALLER,

Defendant.

_____ /

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE
DAVID E. FRENCH

VOLUME III
(Pages 237-366)

Tuesday, April 3, 2012
10:05 a.m. - 5:15 p.m.
(Morning Session)

205 North Dixie Highway
Courtroom 11D
West Palm Beach, Florida 33401

Reported By:

Pamela J. Sullivan, RPR, FPR, CLR
Notary Public, State of Florida
Signature Court Reporting, Inc.
105 South Narcissus Avenue, Suite 400
West Palm Beach, Florida 33401
561.659.2120

- - -

1 APPEARANCES:

2
3 On behalf of the Plaintiff:4 JOHN F. MARIANI, ESQUIRE
5 DANIEL J. BARSKY, ESQUIRE
6 SHUTTS & BOWEN, LLP
7 525 Okeechobee Boulevard
8 Suite 1100
9 West Palm Beach, Florida 33401
10 561.835.8500
11 jmariani@shutts.com
12 dbarsky@shutts.com13
14 On behalf of the Defendant:15 CHRISTINA M. KITTERMAN, ESQUIRE
16 CINDY OLEA-DIAZ, ESQUIRE
17 CMK LAW, P.A.
18 530 S. Federal Highway, Suite 201
19 Deerfield Beach, Florida 33441
20 954.426.9290
21 ckitterman@cmk-law.com
22
23
24
25

MASTER INDEX OF PROCEEDINGS

- - -

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

VOIR DIRE

Examination by the Court	17
Examination by Mr. Mariani	41
Examination by Ms. Kitterman	70

JURORS SWORN

DEFENDANT'S MOTION FOR DIRECTED VERDICT	114
DEFENDANT'S RENEWED MOTION FOR DIRECTED VERDICT	485
PLAINTIFF'S CLOSING ARGUMENT	619
DEFENDANT'S CLOSING ARGUMENT	662
	680

PLAINTIFF'S WITNESSES

VICTORIA SANTAMARIA

Direct Examination by Mr. Barsky	161
Cross Examination by Ms. Kitterman	169

MICHELLE VICTORIA SANTAMARIA

Direct Examination by Mr. Barsky	171
Cross Examination by Ms. Kitterman	199

TANYA McCONNELL

Direct Examination by Mr. Barsky	283
Cross Examination by Ms. Kitterman	300

JESS R. SANTAMARIA

Direct Examination by Mr. Mariani	324
Cross Examination by Ms. Kitterman	373
Redirect Examination by Mr. Mariani	479
Recross Examination by Ms. Kitterman	484

1 DEFENDANT'S WITNESSES

2 ANDREW F. SCHALLER

3 Direct Examination by Ms. Kitterman 500

4 Cross Examination by Mr. Mariani 588

5 Redirect Examination by Ms. Kitterman 484

6 REBUTTAL WITNESS

7 JESS R. SANTAMARIA

8 Direct Examination by Mr. Mariani 616

9 Cross Examination by Ms. Kitterman 616

10 INDEX OF PLAINTIFF'S EXHIBITS

11	NUMBER	DESCRIPTION	MARKED	RECEIVED
12	1	Request For Inquiry	109	174
13	2	Felony Record	112	174
14	3	Certified Copy File Documents		178
15	4	Follow up Request For Inquiry	184	186
16	5	Road Project File	287	
17	5A	Fargo Letter from Road Project File	615	615
18	5B	Email from Schaller to Weisman	615	615
19	6	Good News Article 3/9/95		352
20	7	Spotlight -Palms West Recognition		352
21	8	Royal Palm Beach Town Crier Honor		352
22	9	Santamaria Wins Prestigious County Honor		352
23	10	Certificate of Naturalization	357	357
24	11	PB County Commission on Ethics Report Dismissal		354
25	13	Inspector General Report of Investigation		354

P R O C E E D I N G S

- - -

1
2
3 (The following proceedings were held out of
4 the presence and hearing of the Jury:)

5 THE COURT: Have a seat, please. Are you
6 ready to proceed?

7 MR. BARSKY: We are, Your Honor. We're going
8 to have two readings of sworn testimony today. So
9 we would just ask that you give the jury an
10 instruction to listen to the testimony as if it was
11 live.

12 MS. KITTERMAN: Your Honor, just briefly,
13 pursuant to Rule 90.108, we're entitled to identify
14 statements within those depositions that they had
15 left out that might mislead or confuse the jury.
16 So I have identified certain lines of those
17 deposition transcripts to read them.

18 THE COURT: Do you have the designations or
19 do you want to read them, have them read it or do
20 you want to read it?

21 MR. BARSKY: We haven't seen these
22 designations, Your Honor.

23 MS. KITTERMAN: Yeah, I just wrote them down.

24 THE COURT: Give them the designations and
25 they'll either read it or you can read it, if you

1 want.

2 MS. KITTERMAN: Okay.

3 THE COURT: And read it in the proper
4 context.

5 MS. KITTERMAN: Right.

6 THE COURT: All right. Let's bring the jury
7 in, please.

8 MS. KITTERMAN: Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. KITTERMAN: I just want some
11 clarification because I'm not sure how it's going
12 to go and I don't want it to look confusing in
13 front of the jury.

14 (The Jury entered the courtroom after which
15 the following proceedings were held:)

16 THE COURT: All right. Good morning, Ladies
17 and Gentlemen, have a seat if you will.

18 Counsel, come up here for a second.

19 (The following proceedings were held out of
20 the hearing of the Jury:)

21 THE COURT: You're going to read the depos
22 first?

23 MS. KITTERMAN: I just realized that they
24 were reading the deposition into evidence, so I
25 went through and I started tabbing which parts of

1 the deposition relate to the testimony that they're
2 reading into the record so it's not confusing or
3 misleading to the jury. So I'm just not sure if
4 they want to read in Schaller's first or how
5 Your Honor -- how do we go about doing this so it's
6 not confusing? Does he read his portion and then I
7 read my portion?

8 THE COURT: Just ask him to read those
9 additional lines.

10 MS. KITTERMAN: Him?

11 THE COURT: Yes. Unless you want to do it.
12 Unless you've got somebody up there to read it just
13 have them do it.

14 MR. MARIANI: We would need a copy.

15 THE COURT: You should have let them know
16 what you wanted.

17 MS. KITTERMAN: We just got the designations
18 this weekend.

19 THE COURT: Well, you got a jury sitting
20 there.

21 MS. KITTERMAN: I understand.

22 THE COURT: How do you want to do this?

23 MS. KITTERMAN: I can give them the sticky
24 notes, but if they want me to write it out, I can
25 do that. If they want to call their witness first.

1 THE COURT: When you get to that particular
2 point, ask them to read the additional lines. All
3 right. Let's go.

4 (The following proceedings were held in the
5 presence and hearing of the Jury:)

6 THE COURT: All right. Now, ladies and
7 gentlemen, there was some sworn testimony that was
8 taken prior to the trial in the form of what we
9 refer to as depositions. Now, the parties are all
10 represented at these depositions and there's
11 examination and cross examination.

12 Now, they're going to read these, portions of
13 these depositions later on. And I want you to
14 understand that this is testimony. This is a sworn
15 witness under oath and that you are to take this as
16 evidence, just as if a witness was testifying from
17 the witness stand.

18 All right. Are you ready to proceed?

19 MR. BARSKY: I am, Your Honor. We will read
20 in from the sworn deposition testimony of
21 Andrew Schaller taken March 13th of this year. I'd
22 like to have the bailiff please bring our stand in
23 from outside.

24 THE COURT: This is Mr. Schaller himself?

25 MR. BARSKY: Yes.

1 THE COURT: All right. Now, the reason
2 they're able to read a deposition of a party, by
3 our Rules of Civil Procedure, a deposition of a
4 party can be used for any purpose. So that's the
5 reason they're going to read portions of his
6 statement that were taken under oath by him.

7 No, he doesn't need to be sworn in.

8 (Mr. Matthew Sackel took the witness stand to
9 assist in the reading of Andrew Schaller's testimony.)

10 THE COURT: All right. Why don't you set
11 this up. So this is the deposition of the
12 defendant, Mr. Schaller; am I correct?

13 MR. BARSKY: That's correct, Your Honor.

14 THE COURT: When was the deposition taken?

15 MR. BARSKY: Tuesday, March 13th, 2012.

16 THE COURT: All right. Who was present?

17 MR. BARSKY: Who was present was myself,
18 Dan Barsky; Ms. Kitterman, attorney for the
19 defendant; the defendant; and his -- or
20 Ms. Kitterman's co-counsel, Ms. Olea-Diaz.

21 THE COURT: All right. Go ahead, sir.

22 MR. BARSKY: All right. Starting at Page 6,
23 Lines 16 through 25, and Page 7, Lines 1 through 4:

24 "QUESTION:What type of business do you run out
25 of the Lake Worth home?

1 "ANSWER: Electronic banking.

2 "QUESTION:What type of electronic banking?

3 "ANSWER: Recurring debits.

4 "QUESTION:Could you describe that for us a
5 little bit more?

6 "ANSWER: I debit checking, savings, credit
7 cards to satisfy recurring debt or obligations.

8 "QUESTION:When you say recurring debts, what
9 type of recurring debt are you referring to?

10 "ANSWER: Monthly.

11 "QUESTION:Would that be credit card bills?

12 "ANSWER: Predominately gyms, health clubs.

13 MR. BARSKY: Page 21, Lines 9 through 25 and
14 Page 22, Line 1:

15 "QUESTION:What did you decide to change
16 careers into?

17 "ANSWER: I went to work for a software
18 company.

19 "QUESTION:What kind of software company?

20 "ANSWER: Club Management.

21 "QUESTION:What kind of software did they work
22 with?

23 "ANSWER: They created proprietary software.

24 "QUESTION:What kind?

25 "ANSWER: Health club software.

1 "QUESTION:What kind of health club software
2 was it?

3 "ANSWER: Management software.

4 "QUESTION:Managing club operations?

5 "ANSWER: Yes.

6 "QUESTION:Was it managing membership
7 operations?

8 "ANSWER: Yes.

9 "QUESTION:How did you decide to get into the
10 software business?

11 "ANSWER: I wanted to learn how to program so
12 I could create my own programming, program
13 trading."

14 MR. BARSKY: Opposing counsel has asked me to
15 also have read Page 22, Line 7 through 9:

16 "QUESTION:Had you had any computer programming
17 experience prior to responding to that newspaper ad?

18 "ANSWER: No."

19 MR. BARSKY: Page 22, Lines 15 through 18:

20 "QUESTION:Do you know why they decided to hire
21 you then?

22 "ANSWER: Because of the general knowledge I
23 had of computers at the time."

24 MR. BARSKY: Page -- opposing counsel has
25 asked me to read from Page 22, Line 5 through

1 Page 23, Lines 1 through 25:

2 "QUESTION:What was it they recognized, good
3 computer skills, service skills, or did they recognize
4 good computer skills?

5 "ANSWER: The job required both.

6 "QUESTION:So what were your computer skills
7 besides just knowing how to use one?

8 "ANSWER: Think back to the '90s, knowing how
9 to use one was everything.

10 "QUESTION:Do you recall what year this was in
11 the '90s?

12 "ANSWER: '92.

13 "QUESTION:So the fact that you could turn on a
14 computer was all that was required?"

15 Opposing counsel objected.

16 "ANSWER: And press the buttons.

17 "QUESTION:So you knew how to type?

18 "ANSWER: Hunt and peck.

19 "QUESTION:Okay. Did you have any specialized
20 kind of computer training at that point in time?

21 "ANSWER: Define specialized.

22 "QUESTION:Did you ever take a class on how to
23 use a computer?

24 "ANSWER: Yes.

25 "QUESTION:What kind of class?

1 "ANSWER: College."

2 MR. BARSKY: Page 28, Lines 5 through 23.

3 "QUESTION:How long did you work for the
4 software company?

5 "ANSWER: Approximately two years.

6 "QUESTION:Why did you stop working for them?

7 "ANSWER: Created my own company.

8 "QUESTION:Is that the electronic bank?

9 "ANSWER: Yes.

10 "QUESTION:What was -- what's the name of it?

11 "ANSWER: Palm Beach Financial Exchange, Inc.

12 "QUESTION:Do you recall about what year you
13 stated that?

14 "ANSWER: '94.

15 "QUESTION:And you've continued to run that
16 company through today?

17 "ANSWER: Correct.

18 "QUESTION:You're going on about 18 years now?

19 "ANSWER: Yes, sir."

20 MR. BARSKY: Page 33, Lines 3 through 14:

21 "QUESTION:Palm Beach Financial Exchange, Inc.,
22 does it operate using computer programs?

23 "ANSWER: Yes.

24 "QUESTION:Who wrote those programs?

25 "ANSWER: Programmers.

1 "QUESTION:Do you know who those programmers
2 are?

3 "ANSWER: Yes.

4 "QUESTION:Who are they?

5 "ANSWER: Be a long list.

6 "QUESTION:Was it anything that is custom
7 software for your company?

8 "ANSWER: All custom."

9 MR. BARSKY: Thirty-three -- opposing counsel
10 has asked me to also read in Page 33, Lines 15
11 through 25 and Page 34, Lines 1 through 4:

12 "QUESTION:Can you tell me who those
13 programmers are, please?

14 "ANSWER: I can't be specific on all names.

15 "QUESTION:Well, can you tell us the names that
16 you remember right now?

17 "ANSWER: You're going to have to more
18 clearly define who worked on the programs because
19 things were brought along, done by programmers.
20 Shared information, shared information came along.
21 Software is a work in progress. The other company,
22 the software company, we were using high school
23 kids at the time who were doing different work
24 related, work study type environments. There was a
25 number of people. If I were to mention names like

1 John and Wayne, I don't think that has a great deal
2 of relevance."

3 MR. BARSKY: Page 33, lines -- sorry. Page
4 36, Lines 18 through 20. And opposing counsel has
5 asked me to start with Line 1 through 17 before
6 Lines 18 through 20.

7 "QUESTION:Did the software company itself
8 write the software for you, or did you retain the
9 programmers you had met at the software company to write
10 the software for you?

11 "ANSWER: I paid the original software
12 company for the services of the programmers.

13 "QUESTION:So you didn't write the programmers'
14 checks individually?

15 "ANSWER: Correct.

16 "QUESTION:So you wrote a check to the company?

17 "ANSWER: To the original company, that is
18 correct.

19 "QUESTION:When you say original company, is
20 there a different company now?

21 "ANSWER: I have my own firm now.

22 "QUESTION:Your own firm, meaning Palm Beach
23 Financial Exchange, Inc.?

24 "ANSWER: Correct.

25 "QUESTION:Is Palm Beach Financial Exchange,

1 Inc., writing its own software?

2 "ANSWER: Correct."

3 MR. BARSKY: Opposing counsel has also asked
4 me to read 36, Lines 21 through 25:

5 "QUESTION:Who is Palm Beach Financial
6 Exchange, Inc., hiring to write that software?

7 "ANSWER: We're currently not hiring."

8 MR. BARSKY: And Page 37, Lines 1 through 9:

9 "QUESTION:Who is Palm Beach Financial
10 Exchange, Inc., hiring to write its software?

11 "ANSWER: Are you asking my programmer's
12 name?

13 "QUESTION:Yes.

14 "ANSWER: Stacey Brodsky.

15 "QUESTION:Does she still work for that prior
16 software company that you had worked for as well?

17 "ANSWER: No.

18 "QUESTION:Does she work for Palm Beach
19 Financial Exchange, Inc., exclusively?

20 "ANSWER: Yes."

21 MR. BARSKY: Page 43, Lines 2 through 7:

22 "QUESTION:Who would you consider the webmaster
23 for your campaign election site?

24 "ANSWER: The site was my responsibility.

25 "QUESTION:You were the person who day-to-day

1 operated the site?

2 "ANSWER: I did."

3 MR. BARSKY: Page 53, Lines 1 through 12.

4 Page 53, Lines 1 through 5.

5 "QUESTION:Have you ever registered
6 jesssantamaria.com?

7 "ANSWER: Yes.

8 "QUESTION:Do you still own jesssantamaria.com?

9 "ANSWER: No.

10 "QUESTION:Do you know who does?

11 "ANSWER: Yes.

12 "QUESTION:Who?

13 "ANSWER: Who what, sir?

14 "QUESTION:Who owns jesssantamaria.com?

15 "ANSWER: My attorney.

16 "QUESTION:Your attorney, Ms. Kitterman?

17 "ANSWER: Yes."

18 MR. BARSKY: Page 54, Line 25; Page 55, Lines
19 1 through 20:

20 "QUESTION:Why did you originally register
21 jesssantamaria.com?

22 "ANSWER: For search engine results.

23 "QUESTION:What do you mean by search engine,
24 for search engine results?

25 "ANSWER: If someone were to search, if

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

8 "QUESTION:What do you mean by a defensive
9 block?

10 "ANSWER: Everybody would like to own their
11 own domain in this world.

12 "QUESTION:What do you mean by that?

13 "ANSWER: The name jesssantamaria.com was the
14 prior website during the 2006 election of
15 Commissioner Santamaria. He let it lapse.

16 "QUESTION:And so you acquired it?

17 "ANSWER: Correct."

18 MR. BARSKY: Page 56, Lines 1 through 14:

19 "QUESTION:And then since the start of this
20 litigation, you've sold the domain to your attorney?"

21 MR. BARSKY: And there's an objection here.

22 Do you maintain --

23 MS. KITTERMAN: Objection.

24 THE COURT: What is it?

25 MS. KITTERMAN: He basically -- first of all,

1 the objection is there is attorney-client privilege
2 of what happened with that actual domain name. And
3 if Your Honor would like to hear it in camera, I
4 will be happy to discuss it with you.

5 THE COURT: Come on up.

6 (The following proceedings were held out of
7 the hearing of the Jury:)

8 THE COURT: Let me see the question --

9 MS. KITTERMAN: Here's the transcript.

10 THE COURT: I'll take that. What is it, page
11 what?

12 MR. BARSKY: 56.

13 THE COURT: Line one.

14 MR. BARSKY: Yes, sir.

15 MS. KITTERMAN: Attorney-client privilege on
16 the prior page.

17 THE COURT: What is the objection?

18 MS. KITTERMAN: The objection is everything
19 that he transferred to me or said to me after
20 litigation is attorney-client privilege.

21 THE COURT: Well, he says here, "And then
22 since the start of the litigation, you sold the
23 domain to your attorney?"

24 That's already come out. And --

25 MS. KITTERMAN: Yeah. And that's because

1 that was after my objection.

2 THE COURT: And he said I don't know who I
3 sold it to, sir. Question, you don't know who he
4 you sold the domain to? Answer, I don't know if I
5 sold it to an individual or to my attorney.

6 What is the objection?

7 MS. KITTERMAN: The objection is started on
8 the page before, is attorney-client privilege in
9 what he sold or what he thought he was doing.
10 After litigation is attorney-client privilege and
11 work product.

12 THE COURT: Well, he waived it. It's his
13 privilege. He answered the question.

14 MS. KITTERMAN: He was confused on what the
15 question was.

16 THE COURT: Overruled.

17 (The following proceedings were held in the
18 presence and hearing of the Jury:)

19 MR. BARSKY: Sir, on Page 56, Line 1:

20 "QUESTION: And since the start of this
21 litigation, you've sold the domain to your attorney."

22 MR. BARSKY: And there is the objection,
23 which is overruled by the Judge.

24 And, "He can answer if he knows it."

25 "ANSWER: I don't know who I sold it to, sir.

1 "QUESTION:You don't know who you sold the
2 domain to?

3 "ANSWER: I don't know if I sold it to an
4 individual or to my attorney."

5 MR. BARSKY: Page 59, Lines 8 through 14:

6 "QUESTION:You don't know who you thought you
7 were selling the domain to?

8 "ANSWER: Correct.

9 "QUESTION:You just sold it?

10 "ANSWER: Yeah. Pardon me, yes.

11 "QUESTION:Why did you sell it?

12 "ANSWER: Why does anyone sell anything."

13 MR. BARSKY: Okay. Opposing counsel has
14 asked me to also read Page 59, Lines 15 through 16:

15 "QUESTION:Well, why did you sell it?

16 "ANSWER: Lack of use."

17 MR. BARSKY: Page 60, Lines 16 through 19:

18 "QUESTION:When you say blocking mechanism,
19 what do you mean by that?

20 "ANSWER: There is a term called redirect.
21 My intention was to use it as a redirect."

22 MR. BARSKY: Opposing counsel has asked me to
23 also read from that same page, Lines 20 through 25,
24 and Page 61, Lines 1 through 2.

25 "QUESTION:A redirect to where?

1 "ANSWER: Unknown at the time.

2 "QUESTION:Did you ever decide where you wanted
3 it to redirect to?

4 "ANSWER: I don't believe I ever redirected
5 it.

6 "QUESTION:Did you ever make a determination if
7 you wanted to redirect it somewhere?

8 "ANSWER: No."

9 MR. BARSKY: Page 61, Lines 3 through 12:

10 "QUESTION:Okay. Since then, you've posted.

11 THE WITNESS: A series of links on the web
12 page.

13 "ANSWER: I posted articles in the public
14 domain.

15 "QUESTION:Did you post the text on the
16 articles themselves, or links to the articles?

17 "ANSWER: To the best of my knowledge, links
18 to the articles.

19 "QUESTION:Why did you do that?

20 "ANSWER: For anyone who wanted to gain
21 further knowledge."

22 MR. BARSKY: Page 64, Lines 8 through 13:

23 "QUESTION:Who has the password to access the
24 website and edit it now?

25 "ANSWER: I imagine I do.

1 "QUESTION:Do you know if the person who
2 currently owns the website has that password?

3 "ANSWER: I don't know that."

4 MR. BARSKY: Page 66, Lines 11 through 17:

5 "QUESTION:Other than the website for Palm
6 Beach Financial Exchange, Inc., jesssantamaria.com,
7 upinarms.net, Andrew Schaller.com, have you ever owned
8 any other domain names in your life?

9 "ANSWER: Maybe too numerous -- yes.

10 "QUESTION:Which other domain names?

11 "ANSWER: Maybe too numerous for me to tell
12 you."

13 MR. BARSKY: Page 67, Lines 7 through 19:

14 "QUESTION:Any other domain names?

15 "ANSWER: Yes.

16 "QUESTION:Which ones?

17 "ANSWER: I reserve domain names for future
18 purposes.

19 "QUESTION:Such as?

20 "ANSWER: Who knows.

21 "QUESTION:Well, what domain names have you
22 reserved?

23 "ANSWER: PBC District 1, PBC District 2, PBC
24 District 3, PCB District 4, PBC District 5, PBC
25 District 6, PBC District 6.com, dot net, dot org.

1 I'm not sure, dot info. I have dot coms. I'm not
2 sure. I don't know to what degree I own dot com,
3 dot org, dot whatever for each of the
4 aforementioned websites."

5 MR. BARSKY: Opposing counsel has also asked
6 me to read in Page 67 between Lines 20 through 25.

7 And Page 68, Line 1?

8 MS. KITTERMAN: Yes.

9 MR. BARSKY: "QUESTION: Why did you register
10 all of the aforementioned websites?

11 "ANSWER: Because I wanted to do good in the
12 community.

13 "QUESTION:What were you seeking to do?

14 "ANSWER: I wanted a place where each
15 district in the county could go and read news about
16 what was happening in the district."

17 MR. BARSKY: Continuing on Page 68, Lines 2
18 through 4:

19 "QUESTION:Have you actually ever actually made
20 any websites for those domain names?

21 "ANSWER: Yes.

22 MR. BARSKY: And Page 68, Lines 21 through 25
23 and 69, Lines 1 through 3:

24 "QUESTION:You don't recall how recently a
25 posting would have been made?

1 "ANSWER: That is correct. They're streaming
2 feeds. They would be updated every time one of the
3 streaming feeds was updated. If they're still
4 active, which I have no knowledge if the RSS feeds
5 are still active, it could have been at any time
6 any one of those content providers changed
7 information."

8 MR. BARSKY: Page 85, Lines 11 through 23:

9 "QUESTION: So when you say referring to the
10 person, why would you say that Jess Santamaria has any
11 other name, any other name used for conducting
12 researches at the clerk's website?

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

20 "QUESTION: When was that meeting?

21 "ANSWER: Prior to the elections."

22 MR. BARSKY: Opposing counsel has also asked
23 me to read Page 85, beginning Lines 24 - 25; 86,
24 Lines 1 through 11.

25 "QUESTION: Do you recall approximately when?

1 "ANSWER: I had many meetings with
2 Commissioner Santamaria, many in the terms of five,
3 six, seven, perhaps more. I don't recall.

4 "QUESTION:And this is -- these meetings
5 extended back over that -- you said it was about a 2
6 1/2-year period, I think you said that you were working
7 with Commissioner Santamaria on an issue?

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

13 MR. BARSKY: Page 90, Lines 15 through 25;
14 91, Line 1. Opposing counsel has asked before that
15 portion that I read Page 90, Lines 1 through 14.

16 MS. KITTERMAN: Yes.

17 MR. BARSKY: "QUESTION: But the question
18 was, what did you do to vet your opponents?

19 "ANSWER: I spoke with everybody I could
20 possibly speak with.

21 "QUESTION:What else did you do?

22 "ANSWER: Let me rephrase or redirect my
23 answer. I spoke with everybody I could speak with
24 along the way for my benefit. During those periods
25 of time, other people would volunteer different

1 things. I didn't specifically seek the people out
2 or their stories to vet my opponent, but that was
3 part of the process.

4 "QUESTION: So other than that, what else did
5 you do to vet your opponents?

6 "ANSWER: Public records requests.

7 "QUESTION: Which public records did you
8 request?

9 "ANSWER: I don't remember the list.

10 "QUESTION: Did you do public records requests
11 for both of your opponents?

12 "ANSWER: No.

13 "QUESTION: Only one of your opponents?

14 "ANSWER: Correct.

15 "QUESTION: Only for Jess Santamaria?

16 "ANSWER: Correct."

17 MR. BARSKY: Page 96, Lines 6 through 21:
18 Prior to -- okay. I have 25 here.

19 MS. KITTERMANN: I have 25.

20 MR. BARSKY: "QUESTION: Prior to the
21 commencement of this litigation, what other
22 searches did you do for Mr. -- regarding
23 Mr. Santamaria other than the one for Palm Beach
24 County Clerk and Comptroller's Office?

25 "ANSWER: Palm Beach County Board of County

1 Commissioners website.

2 "QUESTION:Any other searches?

3 "ANSWER: Media searches, newspapers.

4 "QUESTION:How did you conduct those media
5 searches?

6 "ANSWER: Go to Palm Beach Post website, type
7 in Santamaria, go to the Sun Sentinel, type in
8 Santamaria.

9 "QUESTION:So you didn't use a search engine or
10 anything like that?

11 "ANSWER: I'm sure I did."

12 MR. BARSKY: Page 104, Lines 11 through 23:

13 "QUESTION:Did you do these searches prior or
14 during the election?

15 "ANSWER: Yes.

16 "QUESTION:You did these searches during the
17 election?

18 "ANSWER: Yes.

19 "QUESTION:Where did you conduct those
20 searches?

21 "ANSWER: The Internet.

22 "QUESTION:Which specifically sites did you
23 use?

24 "ANSWER: To the best of my recollection,
25 Intellia, People Searches, and BeenVerified.com.

1 In fairness, there is a number of different places
2 that would lead me to the different front ends that
3 would lead me to some similar databases."

4 MR. BARSKY: Page 105, Lines 21 through 25:

5 "QUESTION: Did you search for any of the other
6 aliases that those search engines returned?

7 "ANSWER: Yes.

8 "QUESTION: What were the results of those?

9 "ANSWER: Many cross-references."

10 MR. BARSKY: Page 109, Lines 18 through 25
11 and 110, Lines 1 through 10. I'm sorry. Before we
12 get to that, opposing counsel has asked me to read
13 Page 106, Lines 1 through 9.

14 MS. KITTEMAN: Yes.

15 MR. BARSKY: "QUESTION: Did you use any or
16 all of those cross-references on the clerk and
17 comptroller's website?

18 "ANSWER: No.

19 "QUESTION: Why not?

20 "ANSWER: Because some of them aren't him.

21 "QUESTION: How could you tell?

22 "ANSWER: I don't believe Jess Santamaria is
23 Christopher Santamaria. I don't believe
24 Jess Santamaria is Victoria Santamaria and on down
25 the line.

1 MR. BARSKY: All right. Back to Page 109,
2 Lines 18 through 25 and 110, Lines 1 through 10:

3 "QUESTION: So you used -- let's start with
4 BeenVerified --

5 "ANSWER: Uh-huh.

6 "QUESTION: -- for instance. You went to the
7 website, what did you do?

8 "ANSWER: Typed in the first name Jess, last
9 name Santamaria, clicked on the pick list that said
10 Florida.

11 "QUESTION: When you say pick list, what is a
12 pick list?

13 "ANSWER: Pick list is a number of
14 predetermined search criteria. In this particular
15 case, it would be all 50 states. So I clicked on
16 the one that said Florida, not the one that would
17 start with Alaska, Alabama, so on and so forth. I
18 clicked on Florida.

19 "QUESTION: So it basically was a box that you
20 selected which state it is, is what you're saying?

21 "ANSWER: Correct.

22 "QUESTION: And that's called a pick, p-i-c-k?

23 "ANSWER: List, l-i-s-t."

24 MR. BARSKY: Opposing counsel has also asked
25 me to continue on that same page, Lines 11 through

1 20:

2 "QUESTION:Is that a technical --

3 "ANSWER: Hold it.

4 "QUESTION:Is that a technical term?

5 "ANSWER: No more technical than curser,
6 mouse or keyboard.

7 "QUESTION:I've just never heard it.

8 "ANSWER: Uh-huh.

9 "QUESTION:Okay. So you selected Florida and
10 then what did you do?

11 "ANSWER: Pressed it.

12 "QUESTION:What was the result?

13 "ANSWER: Jesus R. Santamaria."

14 MR. BARSKY: Page 118, Lines 10 through 25
15 and 119, Lines 1 through 7:

16 "QUESTION:Okay. So when you got
17 BeenVerified.com, it showed that there was something you
18 could click on for a more extensive background search.
19 You didn't click that?

20 "ANSWER: Not that I recall.

21 "QUESTION:You're not certain that you did?

22 "ANSWER: I don't know why I would. My
23 understanding of all of the search engines are they
24 gather all public information. The public
25 information that I was concerned with was what

1 happened in Palm Beach County, and I was concerned
2 with what happened in his role in capacity as Palm
3 Beach County Commissioner. If anything had gone on
4 further that had anything to do with the man and
5 not the position, I would have no interest in it.
6 I ran against the position, I ran against somebody
7 who was holding that position. I did not run
8 against the person.

9 My competitor opponent was a job that was
10 held by Mr. Santamaria. I had and still have no
11 interest of what Mr. Santamaria as a person in his
12 capacity as a businessman, a wife, a husband or a
13 father, I have no desire for that. My desire was
14 to stay focused on the job and anything that
15 brought me away from that, I didn't care about."

16 MR. BARSKY: Page 119, Lines 12 through 25
17 and 120, Lines 1 through 15:

18 "QUESTION: So you just saw that there was some
19 aliases listed and you didn't want to click on them on
20 the "get more information" link because you were going
21 to go and look up stuff in Palm Beach County yourself?

22 "ANSWER: I wanted to stick to the issue.

23 "QUESTION: What was the issue?

24 "ANSWER: I was running against a man who I
25 felt like I could do a better job for -- excuse me,

1 better job than.

2 "QUESTION: So even though it appeared there
3 were more documents, more information available than
4 just this overview, you didn't bother to look at it?

5 "ANSWER: You're --"

6 MR. BARSKY: And there's an objection.

7 Do you maintain the objection?

8 MS. KITTERMAN: Yes, I was objecting to the
9 word bother. He misstated in his testimony.

10 THE COURT: Overruled.

11 MR. BARSKY: "QUESTION: You didn't bother to
12 look at it?

13 "ANSWER: I disagree with your question of I
14 didn't bother. I made at the time what I felt was
15 an educated decision to stick to the issues of Palm
16 Beach County. I had no desire to find out anything
17 that would not relate to the office of Palm Beach
18 County Commissioner.

19 "QUESTION: How did you know that if you clicked
20 on the button for more information that it would give
21 you stuff that was not related to the Palm Beach County
22 Commissioner?

23 "ANSWER: That's why I didn't do it. I
24 didn't want to taint my mindset with anything other
25 than the County Commission. So my desire was to go

1 with any information that related to the County
2 Commission job."

3 MR. BARSKY: Page 122, Lines 12 through 25.
4 And 123, Line 22:

5 "QUESTION:Using the alias Jesus Santamaria,
6 did you search any other websites other than Palm Beach
7 County Clerk and Comptroller's website?

8 "ANSWER: Yes.

9 "QUESTION:What did you search?

10 "ANSWER: Google.

11 "QUESTION:What were the results from Google?

12 "ANSWER: I don't remember.

13 "QUESTION:You don't remember?

14 "ANSWER: I don't remember.

15 "QUESTION:Was there anything in the Google
16 search results for Jesus Santamaria that led you to
17 believe it was one and the same as Commissioner
18 Santamaria?

19 "ANSWER: No.

20 "QUESTION:Were there any results for Jesus
21 Santamaria?

22 "ANSWER: Yes, it's a popular name."

23 MR. BARSKY: Page 134, Lines 20 to 25 and
24 Page 135, Lines 1 through 8:

25 "QUESTION:Okay. Do you know what key words

1 you used the search terms for that website?

2 "ANSWER: You're asking my meta tags. I
3 don't think I used them.

4 "QUESTION:You don't think you used meta tags
5 for JessSantamaria.com?

6 "ANSWER: No. It's a one-page, flat page
7 that would search whatever happened to come up
8 online.

9 "QUESTION:What are meta tags, by the way?

10 "ANSWER: They are indexes to enhance search
11 results."

12 MR. BARSKY: Page 135, Lines 14 through 20:

13 "QUESTION:And there is one return, it was
14 Jess Santamaria and it listed Jesus as one of his
15 aliases?

16 "ANSWER: When you say one return, I'm not
17 sure. To my recollection, there was another Jesus
18 Santamaria somewhere in Florida. But the ages were
19 way off so I disregarded it."

20 MR. BARSKY: Page 156, Lines 7 through 13:

21 "QUESTION:So you had a press event and did you
22 bring copies of the Request For Inquiry with you for
23 distribution at that time?

24 "ANSWER: Yes.

25 "QUESTION:Did you actually distribute copies

1 of your Request For Inquiry at that event on
2 September 13th?

3 "ANSWER: Yes."

4 MR. BARSKY: Opposing counsel has also asked
5 me to read 14 through 21:

6 "QUESTION:Who was at that event on
7 September 13th?

8 "ANSWER: I couldn't possibly tell you the
9 names of everybody that was there. A small
10 gathering. It was done on the sidewalk. I don't
11 know who the people were.

12 "QUESTION:Do you recall anybody's name?

13 "ANSWER: Chuck Webber.

14 "QUESTION:Who is Mr. Webber?

15 "ANSWER: CBS 12, I think, or something."

16 MR. BARSKY: Page 175, Lines 3 through 16:

17 "QUESTION:Well, I want to be clear, did the
18 BeenVerified search tell you that Jess Santamaria was a
19 convicted felon?

20 "ANSWER: Of course not.

21 "QUESTION:Okay. Did it have any implication
22 that he might have been a convicted felon?

23 "ANSWER: There's no information other than
24 stated names. There is nothing on the free version
25 that you go to that has any determination of any

1 documents. It shows possibility of things that
2 could come along. It would say, possibility of,
3 and then a whole litany of things that may or may
4 not apply. A phone number, this, that. There is
5 nothing that said click this button because this
6 man is a convicted felon."

7 MR. BARSKY: Page 177, Lines 16 through 21,
8 opposing counsel has asked me to also continue on
9 that page, Lines 17 through 25 and Page 176, Lines
10 1 through 3:

11 "QUESTION:But it listed a bunch of things that
12 may or may not have applied?

13 "ANSWER: The overall site does. I don't
14 believe the reference to this man does at all.

15 "QUESTION:Why do you not believe that?

16 "ANSWER: Because it's not how the site
17 works. When you go to the site, it gives a list of
18 possible things it could find, possibly employer
19 records, possibly divorces, possibly wills, things
20 like that. It didn't say to me this is what is
21 available on this person. So you're asking me
22 about the website and I'm responding as to the
23 search results of the website."

24 MR. BARSKY: Page 177, Lines 16 through 21:

25 "QUESTION:Why did you decide to do that, take

1 it from the clerk's website and put it in the Request
2 For Inquiry?

3 "ANSWER: Because if it was the case it
4 was -- if the two people were the same person, it
5 would be relevant as to whether somebody could hold
6 office or not."

7 MR. BARSKY: Page 224, Lines 20 to 25; Page
8 225, Lines 1 through 25; Page 226, Lines 1 through
9 20:

10 "QUESTION: So when you did the search in
11 Exhibit 10, you didn't click on that link to see if
12 anything had changed?

13 "ANSWER: I don't remember.

14 "QUESTION: Okay. Did you do anything else to
15 verify that the felony judgment related to Jess
16 Santamaria?

17 "ANSWER: Define verify.

18 "QUESTION: Did you do anything with it other
19 than including it in your Request For Inquiry?

20 "ANSWER: Yes.

21 "QUESTION: What did you do?

22 "ANSWER: I gave it to my campaign adviser.

23 "QUESTION: Which campaign adviser?

24 "ANSWER: Cheryl Klimek.

25 "QUESTION: Is she your campaign manager?

1 "ANSWER: Yeah, and perhaps it's
2 interchanging of the lady that was helping running
3 whatever. We didn't have titles, I don't know what
4 her title was.

5 "QUESTION:The same woman we were talking about
6 before?

7 "ANSWER: Above referenced, yes.

8 "QUESTION:What is --

9 "ANSWER: The above referenced lady we
10 referenced earlier in the day.

11 "QUESTION:Why did you give her the felony
12 judgment?

13 "ANSWER: To see if she could find out any
14 information on it.

15 "QUESTION:Why did you give it to her to do
16 that rather than doing it yourself?

17 "ANSWER: I had no idea where to go with it.

18 "QUESTION:You didn't have any idea where to go
19 with it?

20 "ANSWER: Uh-huh.

21 "QUESTION:What did your campaign adviser do
22 with the felony judgment?

23 "ANSWER: Honestly, I don't think she did
24 anything.

25 "QUESTION:You don't think she did anything.

1 Why do you -- you're shaking your head no. You have to
2 answer verbally.

3 "ANSWER: When I gave it to her, she said she
4 would look into it. Time later, she said she
5 didn't find anything. It's my interpretation that
6 she didn't look into anything further to obtain any
7 further knowledge on it.

8 "QUESTION:Is that what you understood at the
9 time you published the Request For Inquiry?

10 "ANSWER: That she didn't look into it any
11 further?

12 "QUESTION:Yes.

13 "ANSWER: Yes.

14 "QUESTION:So then you went ahead and included
15 it in the Request For Inquiry?

16 "ANSWER: Correct."

17 MR. BARSKY: Page 227, Lines 24 and 25.

18 Opposing counsel has asked me to continue on the
19 same page, Lines 21 through 25 and Page 227, Lines
20 1 through 3:

21 "QUESTION:If you understood that she didn't do
22 any additional looking into that document, why didn't
23 you then do something?"

24 Miss Kitterman objected. And that's --

25 "ANSWER: Because I knew that she wasn't a

1 legal person, and the entity that could make the
2 determination of whether that was Mr. Santamaria or
3 not was not she or I."

4 MR. BARSKY: Page 227, Lines 24 and 25; 228,
5 Lines 1 through 25:

6 "QUESTION: So you could have done something
7 more, but you didn't?

8 "ANSWER: I did what was required of me and
9 my understanding of the clerk of the Supervisor of
10 Elections office that said to vet things, which was
11 later stated by this super, or the Florida
12 Department of State, Division of Elections, which
13 said whether a candidate has a criminal background
14 or not is up to -- I'm sorry, is to be determined
15 by the opponent, the media and/or the general
16 electorate.

17 Further, in that letter to me, it said the
18 Supervisor of Elections or any ministerial has
19 custody, I don't remember the exact words, the
20 super because there was a mistake in the letter, it
21 said something to the effect of the Supervisor of
22 Election or any other administrator takes the
23 information provided by the candidate, I'm
24 paraphrasing, by the candidate in a ministerial
25 function at face value and has no process for doing

1 any background check.

2 So I went to the media, the general
3 electorate, me, as an opponent to ask anybody that
4 would be able to verify it for me. I did the best
5 I could with the tools that were available at the
6 time given the time constraints of I was in the
7 middle of an election, I had a business and I was
8 doing the best that I could to find out answers
9 going to the people that would have them and they
10 weren't me."

11 MR. BARSKY: Opposing counsel has asked me to
12 continue to Page 229, Lines 1 through 10:

13 "QUESTION: So your understanding of what the
14 supervisor of Elections told you was that if you found
15 something, you should go to the press with it?

16 "ANSWER: That is what the attorney for
17 the -- I'm sorry, I believe it's called general
18 counsel, assistant general counsel for the State of
19 Florida, Division of Elections, Secretary of State,
20 stated in writing that it was -- the determination
21 was left up to the opponents, the media and/or the
22 general electorate. I didn't make that
23 determination, the State of Florida did."

24 MR. BARSKY: 235, Lines 1 through 25 and 236,
25 Lines 1 through 18:

1 "QUESTION:So how did you determine which
2 entities to provide the Request For Inquiry to?

3 "ANSWER: I provided it to anyone that might
4 have jurisdiction over it based upon whatever I
5 thought could possibly be a determining factor.

6 "QUESTION:What jurisdiction did CBS have?

7 "ANSWER: They didn't have jurisdiction.

8 "QUESTION:Okay. So you provided it to
9 entities beyond those that have jurisdiction?

10 "ANSWER: I provided it to entities that
11 could assist me in bringing the information
12 forward.

13 "QUESTION:That could assist you in bringing
14 the information forward. What assistance did you need?

15 "ANSWER: I think it was said by former
16 Commissioner Ken Adams in front of the Board of
17 County Commissioners that if it wasn't for the
18 newspapers and ex-wives, none of the
19 County Commissioners at the time would have ever
20 had their wrongdoings discovered. So my idea was
21 that if there was somebody out there that could do
22 more knowledge and bring to light the truth,
23 whatever the truth was, that was the place to go
24 for help.

25 "QUESTION:So you didn't think the proper place

1 to go to was to look in the court file for the case that
2 generated the felony judgment against Jesus Santamaria?

3 "ANSWER: I went to the clerk of the court's
4 website and retrieved everything that was available
5 on the topic.

6 "QUESTION:Just from the website. You didn't
7 go to the courthouse and look?

8 "ANSWER: I have no ability to pull records
9 down there with a Bar number.

10 "QUESTION:You have no ability to pull records
11 down there with a Bar number?

12 "ANSWER: Uh-huh.

13 "QUESTION:It's your belief that you have to
14 have a Bar number to obtain the public records of the
15 State of Florida?

16 "ANSWER: It's my hundred percent testimony,
17 I didn't even know what building I was supposed to
18 go in. I didn't know what record the building was
19 in. I had no idea where the legal system was
20 conducted. I've never had an issue with them."

21 MR. BARSKY: Page 244, Lines 7 through 18:

22 "QUESTION:You said you found the felony
23 judgment during your search. You took it, you gave it
24 to your campaign manager/adviser, you said she didn't
25 really have a real title, to investigate further because

1 you said you didn't know what to do as further
2 investigation. You said you don't think that she did
3 anything with it. You took it, you included it in the
4 Request For Inquiry, and you gave the Request For
5 Inquiry out at the press event and you said you put it
6 in the mail to some entity or entities and you put it in
7 on your own website; is that correct?

8 "ANSWER: Correct."

9 MR. BARSKY: I have nothing further,
10 Your Honor.

11 THE COURT: Does that conclude the depo?

12 MR. BARSKY: That concludes the deposition,
13 Your Honor.

14 THE COURT: Thank you very much. Your next
15 witness or testimony, sir.

16 MR. BARSKY: Tanya. Tanya McConnell.

17 Thereupon,

18 TANYA McCONNELL,
19 having been first duly sworn or affirmed, was examined
20 and testified as follows:

21 THE WITNESS: I do.

22 DIRECT EXAMINATION

23 BY MR. BARSKY:

24 Q. Good morning. Could you please tell us your
25 name?

- 1 A. My name is Tanya McConnell.
- 2 Q. And, ma'am, where do you currently work?
- 3 A. I work at Palm Beach County engineering.
- 4 Q. What is your job title?
- 5 A. Deputy county engineer.
- 6 Q. How long have you been the deputy county
7 engineer?
- 8 A. Since 2003.
- 9 Q. Where did you go to college?
- 10 A. University of Miami.
- 11 Q. What degree did you obtain there?
- 12 A. A Bachelor of Science in civil engineering.
- 13 Q. When did you graduate?
- 14 A. 1986.
- 15 Q. How long have you worked as an engineer for
16 Palm Beach County?
- 17 A. Since 1986.
- 18 Q. Was that the first job you had after
19 graduating?
- 20 A. Yes, it was.
- 21 Q. Have you worked for the Palm Beach County
22 engineering office continuously since then?
- 23 A. Yes, I have.
- 24 Q. Did you start as the deputy county engineer?
- 25 A. No, I did not.

1 Q. So over the years, have you been promoted
2 from where you started to your current job?

3 A. Yes.

4 Q. Are you in charge of the department that is
5 responsible for maintaining and improving the roads in
6 Palm Beach County?

7 A. Yes, I am.

8 Q. Are you familiar with something called
9 Municipal Service Taxing Units?

10 A. Yes, I am.

11 Q. And since it's kind of a mouthful, is it okay
12 if we call it MSTU?

13 A. Please.

14 Q. What is the MSTU program?

15 A. It is a program that affords private
16 residents to have their roads improved. Roads that are
17 not county owned or maintained at the time, residents
18 can come to the County, request that their roads be
19 paved. We give them petitions, they go out and try and
20 get their neighbors to sign, get over 51 percent. Once
21 they get that percentage, we'll add it to our program.
22 And, basically, what it is we forward the money. We
23 construct the roadway and the residents are assessed
24 over a period of time to repay the cost.

25 Q. How are those residents assessed that money

1 over time?

2 A. They're assessed through the clerk with their
3 yearly tax bills, sometimes over ten years, six years,
4 20 years, but over a period of time, they refund the
5 costs.

6 Q. Do the residents also have to pay interest on
7 that money?

8 A. Yes.

9 Q. Does the County engineering office keep a
10 file for these MSTU projects?

11 A. Yes.

12 Q. Are you familiar with a project called
13 Fargo Road?

14 A. Yes.

15 MR. BARSKY: May I approach the witness?

16 THE COURT: Yes, sir.

17 MS. KITTERMAN: Should I state my objection
18 now or after?

19 THE COURT: What is it? Are you going to try
20 to introduce that into evidence?

21 MR. BARSKY: Yes, Your Honor.

22 THE COURT: What is the objection?

23 MS. KITTERMAN: Irrelevant, hearsay.

24 THE COURT: All right.

25 MR. BARSKY: May I --

1 THE COURT: Set the appropriate foundation.

2 MR. BARSKY: Thank you, Your Honor. May I
3 approach the witness?

4 THE COURT: Yes, sir.

5 MR. BARSKY: Thank you.

6 (Plaintiff's Exhibit No. 5 was marked for
7 identification.)

8 BY MR. BARSKY:

9 Q. Ma'am, I'm showing you what has been marked
10 as Plaintiff's Exhibit 5 for identification. Have you
11 ever seen this file before?

12 A. I believe so. I mean, I've seen the papers
13 that are in part of this file.

14 Q. Do you want to take a quick look at the
15 papers --

16 A. Sure.

17 Q. -- to make sure they are what you think they
18 are?

19 MR. BARSKY: May I approach?

20 THE COURT: (Nodding.)

21 BY MR. BARSKY:

22 Q. And now that you've taken a moment to look at
23 the file, have you seen those documents before?

24 A. Yes.

25 Q. Is that the MSTU file that the Palm Beach

1 County engineer's office maintains for Fargo Road?

2 A. Yes, it appears to be so.

3 Q. Is that the type of file that the County
4 maintains as a regular course of its business?

5 A. Yes.

6 Q. Are the entries in the file made at or about
7 the time of the occurrence of the events that are
8 recorded there by a person with knowledge of the event?

9 A. Yes.

10 MR. BARSKY: Your Honor, at this point, I
11 would like to move Plaintiff's Exhibit 5 for
12 identification into evidence.

13 MS. KITTERMAN: Objection, Your Honor, it
14 potentially calls for a hearsay, but also exclusion
15 on the grounds of prejudicial value.

16 THE COURT: Come on up here for one second.

17 (The following proceedings were held out of
18 the hearing of the Jury:)

19 THE COURT: All right. What is the relevance
20 and materiality of this?

21 MR. BARSKY: The relevance and materiality of
22 it, so far, Mr. Schaller's deposition is that he
23 didn't know how to research all these other things.
24 It goes to that his research abilities are very
25 extensive. It also goes to that fact, Your Honor,

1 in the opening statement --

2 THE COURT: You want to impeach on a
3 collateral issue.

4 MR. BARSKY: One, because it shows motive,
5 Your Honor; intent, which is something we're
6 allowed prove here. Because Mr. Schaller stated
7 that the County Commissioner let him down. His
8 file shows it. And this also shows that in
9 actuality Mr. Schaller didn't comply with the
10 requirements of Palm Beach County to get his road
11 paved. And that's what that file shows.

12 THE COURT: I'm having some hard time
13 understanding. You got a whole file about paving
14 of a road.

15 MR. BARSKY: Correct, your Honor.

16 THE COURT: And somehow you want to link it
17 to whether or not there was defamation in this
18 case.

19 MR. BARSKY: It goes to the issue you
20 mentioned yesterday in Don King, dealing with ill
21 will, motive and intent.

22 THE COURT: That's not my issue. What are
23 all of these documents, what is the -- why is that
24 relevant to anything?

25 MR. BARSKY: It shows his research ability,

1 his ability to have found out more that he didn't,
2 and his intent and ill will towards
3 Commissioner Santamaria. There are numerous
4 e-mails in there accusing the County of doing
5 things improper, attacks on other members of the
6 Board of County Commissioners, as well as the Clerk
7 Court, Sharon Bock.

8 THE COURT: This doesn't have anything to do
9 with this.

10 MR. BARSKY: It's absolutely --

11 THE COURT: Other than he had a bone to pick
12 back then. But you're trying to get a whole bunch
13 of documents in that have nothing to do with this
14 thing, except that it is just part of the, I guess,
15 the whole process, of which --

16 MR. BARSKY: Remember in opening statements
17 we said that --

18 (The following proceedings were held in the
19 presence and hearing of the Jury:)

20 THE COURT: Folks, I need you to step back in
21 there. I've got talk to these attorneys for a
22 couple of minutes here and there's no sense in you
23 listening to all of this.

24 (The following proceedings were held out of
25 the presence and hearing of the Jury:)

1 THE COURT: All right. What you've
2 identified as Plaintiff's Exhibit 5 for
3 identification is basically the whole road project
4 that took place years before?

5 MR. BARSKY: It took place during the events
6 that are at issue here in this trial, Your Honor.
7 This is the file from when Mr. Schaller, and you
8 heard in his deposition testimony, from that date
9 where he approached Commissioner Santamaria up to
10 the date of the election. That's what this is.
11 This isn't going forward of that time, it's not
12 going backwards. That's the documents that
13 Mr. Schaller generated during the time of the
14 events that took place that are at issue in this
15 trial.

16 THE COURT: Well, why are these documents
17 relevant and material to any issue in this case?

18 MR. BARSKY: Because they go to show
19 Mr. Schaller's ill will intent and they also go to
20 show --

21 THE COURT: How?

22 MR. BARSKY: How? It shows -- Mr. Schaller's
23 statements have so far been, well, the Commissioner
24 let me down, they were out to get me. You know,
25 all these statements about how the County failed

1 and that's why he got in this race. In reality,
2 these documents show Mr. Schaller simply failed to
3 comply with the requirements of the law in Palm
4 Beach County, Florida, and didn't get what he was
5 looking for.

6 We're not planning on going in and asking
7 about these documents, look through these
8 individually and say, look at this one, look at
9 that one. We wanted to have the file here so that
10 the jury can see what Mr. Schaller's research and
11 writing stills are when he's sitting here claiming,
12 I had no idea what to do with this felony judgment.
13 It's absolutely relevant on that point, absolutely.

14 THE COURT: Is that a criminal file there?

15 MR. BARSKY: It's not a criminal file.

16 THE COURT: Does that have anything do with
17 the clerk's office?

18 MR. BARSKY: I don't think so.

19 THE COURT: Then why is -- then what you want
20 to try to do is impeach him on some kind of
21 collateral issue, is that what you're telling me,
22 Counsel?

23 MR. BARSKY: I wouldn't call it a collateral
24 issue, Your Honor, I would call it --

25 THE COURT: Well, it's got nothing to do with

1 whether or not there's a felony record. Now --

2 MR. BARSKY: Absolutely, it goes to absolute
3 malice, Your Honor.

4 THE COURT: Actual malice -- all right.

5 What I'm having difficulty understanding is
6 that this is a whole other process. And mind you,
7 if he didn't get what he wanted, that's fine. And
8 if somehow you want to try to relate that to his
9 ill will towards Mr. Santamaria, that's fine. But
10 to put a whole government file dealing with the
11 paving of a road project into evidence for this
12 jury to have to sift through, I -- there's some --
13 there is no connection here.

14 MR. MARIANI: May I make just one comment
15 here, Your Honor?

16 THE COURT: Yes, sir.

17 MR. MARIANI: The effort -- the reason for
18 the file is just to show the defendant's effort.
19 It quantifies the effort. It's just that simple.
20 We're not going to ask any questions about
21 documents.

22 THE COURT: Quantifies the effort for what?
23 His ability to research criminal records?

24 MR. MARIANI: His effort and his
25 disappointment. He's already testified that -- or

1 counsel has said that he's been disappointed by
2 Santamaria. It's important that the jury
3 understands the quantity of this man's efforts. If
4 he spent one second, that's a certain level of
5 animus towards Mr. Santamaria. If he developed
6 that much file, that's a whole different level of
7 animus to Commissioner Santamaria. The jury should
8 be able to simply look at that file and have an
9 understanding of how much effort, time, that this
10 man put into it. That's it. And that's relevant.
11 It's very relevant as far as we're concerned.

12 THE COURT: And your response, madam?

13 MS. KITTERMAN: Your Honor, it should be
14 excluded, especially under Rule 403, on the basis
15 of the fact that that whole file is confusing, it's
16 going to prejudice or confuse the jury. And that's
17 substantially outweighed by the danger of any
18 unfair prejudice, confusion of the issues,
19 misleading the jury or needless representation of
20 cumulative evidence.

21 This file has absolutely nothing to do with
22 the felony record of Mr. Santamaria. Nothing in
23 that file is going to show that Mr. Schaller had
24 ill will toward Mr. Santamaria. If they want to
25 elicit testimony from Mr. Santamaria or

1 Mr. Schaller with regard to whether or not he had
2 ill will or whether or not he spent hours and hours
3 of time researching on this road project, that's
4 one thing, but to introduce an entire file that has
5 nothing to do with this case --

6 THE COURT: I agree. I'll sustain the
7 objection on the documents itself.

8 MS. KITTERMAN: Thank you, Your Honor.

9 MR. BARSKY: That's fine.

10 THE COURT: Let's bring the jury back in.

11 (The following proceedings were held in the
12 presence and hearing of the Jury:)

13 THE COURT: Go ahead and continue, sir.

14 BY MR. BARSKY:

15 Q. Ma'am, have you ever met the defendant
16 before?

17 A. Yes, I have met Mr. Schaller.

18 Q. Where did you meet him?

19 A. I first met Mr. Schaller when he came to my
20 office for a meeting in an attempt to get Fargo Road
21 paving added to a project that we were doing in the
22 Ranchettes area.

23 Q. When you say added to a project, is that one
24 of these MSTU projects?

25 A. Yes.

1 Q. What did you tell Mr. Schaller about his
2 request?

3 A. I told Mr. Schaller that it was late in the
4 process to add Fargo to the construction project that
5 was scheduled to go, and I explained to him the process
6 and the fact that Fargo could be paved at a later time,
7 but not as a part of the four projects that we were
8 doing.

9 Q. And you said there were four projects that
10 you were doing?

11 A. Four roadways, one project. I'm sorry.

12 Q. Could you tell us what that one project was?

13 A. It was the paving of four roadways in the
14 Ranchettes area. I don't remember the names offhand.
15 One is Rodeo, El Paso and two others. Just east-west
16 roadways within the Ranchettes.

17 Q. So when Mr. Schaller came to you, had that
18 project already been proceeding?

19 A. That project had already been underway, yes.

20 Q. Do you recall how far along that project was?

21 A. I believe that we were about getting ready to
22 go to construction.

23 Q. Had Mr. Schaller complied with the
24 requirements of the MSTU program to get Fargo Road
25 paved?

1 A. No, he had not.

2 Q. Did you continue to work with Mr. Schaller
3 after that meeting in your office?

4 A. Mr. Schaller, after that meeting in my
5 office, he didn't like the answer, he went downtown.
6 Whether he went straight to my boss or to the
7 commissioner, I'm not sure, but he went downtown in an
8 attempt to get the project added.

9 Q. Who is your boss?

10 A. George Webb, the county engineer.

11 Q. When you mentioned commissioner, which
12 commissioner were you referring to?

13 A. Commissioner Santamaria.

14 Q. Now, there was a file generated for this
15 project; correct?

16 A. Yes.

17 Q. And you said that you are the person who
18 oversees that file?

19 A. Yes.

20 Q. Could you tell us, going through that file,
21 did you form an impression of the defendant's abilities
22 to do research?

23 MS. KITTERMAN: Objection, Your Honor, calls
24 for improper lay witness testimony.

25 THE COURT: Sustained.

1 BY MR. BARSKY:

2 Q. Could you tell us what is your interactions
3 with Mr. Schaller, could you describe those for us?

4 A. After he went downtown and started asking
5 questions or trying to get his project done over the
6 following years, months, we -- my office, my staff was
7 asked to do research, look at various options,
8 et cetera, et cetera. Mr. Schaller always went to the
9 board with, I guess, facts that he felt that he had
10 derived from previous things that we said.

11 It seemed that he was a very smart man. He
12 would take things that we said to the board or things
13 that we had written, he would twist them, he would cut
14 them apart, he would take them out of context and he
15 would continuously go to the board and hammer them for
16 us to take further action on Fargo.

17 Q. You mentioned a slew of things that you --
18 your office wound up having to do on this Fargo Road,
19 MSTU project. Who was it that was causing you to have
20 to take all of those actions?

21 A. The requests and the pushing of Mr. Schaller.
22 And, you know, just to clarify, it wasn't an MSTU
23 project. It wasn't on the list. I mean, that -- that
24 was the issue.

25 Q. So was it the case, then, that you had told

1 Mr. Schaller he couldn't -- he didn't comply with the
2 MSTU program, but he was still trying to get this road
3 paved through other means?

4 MS. KITTERMAN: Objection, Your Honor,
5 leading.

6 THE COURT: Overruled.

7 THE WITNESS: He was trying to -- yes. He
8 continued to try to get the board to have Fargo, if
9 not at least added to the projects that we were
10 doing at the time, paved shortly thereafter.

11 BY MR. BARSKY:

12 Q. Was he seeking some kind of exception from
13 the rule?

14 A. Oh, it would have been an exception from the
15 rule. The MSTU program I explained already, but it's a
16 process. You come in, you ask to have your road paved.
17 We give you the petitions, you go and get 51 percent of
18 your neighbors. I mean, it's a whole process. And once
19 you've done that, we add you to the MSTU program. We
20 have limited funding and so we certainly try and do
21 first come, first served. So Fargo could and would have
22 been added to the MSTU program, but it would have been
23 considerably further down on the list.

24 Q. Why didn't you as the deputy county engineer
25 grant Mr. Schaller the exception he was seeking?

1 A. Exceptions? As a deputy county engineer, I
2 absolutely try not to grant exceptions unless there are
3 circumstances that are, you know, completely -- we have
4 rules for a reason. It's to be fair to all of our
5 residents. It's to be fair to all of the citizens of
6 Palm Beach County.

7 To have made an exception for Mr. Fargo would
8 have said to all of the others that I have in the MSTU
9 program, that their work was not as important, in our
10 eyes, as Mr. Schaller's. And that is not the message
11 that we want to send. We try to be fair to everybody.
12 It's the same pot of money.

13 Q. Now, a little while ago, you were talking
14 about Mr. Schaller and some facts, and you said facts
15 that he felt was what he used. Do you disagree with
16 Mr. Schaller's characterizations?

17 A. Almost all. Mr. Schaller, in pushing and
18 pushing to get his project done, unfortunately bent the
19 facts, bent the facts considerably to try and convince
20 the board or get the board or whatever into getting this
21 roadway done. And it's just unfortunate. He's a smart
22 man. I mean, you know, I think we could have gone
23 through the process and gotten it done. He didn't have
24 to resort to such devious means, but it is what it is.

25 MR. BARSKY: I have nothing further.

1 THE COURT: Cross.

2 MR. BARSKY: May I approach, Your Honor?

3 CROSS EXAMINATION

4 BY MS. KITTERMAN:

5 Q. Good morning, Ms. McConnell.

6 A. Good morning.

7 Q. You just stated that there were -- it was one
8 road project that you were working on in the Ranchettes
9 area. Wasn't it, in fact, two projects?

10 A. It was designed as two projects, but we bid
11 one project. So for all intents and purposes, I
12 consider it one project.

13 Q. You consider it one project?

14 A. And we, the County did. We bid it as one
15 project.

16 Q. Uh-huh. And you said that roads are paved on
17 a first come, first serve basis; is that correct?

18 A. Roads are paved on -- yes, the first ones
19 that enter -- or the ones not paved, but the process
20 started on a first come, first serve basis.

21 Q. Right. And you said that it's really
22 important for you to keep the policies and procedures of
23 the MSTU program so that you don't show any favoritism;
24 is that correct?

25 A. Absolutely.

1 Q. Okay. During this MSTU program where the
2 Ranchettes project was moving forward, didn't the County
3 send out late petitions to residents on Rodeo Drive that
4 were not included in the MSTU project?

5 A. Yes, we did.

6 Q. So that was an exception, you actually added
7 the Rodeo Drive to the MSTU project even though they
8 were not petitioned properly?

9 MR. BARSKY: Your Honor, I would object to
10 mischaracterization of the testimony.

11 THE COURT: Overruled. It's
12 cross-examination.

13 Go ahead.

14 THE WITNESS: I'm sorry, can you repeat the
15 question? No, I remember. If Rodeo was an
16 exception.

17 Rodeo, and I will explain. There were --
18 it's hard to explain. So there were four east-west
19 roadways. They were divided by one north-south
20 roadway. And the contract, the original MSTUs that
21 we solicit were for three full east-west roadways
22 and half of the fourth.

23 The engineering contract that was awarded and
24 the design that was done designed the wrong half of
25 Rodeo. It designed the western portion when it

1 should have designed the eastern portion. When
2 that was -- when we realized that and it was
3 brought to my attention, essentially what it meant
4 is that the ones that had petitioned didn't have a
5 project and the ones that were not petitioned did.

6 We immediately started the design for the
7 portion that had petitions since we were committed.
8 And because we had already spent taxpayers' dollars
9 and this would not be reimbursed on incorrect
10 design, we did in that case go out and ask the
11 residents if they were interested in having their
12 road paved so that we could use those plans.

13 BY MS. KITTERMAN:

14 Q. Okay. So because the County made a mistake,
15 the residents on Rodeo benefited?

16 A. Sure. And they could have said no and we'd
17 have shelved the plans.

18 Q. You just testified that Mr. Schaller has a
19 way of twisting facts in your statements, is that what
20 you said?

21 A. Yes, I did.

22 Q. What were you talking about?

23 A. Just over the period of time that
24 Mr. Schaller has approached the board, it got to the
25 point where staff and I almost stopped listening because

1 we would get so frustrated. There were certainly based
2 on truth, based on true facts that were things that
3 people had said, you know, that he'd take completely out
4 of context or one very small portion, whatever portions
5 there are to suit his argument at the time. It's
6 frustrating because it was never looking at the full
7 picture, only looking at parts.

8 Q. Was one of those misstatements that
9 Mr. Schaller said that engineering caused management,
10 caused the delay? Is that one of the statements?

11 A. One of the -- yes. I don't remember his
12 exact words or my exact words. But, yes, I remember
13 that that was a continued source of frustration for me.

14 Q. And if I could show you a video of the actual
15 board meeting where that misstatement was would that
16 refresh your recollection?

17 A. You can show me the video of that, I'm sure
18 it would. But, I mean, you'd need to then show the
19 video of all of the other times after that that
20 Mr. Schaller used those words.

21 Q. So when the actual words first came out of
22 your mouth, he mischaracterized them after that?

23 A. Uh-huh. Yes.

24 Q. Okay. So when the original words came out,
25 you see the meeting minutes, to see if those were your

1 words that he was actually confusing?

2 A. Sure.

3 Q. Okay.

4 A. I mean, I think basically what I stated was
5 that engineering, the administration had caused the
6 delay.

7 MS. KITTERMAN: Your Honor, may I show the
8 portion of the video?

9 THE COURT: Come up here, please.

10 (The following proceedings were held out of
11 the hearing of the Jury:)

12 THE COURT: You want to show her a video to
13 refresh her recollection, but you want to publish
14 this in front of a jury that is not evidence in the
15 case?

16 MS. KITTERMAN: She wants to -- she's stating
17 as evidence that he's misstated her statements.
18 And I just wanted to show her whether or not he
19 did.

20 THE COURT: But you want to do that in front
21 of the jury?

22 MS. KITTERMAN: Yes.

23 THE COURT: But it's not evidence. And if
24 you publish it to the jury, it becomes evidence you
25 don't see any problem there?

1 THE WITNESS: Well, I could show her not in
2 front of the jury.

3 THE COURT: But she doesn't need her
4 recollection refreshed, she's already told you
5 that. What you're trying to do is impeach her on
6 an exhibit that's not been properly listed and is
7 not evidence in the case.

8 MS. KITTERMAN: It is listed and it's on
9 Mr. Schaller's website.

10 MR. BARSKY: In terms of being listed, they
11 listed every County Commission meeting from '08 to
12 today.

13 THE COURT: That's too cumulative. I'll
14 sustain the objection.

15 (The following proceedings were held in the
16 presence and hearing of the Jury:)

17 BY MS. KITTERMAN:

18 Q. Isn't it true that Mr. Schaller came to meet
19 with you at the direction of Mr. Santamaria?

20 A. Not that I'm aware of.

21 Q. Do you train the commissioners on the MSTU
22 program?

23 A. Do I train the commissioners on the MSTU
24 program?

25 Q. Yes.

1 A. No.

2 Q. Do you explain to the commissioners what the
3 MSTU program is?

4 A. I personally, no, but they are aware of what
5 the program is, yes.

6 Q. Well, would it surprise you, then, if
7 Mr. Santamaria claimed that he was never educated on the
8 MSTU program?

9 A. Surprise me, no.

10 Q. Do you believe that it might have helped the
11 situation had Mr. Santamaria been trained on the MSTU
12 program so that he could have properly informed
13 Mr. Schaller what the process was?

14 A. I wrote a letter explaining what the
15 process -- well, explaining the issues and what would
16 need to be done with that project. I can't speak for
17 Mr. Santamaria and what he knows or would have done if
18 he had known.

19 Q. You said you wrote a letter. Who did you
20 write a letter to?

21 A. I believe I wrote a letter to -- and I have
22 not looked in the files to remember. But I did write a
23 letter in response to a request from downtown on why
24 Fargo could not be added to the program at the time.

25 Q. Okay.

1 A. It could not be added to the project that we
2 were about to do.

3 Q. Okay. But you don't know whether
4 Mr. Santamaria knew about how the MSTU program worked so
5 that he could properly inform Mr. Schaller how to go
6 about --

7 A. No, I don't know if Mr. Santamaria knew about
8 the way the program works.

9 Q. Are you aware that Mr. Schaller wasn't made
10 aware of the road paving until after the roads were
11 approved through the MSTU program?

12 A. Yes, I would -- well, no, I don't know that.

13 Q. Has Mr. Schaller ever said to you that he has
14 ill will towards Mr. Santamaria?

15 A. No.

16 Q. Has he ever told you that he's taken issue
17 with Mr. Santamaria?

18 A. Told me directly, no.

19 Q. Has Mr. Schaller ever said to you that he
20 knew that the commissioner had never been convicted of a
21 crime?

22 A. No.

23 Q. Isn't it true the last time that you spoke
24 with Mr. Schaller was in 2009?

25 A. I have no idea.

1 Q. Okay. And do you know when the election
2 period started?

3 A. I don't remember.

4 Q. Okay. Are you aware that it started in 2010?

5 A. Okay.

6 Q. Okay. So the last time you spoke with
7 Mr. Schaller was 2009 and at that time, he didn't say to
8 you that he had any ill will towards Mr. Santamaria?

9 A. I don't remember the last time I spoke to
10 Mr. Schaller, but he has never said to me that he had
11 ill will towards Mr. Santamaria, no.

12 THE COURT: Redirect?

13 MR. BARSKY: None, Your Honor.

14 THE COURT: Ladies and gentlemen, anything
15 from you? All right.

16 Thank you, ma'am, you are excused. Watch
17 your step as you get down, please.

18 (Witness stepped down.)

19 THE COURT: Next witness.

20 MR. BARSKY: Your Honor, as the next witness,
21 we are going to read from the sworn testimony of
22 George Webb.

23 THE COURT: Folks, do you need a break for
24 any reason? Raise your hands, it's not an
25 endurance test.

1 All right. Thank you.

2 Who is this depo of?

3 MR. BARSKY: Judge, George Webb, he's the
4 county engineer.

5 MR. MARIANI: Your Honor, I'll read.

6 (Mr. Mariani took the witness stand to assist
7 in the reading of the deposition transcript of
8 GEORGE T. WEBB as follows:)

9 MR. BARSKY: This is the sworn testimony of
10 George T. Webb. It was taken on Wednesday, March
11 28th. We are starting with actually the direct by
12 Miss Kitterman. It begins Page 5, Lines 6 through
13 19:

14 "QUESTION:"Thank you. Would you please state
15 your full name for the record?

16 "ANSWER: George T. Webb.

17 "QUESTION:And, Mr. Webb, do you know
18 Mr. Jess Santamaria?

19 "ANSWER: Yes, I do.

20 "QUESTION:How do you know him?

21 "ANSWER: He is the commissioner for
22 District 6 for Palm Beach County, and I'm the Palm
23 Beach County engineer.

24 "QUESTION:How long have you been the Palm
25 Beach County engineer?

1 "ANSWER: I'm acting since February of '91,
2 and permanent since November of '91."

3 MR. BARSKY: Page 6, Lines 3 through 25:

4 "QUESTION:Do you know Mr. Andy Schaller?

5 "ANSWER: Yes.

6 "QUESTION:How do you know Mr. Schaller?

7 "ANSWER: I met him for the first time in
8 Commissioner Santamaria's office related to a
9 project that we were doing in the Ranchettes
10 neighborhood where he owns some property.

11 "QUESTION:What was that meeting about?

12 "ANSWER: The discussion was regarding our
13 project and the potential inclusion of another road
14 into the project.

15 "QUESTION:And that project, if I refer to it
16 as the Ranchettes project, would that be an accurate
17 title for it?

18 "ANSWER: That would be an accurate title,
19 yes.

20 "QUESTION:Okay. And Fargo Avenue was not
21 originally included in the Ranchettes project; is that
22 correct?

23 "ANSWER: That's correct.

24 "QUESTION:Okay. Do you know why Fargo Avenue
25 was not included in the Ranchettes project?

1 "ANSWER: The projects were being built under
2 our Municipal Service Taxing Unit, MSTU process.
3 And in that, we take petitions from interested
4 property owners. And if there is some interest
5 from a majority of the property owners along a
6 given stretch of roadway, we ask the Board of
7 County Commissioners if they want to include that
8 project in as an MSTU project.

9 We did not receive petitions for Fargo, we
10 received petitions from four other roads over the
11 preceding, I think, two or three years out there.
12 And those roads were included as part of the
13 project that you're referring to as the Ranchettes
14 project."

15 MR. BARSKY: Okay. Page 7, Lines 10 through
16 25:

17 "QUESTION:Okay. Are you meeting -- and your
18 meeting with Mr. Schaller and Mr. Santamaria was to
19 discuss how -- or was it to discuss how Fargo Avenue
20 could potentially be added to the Ranchettes project?"

21 There's a form objection that I'm waiving.

22 "ANSWER: If I recall, Mr. Schaller wanted
23 to, had raised the issue that our plan included
24 some work within the Fargo right of way for the
25 other intersecting streets. Fargo runs

1 north-south. The fourth street that I mentioned
2 all -- the fourth street I mentioned all run
3 east-west. And where those streets intersected
4 Fargo, we had shown some asphalt being put into the
5 middle of Fargo in the middle of the intersections.

6 Mr. Schaller raised the question if we were
7 going to be putting asphalt in the middle of those
8 intersections, why wouldn't we just connect those
9 points while we were out there doing that project."

10 MR. BARSKY: Page 8, Lines 2 through 6:

11 "QUESTION: Okay. And what was your response?

12 "ANSWER: We said you're right, we never
13 should have put the asphalt in the middle of the
14 intersections and we are taking that out and not
15 touching Fargo at all."

16 MR. BARSKY: Opposing counsel has asked me to
17 read Page 8, Line 25 and Page 9, Lines 1 through 3.

18 MS. KITTERMAN: Yes.

19 MR. BARSKY: "QUESTION: Did Mr. Schaller as
20 a citizen have the authority or power to direct the
21 engineering department to spend any money,
22 taxpayers' money?

23 "ANSWER: No."

24 MR. BARSKY: Page 9, Lines 4 through 13:

25 "QUESTION: In your opinion, is Mr. Schaller

1 personally responsible for costing Palm Beach County
2 over a thousand hours of engineering time?

3 MR. MARIANI: I'm sorry. The paper dropped.
4 Could you say that again?

5 MR. BARSKY: Yes.

6 Page 9, Lines 4 through 13:

7 "QUESTION: In your opinion, is Mr. Schaller
8 personally responsible for costing Palm Beach County
9 over a thousand hours of engineering time related to
10 Fargo Avenue?

11 "ANSWER: Mr. Schaller raised questions and
12 issues associated with the project to the Board of
13 County Commissioners. Addressing those questions
14 and issues associated with the project produced a
15 substantial number of hours. Whether it was a
16 thousand, I don't know."

17 MR. BARSKY: Opposing counsel has asked me to
18 continue Lines 14 through 17 on the same page:

19 "QUESTION: Okay.

20 "ANSWER: But, again, the classification was
21 we were not responding directly to him, we were
22 responding to the Board of County Commissioners."

23 MR. BARSKY: Page 11, Lines 23 through 25.
24 I'm sorry. So Page 11, Lines 23 through 25, Page
25 12, Lines 1 through 12:

1 "QUESTION:After the Board's recent unanimous
2 decision to open up the Fargo Avenue for the MSTU 50/50
3 participation, did you have any conversations with
4 Mr. Santamaria where he asked you if we were going to
5 let Mr. Schaller win."

6 MR. BARSKY: I objected to that and I'm
7 waiving that objection.

8 "ANSWER: I don't think I had any
9 conversations. I can't recall anything,
10 particularly use of a term like that.

11 "QUESTION:Okay. Did Mr. Santamaria ever ask
12 you after the resolution that does this mean that
13 Mr. Schaller is winning if we're going to approve
14 Fargo Avenue going into the MSTU?

15 "ANSWER: No, not that I recall."

16 MR. BARSKY: Opposing counsel has asked me to
17 please read Page 12, Lines 23 through 25 and Page
18 13, Lines 1 through 17.

19 "QUESTION:In 2008, did you tell the Board that
20 you would determine what benefiting properties would be
21 for the Fargo Avenue improvement for the purpose of
22 assessment?

23 "ANSWER: No specific recollection. But that
24 would be something that I would normally talk to
25 the board about, yes.

1 "QUESTION:Okay. Was any decision made as to
2 who the benefiting properties would be as far as an
3 assessment for Fargo Avenue?

4 "ANSWER: That issue was looked at over a
5 long period of time. Ultimately, a decision was
6 made and then made again. So when you're asking
7 about was a decision made, yes, we ultimately had a
8 decision on it.

9 "QUESTION:What was the -- what is the ultimate
10 decision on it?

11 "ANSWER: That the board did not want to
12 include the properties on the east-west street as
13 part of that. So right now we're reevaluating
14 Fargo again for a potential MSTU project. So it's
15 an active project for us as we're dealing and
16 sitting here today.

17 MR. BARSKY: Now Page 13, Lines 18 through
18 25:

19 "QUESTION:Okay. So, as of today, is there any
20 determination as to who would be assessed, or is that
21 still kind of up in the air?

22 "ANSWER: No, no, it's not. You asked if
23 there was any determination. The answer is no.
24 That is an issue that ultimately the Board of
25 County Commissioners is going to have to address

1 and we'll be bringing that question back to them to
2 address."

3 MR. BARSKY: Page 16, Lines 21 through 25 and
4 Page 17, Lines 1 through 10:

5 "QUESTION:Wasn't it the position that you were
6 trying to get that Fargo Avenue included into the
7 Ranchettes project so that you could save money on the
8 future of the pavings?

9 "ANSWER: If I recall, the board gave us
10 direction to attempt to try and get that included
11 in the overall major project, yes.

12 "QUESTION:And what happened?

13 "ANSWER: We ran into issues as far as timing
14 and permitting. As far as getting -- we had no
15 design plans or we were starting from scratch as
16 far as Fargo, and we were getting ready to start
17 construction for the other streets. So trying to
18 catch up as far as producing plans in a timely
19 enough fashion to give them to our contractor
20 proved impossible for us to do.

21 MR. BARSKY: And we're on to my
22 cross-examination now. Page 34, Line 25 and Page
23 35, Lines 1 through 22:

24 "QUESTION:We're talking about this project
25 involving Fargo Road, Fargo Avenue, and we've seen some

1 exhibits from I guess it was '08 or '09, and it's still
2 ongoing in 2012. So we're going on what, about four
3 years on this project?

4 "ANSWER: Correct.

5 "QUESTION: Compared -- how long have you been
6 in county engineering?

7 "ANSWER: Since 1991.

8 "QUESTION: Compared to other engineering
9 projects that you have undertaken in Palm Beach County,
10 how would you rate this one in terms of the amount of
11 time and effort that has been involved for a project of
12 its size?

13 "ANSWER: Far and away the most time and
14 effort for a project of its size.

15 "QUESTION: How would you compare it to, say, a
16 larger project in terms of time and effort from your
17 department that's got to go into it?

18 "ANSWER: I'm going to stick with the MSTU
19 program, not a major road project, per se. This
20 probably has, I would conservatively estimate, you
21 know, three to four times the amount of staff time
22 associated with it even from one of our largest
23 MSTU projects."

24 MR. BARSKY: Page 36, Lines 22 through 25,
25 Page 37, Lines 1 through 25, Page 38, Line 1:

1 "QUESTION:Is there a reason for Fargo being
2 average within the MSTU project that has been, I think
3 you said three to four times more time put in from your
4 department to do that road?

5 "ANSWER: I think just from the standpoint
6 that the public attention that was generated on
7 Fargo, that the questions asked, that the issues as
8 far as what budget numbers and how to generate
9 costs, to look at various options that we're still
10 going through right now, we'll be seeing an item
11 before the Board of County Commissioners to spend
12 some more money to look at options to allow them to
13 make potentially the best policy decisions they can
14 make ultimately regarding Fargo.

15 "QUESTION:Do you know why there was more
16 public attention on Fargo Road than there would have
17 been on other MSTU roads?"

18 MR. BARSKY: And an objection by opposing
19 counsel.

20 MS. KITTERMAN: My objection was cause for
21 speculation.

22 THE COURT: Overruled. If he knows.

23 MR. BARSKY: "ANSWER: We had an individual
24 that regularly attended the County Commission
25 meetings and would bring questions and issues to

1 the Board of County Commissioners looking for
2 clarification or information regarding the project.

3 "QUESTION:Who was that individual?

4 "ANSWER: Mr. Schaller.

5 "QUESTION:Did that cause the time spent on
6 Fargo Road from an engineering standpoint to be
7 increased?

8 "ANSWER: Yes."

9 MR. BARSKY: Opposing counsel has asked me to
10 read Page 38, Lines 2 through 25 and Page 39, Lines
11 1 through 11.

12 MS. KITTERMAN: Yes.

13 MR. BARSKY: "QUESTION: Did that cause time
14 frame for actually getting Fargo Road paved to be
15 extended?"

16 Miss Kitterman objected and she's told me
17 she's waiving that objection.

18 "ANSWER: I'm not sure that that did. It was
19 just the complexity of the potential involvement of
20 the neighbors and the situation. Again, I'm going
21 to answer that question from the standpoint of a
22 typical project. Those projects that are already
23 on the street, they're the ones that benefit from
24 getting the improvement and they're the ones that
25 we go for.

1 On Fargo, because of its nature and having
2 the side street traffic feed into it, you had a
3 whole lot more neighborhood traffic on that roadway
4 and, thus, you had the policy question, instead of
5 just the people on the street being affected or
6 being trafficked out there, you had neighborhood
7 traffic that was being generated. And then the
8 policy question of should or should not the
9 neighbors potentially pay for this.

10 And, again, those options created situations
11 that we normally would not deal with in an MSTU
12 project. It's usually straightforward. We simply
13 saw the project going from point A to point B and
14 it's either are we going to generate the -- are we
15 going to generate and charge people by their front
16 footage, or are we going to charge it by acreage of
17 the people immediately adjacent to the street. So
18 it's rare that you would have someone other than
19 the people immediately adjacent included as part of
20 the MSTU prong.

21 When Fargo did not get included in the major
22 project, it became more complex because of trying
23 to address options associated with how you could
24 include others into this as far as potential."

25 MR. BARSKY: Page 39, Lines 13 through 25,

1 Page 40, Lines 1 and 2:

2 "QUESTION:Why was it determined at that point
3 in time, once the other projects in the Ranchettes
4 project had been -- were about to get going, why did it
5 become a consideration of, well, should we charge people
6 who don't live on Fargo?"

7 Ms. Kitterman objected.

8 "ANSWER: Well, the people on Fargo and
9 Mr. Schaller would raise to the Board of County
10 Commissioners the issue that while, yes, the street
11 is in front of our house, that the majority, the
12 large majority of the traffic on the street are
13 coming from people living off the street and as
14 such, those people would benefit from the paving as
15 much or more than just the people along Fargo."

16 MR. BARSKY: Page 42, Lines 11 through 21:

17 "QUESTION:You don't recall whether it was
18 determined that only people on Fargo Road would have to
19 pay or more than people who lived on Fargo Road would
20 have to pay?

21 "ANSWER: The original decision that I recall
22 incorporated the neighbors as in the people in the
23 adjacent streets. When we contacted them and
24 raised that and said that we were considering doing
25 that, there was another hearing before the board --

1 I'm sorry, there was another hearing where the
2 board said, no, we don't intend to charge those
3 people as far as participating in the project.

4 MR. BARSKY: There's redirect by
5 Ms. Kitterman now. Page 49, Lines 10 through 24:

6 "QUESTION: Is it board policy to assess all
7 benefiting properties on MSTU projects?

8 "ANSWER: Yes.

9 "QUESTION: And I think we've established here
10 today that Fargo Avenue, still we don't know who the
11 benefiting properties are?

12 "ANSWER: The board will make that decision,
13 who the benefiting properties are.

14 "QUESTION: But they have not yet made that
15 decision, have they?

16 "ANSWER: No, they have not.

17 "QUESTION: Did traffic counts show more
18 non-Fargo resident traffic than Fargo resident traffic?

19 "ANSWER: If I wasn't clear, substantially
20 more. Probably on the order of three to four
21 times, yes."

22 MR. MARIANI: That is all I have.

23 THE COURT: Thank you very much. Next
24 witness, please?

25 MR. BARSKY: Our next witness is going to be

1 Mr. Santamaria.

2 THE COURT: Let's get him started.

3 MR. MARIANI: Okay.

4 Thereupon,

5 JESS R. SANTAMARIA,

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

8 THE WITNESS: Yes, I do.

9 DIRECT EXAMINATION

10 BY MR. MARIANI:

11 Q. Good morning, Jess.

12 A. Good morning.

13 Q. Please tell the jury where you were born.

14 A. I was born in Manila, Philippines.

15 Q. What did your father do for a living?

16 A. My father was a judge.

17 Q. And your mother?

18 A. My mother, while my father was alive was a
19 housewife, but after my father died, she worked to raise
20 six children of which I am the youngest.

21 Q. How old were you when your father passed on?

22 A. I was about four years old.

23 Q. So your mother worked after he died --

24 A. My --

25 Q. -- during your childhood?

1 A. My mother worked to raise six children.

2 Q. Did you attend school in the Philippines?

3 A. Yes. I attended my --

4 Q. What was the name of the school?

5 A. Yes, I went to school in the Philippines.

6 Q. What was the name of the school you attended?

7 A. It was called LaSalle Christian Brothers
8 School.

9 Q. For how many years?

10 A. I went to school from kindergarten throughout
11 my elementary years throughout my high school years,
12 throughout my five years of chemical engineering. All
13 of those 17 years in one school, the LaSalle Christian
14 Brothers School.

15 Q. Does a religions order teach at that school?

16 A. Yes. It's a Christian school.

17 Q. And who are the teachers there?

18 A. They are Christian brothers, many of them
19 were American Christian brothers from Philadelphia.

20 Q. Did you play sports at LaSalle?

21 A. Yes, I was very active.

22 Q. Which sports did you play?

23 A. I was very active in school and I played
24 multiple, multiple sports, but two of which I was a
25 member of the varsity team was basketball and track and

1 field.

2 Q. Did the Christian brothers also coach the
3 athletic teams?

4 A. Yes, they did.

5 Q. What influence did your teachers and coaches
6 have on you?

7 A. They had a tremendous influence on me over a
8 17-year period. My Christian education is a strong
9 influence, who I am today. It's ingrained in my mind,
10 it never left me and continues today to love God above
11 all and to love my fellow man as myself.

12 They taught me that evil succeeds when good
13 men and women do nothing. And I have always promised
14 myself that I would never be one of those who allows
15 evil to succeed and do nothing.

16 Q. What influence did your father, although you
17 only had him for a couple of years, your father's memory
18 and your mother have on you?

19 A. Everybody used to talk about my father, that
20 he was a truly fair and just judge. He, together with
21 my influence of my mother, made very clear to me what
22 was right and what was wrong and we must do everything
23 possible to always do what is right and oppose anything
24 that is wrong.

25 They taught me commitment and fair play. So

1 both my schooling of 17 years at a Christian school and
2 my strong influence of my parents taught me to protect
3 the name Santamaria, to protect my reputation. My
4 father and mother handed to me a good name and I will
5 always have full intent to pass on a good name to my
6 children, to my three children. That is extremely
7 important to me, to protect my parents' good name given
8 to me and pass it on to my children. And hopefully
9 they, in turn, will feel that they have to pass it on to
10 their children.

11 Q. When did you and Victoria marry?

12 A. We got married in July 10th, 1968.

13 Q. And after you married, did you leave the
14 Philippines?

15 A. Three days after we got married, we left the
16 Philippines.

17 Q. To go where?

18 A. I had been accepted at one of the most
19 prestigious business schools in the United States, the
20 Wharton School of Business of the University of
21 Pennsylvania in Philadelphia, which I accepted and
22 invested my entire savings for my master's in business
23 administration at the University of Pennsylvania in
24 Philadelphia.

25 Q. When did you graduate and with what degree?

1 A. I graduated in the summer of 1970, two years
2 later, with the degree of master of business
3 administration.

4 Q. Why did you not return to the Philippines
5 after you graduated from school?

6 A. I've always had this high regard for the
7 United States of America and for the principles of this
8 democratic country. And two years at the University of
9 Pennsylvania confirmed, confirmed what I always believed
10 about the United States, that if -- if you are honest,
11 if you follow the law, work hard, you will succeed in
12 life. You don't need to pull any strings, you don't
13 need any special connections, just be a good person and
14 work hard and you will succeed.

15 And I'm sure many immigrants feel like I do.
16 This is a country where you just do -- lead a good life,
17 give it your all, help your fellow man, work hard, and
18 eventually you will be rewarded with success. And
19 that's what I have tried to do all of my life.

20 Q. What was your first job after you graduated
21 from the Wharton School?

22 A. I was accepted by one of the most prestigious
23 companies in the United States, IBM. So I was fortunate
24 that they accepted me. And I joined IBM shortly after
25 graduation in 1970.

1 Q. And what did you do at -- in that occupation?

2 A. It was working on computer systems for
3 business firms. We worked as a team to evaluate, you
4 know, the business systems of different companies and
5 then recommended IBM computer systems to improve their
6 business.

7 Q. During those years that you worked for IBM,
8 did you have any interest in Florida and Florida real
9 estate?

10 A. Yes. I had a hard time with the winters in
11 Philadelphia and I always looked at the possibility of
12 eventually moving to a warm climate like the
13 Philippines. And that's why -- I had people who told me
14 about Florida, South Florida in particular. And so I
15 showed a lot of interest in studying and evaluating the
16 responsibilities that I may some day move -- live in
17 Florida.

18 Q. So did you travel to Florida to invest in any
19 business, any real estate related business?

20 A. Yes, I did a lot of research on Florida. I
21 traveled north, south, east and west. I spent, you
22 know, many, many months evaluating the potential of
23 Florida. So I went to Pensacola and Orlando and Tampa,
24 Miami and, of course, Palm Beach. And so I did a lot of
25 research and especially in the field of real estate.

1 Q. And why did you pick Royal Palm Beach?

2 A. Well, I -- eventually, I decided on Palm
3 Beach County because there was a very successful
4 developer by the name of Sam Friedland who developed
5 Royal -- Royal Palm Beach in Palm Beach County. And he
6 lived in the suburbs of Philadelphia. And in one of my
7 social events, I bumped into one of their executives and
8 he said, why don't you come and check out, check out
9 Royal Palm Beach, because he already knew I was dabbling
10 in real estate. And so I said, yeah, sure.

11 So I flew to Royal Palm Beach, my wife having
12 worked at Pan Am, I could get free transportation or
13 almost free. I think I only had to pay 10 percent for
14 the air freight. So I did travel to Royal Palm Beach
15 and eventually made many trips thereafter. And I really
16 liked Royal Palm Beach. It was only a small town of
17 about 3,000 population.

18 And I said, this is -- I had always lived in
19 big cities. Manila is a big city, Philadelphia is a big
20 city. And I wanted a small town where I could -- where
21 I could make a difference. You know, you get lost in
22 the big cities of like Philadelphia, six, seven million
23 population with the traffic and congestion and crime.
24 And I wanted a peaceful place where I could raise my
25 family and make a difference. I wanted a place where I

1 would not just be a number. I wanted a place where I
2 could contribute and make it a good place to live, a
3 peaceful place to live.

4 And so I made many trips back and forth and
5 stayed in Royal Palm Beach, the Royal Inn. And for a
6 couple of years, I was traveling back and forth until I
7 finally decided -- I finally decided in 1977 to bring my
8 family and live permanently in the small town of Royal
9 Palm Beach in the suburbs of Palm Beach County.

10 Q. So when you had your entire family here,
11 Jess, after you moved to Florida, what type of business
12 did you develop?

13 A. Well, it started just a little real estate.
14 I got myself licensed in real estate. So, of course,
15 the easy way, we didn't have much money then. You know,
16 we were relatively young, I have three little young
17 children. And so the easiest way to get involved in
18 business is to sell real estate. So I sold real estate,
19 got a commission here, commission there and then made a
20 little investment here, a little investment there. So
21 slowly I got more deeply involved in the field of real
22 estate.

23 And little by little -- then I met somebody
24 who said, let's build, you know, a few homes. So I
25 started building a little bit in the next few years from

1 the -- from '77 to about '81. And then in 1981, I met a
2 another young man, a Wally Sanger, who had a lot of
3 construction, he had just moved to Royal Palm Beach, and
4 we started building more homes. So we built quite a lot
5 of homes.

6 Q. Let me ask this, let's try to shorten it a
7 bit since we're approaching the noon hour. Give us a
8 snapshot around 1990, 1991, what your business interests
9 are, what were at that point, 1990, '91, the businesses,
10 the properties that you held and the other perhaps
11 construction that you were doing.

12 A. As I said earlier, I started very small
13 because I didn't have much money. But I was willing to
14 work and my wife was willing to work alongside me. We
15 both put in, modesty aside, a good 80 hours a week. We
16 worked seven days a week, we worked 365 days a year. So
17 there is no problem for both my wife and I to put long
18 hours. And we really gave honest, honest treatment to
19 our customers because in real estate selling, of course,
20 is to clients. So we developed a pretty good business.

21 Q. Sorry to interrupt you, but I'm asking for
22 you to describe at 1990, '91 --

23 A. Well, I want to --

24 Q. -- the items of business, the properties.

25 A. Well, that's exactly what I'm leading up to.

1 Q. Yeah, I'm going to ask you not to lead up, I
2 apologize. But if you'd just give as a listing of the
3 properties and whatever --

4 A. From 1977 leading up through the '80s and '90
5 and '91, by that time we were very successful because of
6 the amount of energy and effort we put in. By 1991, I
7 had the Wellington mall, which is a small indoor mall
8 and two office buildings. We had the Royal Inn hotel
9 with over a hundred rooms. I had built a shopping
10 center which had the first supermarket, the first drug
11 store, the first gas station, the first bank in the
12 community. It was a nice community center. I had built
13 already an industrial park with three buildings,
14 industrial buildings right next door to it.

15 And then -- so those are the substantial --
16 those four were substantial projects employing about --
17 we had built already about a thousand homes by then,
18 over that period of time from the late '70s through the
19 beginning of '90. And we employed some 200 employees.

20 So, yes, by that time, it was a substantial
21 enterprise of building, developing, managing, and owning
22 those multiple properties.

23 Q. In those various properties, Jess, did you
24 ever have to sue anyone?

25 A. I did sue some, yes.

1 Q. What types of suits were those?

2 A. Most of the lawsuits I had, most of the
3 lawsuits I had were tenants because I had probably a
4 couple of hundred tenants renting offices and retail
5 spaces and some homes, apartment homes. So I only sued
6 those who abandoned the premises without informing me
7 that they were moving out, and if they damaged the
8 property.

9 So I only -- my last resort to sue someone on
10 those -- on my commercial and residential properties was
11 if they just abandoned the property and caused damage to
12 it. I felt that was not -- that was not fair. But if
13 somebody would come to me, if somebody would come to me
14 and said, Mr. Santamaria, I'm having a hard time, I
15 can't make it, the business is not good, I had no
16 problem just wishing them well and not collecting any
17 back rent. Anybody who just came to me and said, I'm
18 having difficulty in my business, I never attempted to
19 go after them. And I, in fact -- in fact, a few times,
20 I ended up giving them some money when they left.

21 Q. So they could leave the property and you
22 would --

23 A. They could leave the property. I would never
24 sue anybody who did not cause damage to me and just left
25 without informing me.

1 MR. MARIANI: Your Honor, this is a good time
2 for us to take a break if that's your pleasure.

3 THE COURT: All right. Ladies and gentlemen,
4 I think that what we'll do is take our lunch break.
5 I'll ask you to be back at 1:15 today if possible,
6 all right, so we can get started again. We're
7 trying to get through with the trial and get you
8 all the testimony today.

9 All right. Have a good lunch. You know what
10 you're supposed to do, please follow the rules.

11 (A luncheon recess was taken from 12:10 p.m.
12 to 1:20 p.m.)

13 (The following proceedings were held before
14 the Court and out of the presence of the Jury:)

15 THE COURT: Have a seat. Mr. Santamaria, why
16 don't you come back on the stand, please.

17 There was one juror who was a little late. I
18 guess they like that 1:30 lunch, not used to it.

19 (The Jury entered the courtroom after which
20 the following proceedings were held:)

21 THE COURT: You can have a seat, please. You
22 can continue with your examination.

23 MR. MARIANI: Thank you, Your Honor.

24 BY MR. MARIANI:

25 Q. Jess, before the break, we were talking about

1 your business activity at around the time of 1991, that
2 sort of thing. You gave us a listing of all of the
3 investments and all of the companies and what-have-you
4 or a description, general description.

5 I want to now talk about civic activity and
6 community involvement that you've had over the years,
7 and I'll ask you a few questions about that. Since
8 coming to Florida, have you been active in civic and
9 community affairs?

10 A. Yes, I have been extremely active. I've been
11 involved in all kinds of activities in our community.

12 Q. Let me ask a few questions about that if I
13 may. Have you volunteered with of these following
14 entities, I'm going to ask you the name of an entity and
15 then if the answer is yes, if you would briefly describe
16 what your involvement has been with that entity. Fair
17 enough?

18 A. Fair, yes.

19 Q. The Wellington Regional Medical Center, have
20 you been involved in that volunteering?

21 A. Yes. Well, I was asked by the CEO of the
22 hospital if I would join their board. And I did
23 volunteer, but I was asked to join the board and I
24 agreed to.

25 Q. And how many years have you served on that

1 board?

2 A. I am still on that board today. And I guess
3 it's been probably seven or eight years now that I've
4 been a member of the Wellington Hospital board.

5 Q. What is the activities of the board of the
6 medical center?

7 A. Well, the main activity is accepting medical
8 doctors who apply to -- who are in the hospital. So
9 that's the number one activity. And then any other
10 advice to improve the quality, the quality of healthcare
11 in the hospital where we can contribute as citizens of
12 the community.

13 Q. Let me ask, have you been active with the
14 Palms West Hospital?

15 A. Yeah, that's -- I was chairman of that board
16 in the mid-'80s. Again, I was asked by the CEO. He
17 came to me and said, your name has repeatedly come up as
18 the one who is the most active in the community and we
19 would like you to be our first chairman of the board.
20 So I was, you know, I was humbly proud that they
21 considered me to be the first chairman of the board of
22 Palms West Hospital, which is an important position as
23 well. And I was the chairman of the board for six
24 years.

25 Q. Have you been active at the Royal Palm Beach

1 Elementary School?

2 A. Yes, I have been active in the Royal Palm
3 Beach Elementary School.

4 Q. In what way?

5 A. Well, I'm on their advisory council. The
6 same thing, they ask community leaders to help improve
7 the quality of education. And although I no longer had
8 children in school, I had been actively involved with
9 the public school system over the years; not only in the
10 elementary school, but I've also been on the advisory
11 council of the Crestwood Middle School and I was also in
12 the same way asked to be on the advisory council of the
13 Royal Palm Beach High School. So, yes, I have been very
14 active in the school system.

15 Q. Do you know the organization named Citizens
16 for Open Government?

17 A. Yes. I am a cofounder of Citizens for Open
18 Government.

19 Q. What does that organization, what is the
20 purpose of that organization?

21 A. To attend meetings of government, to attend
22 meetings of government and just observe our government
23 officials, how they act, and make sure that they act in
24 the best interests of the community. So that was
25 another group of people who very early in my living in

1 the community, we were about 20 or 30 active members of
2 the community who felt we needed to be active in
3 watching how our government functions and make sure that
4 they protected our quality of life.

5 Q. When did you found or cofound that
6 organization?

7 A. We cofounded that in the early '80s and we
8 were active in the community through, through the late
9 '90s for about a 20-year period.

10 Q. Who was your cofounder?

11 A. Oh, my gosh, there was --

12 Q. A number of people?

13 A. A lot. There were several people and many of
14 them have passed away. I was -- in the beginning, I was
15 probably the youngest member of the group. Most of them
16 are in their 70s and 80s and I was in my early 40s, and
17 many of them have passed away by now.

18 Q. I see. Have you been active with the Royal
19 Palm Beach Lion's Club?

20 A. Yeah, I was on the board of the Royal Palm
21 Beach -- that one, I volunteered to join them. That is
22 another international group of individuals who again
23 want to improve their community, especially help the
24 less fortunate. One area of particular interest is
25 helping the blind in providing eyeglasses and things

1 like that. So I was on that board for a good 25 years,
2 the Lion's Club.

3 Q. Do you know the organization, My
4 Brother's/Sister's Keeper Scholarship Foundation?

5 A. That is one of my most important activities
6 in the community.

7 Q. What is that?

8 A. I'm the founder, I'm the founder of My
9 Brother's/Sister's Keeper because that is another
10 concept that I have learned from my high school days, we
11 are our brother's and sister's keeper. And I truly
12 believe that we have to look after one another,
13 especially those who are less fortunate.

14 So I founded that organization some 16,
15 17 years ago. And the objective of that is -- what
16 happens if you look at today's society, there is a lot
17 of emphasis on high intelligence. You get
18 valedictorian, salutatorian, you get a lot of
19 recognition. If you're a good athlete, a good football
20 player or basketball player, you get awards, you get
21 scholarships. But it seems that the people in the
22 middle who are not as intellectually endowed, you know,
23 are kind of left behind and they get into trouble.

24 So I felt I would award every -- for the last
25 16, 17 years, I have asked about 20 to 30 schools in my

1 community to send me the student, elementary school,
2 middle school and high school, who best exemplifies
3 caring for others. I'm not interested in their grades,
4 I'm not interested in how good looking they are, I'm not
5 interested in how athletic they are, just be a good
6 human being who cares about your neighbors, your
7 parents, your fellow students. And we will -- we,
8 society, my objective is to show them, we, society,
9 cares about you students just as much as we care about
10 the ones who are highly intelligent or highly athletic.
11 We recognize just -- care for your fellow man and we
12 will recognize you and award you scholarships.

13 So that's what I've been doing now for 16,
14 17 years is recognizing those who are not so
15 intellectually endowed or not so physically endowed, but
16 care about their fellow man, and I recognize them.

17 Q. And that organization is My
18 Brother's/Sister's Keeper Scholarship Foundation?

19 A. Yes.

20 Q. There is a similar organization, I want to
21 ask you about, similarly named organization, My
22 Brother's/Sister's Keeper Charitable Trust. Are you
23 affiliated with that charitable trust?

24 A. Yes, I am also the founder of My
25 Brother's/Sister's Keeper Charitable Trust. It's been

1 about nine, ten years now that I started that.

2 Q. What is the purpose of that trust, Jess?

3 A. The purpose of that is based on the mission
4 statement that the -- another strong belief I've had all
5 my life, that the strong and the fortunate have an
6 obligation to assist the weak and less fortunate among
7 us until they're able to help themselves.

8 So the objective of this organization is to
9 help people improve themselves to be able to be
10 self-sufficient. It's not just giving handouts. Our
11 objective is to motivate people to make something of
12 themselves. And we provide classes for vocational
13 courses, get the younger men and women, especially in
14 the Glades, where it's the poorest region with about
15 40 percent unemployment.

16 So I have donated money to Palm Beach State
17 College to provide vocational courses so these young men
18 and women can get off the streets, train themselves and
19 be independent and self-sufficient. I don't believe in
20 just handouts, I believe in helping people make
21 something of their lives.

22 Q. I just want to ask you about one other
23 organization. Are you involved with an organization
24 called We The People United?

25 A. Yeah, We The People United is another one of

1 my organizations that I was on the founder. And that's
2 a similar objective, similar objective to Citizens for
3 Open Government and community involvement that we formed
4 in the, in the '80s and '90s. Like I said, most of the
5 members of that group have passed away because they're
6 older.

7 So We The People United is another
8 organization that I formed after Citizens for Open
9 Government with younger, younger persons who are
10 involved. And it's basically the same thing, to get
11 involved with government, see what government is doing,
12 make sure that government does their job of protecting
13 the laws, our laws of this country. And if we see some
14 irregularities and abuses, we tried try get involved and
15 see what I can -- we can do to solve social problems
16 that might be created by our different governments,
17 whether it's city government or county government and
18 sometimes even state government. We don't get much
19 involved in federal government.

20 Q. Now, as brief an answer as you can give me,
21 Jess, why is it important for you or to you to spend
22 your time this way with all of these different
23 organizations?

24 A. I must have been blessed early in life. All
25 of those things that I've said, I've been doing all my

1 life, since I was a young teenager. The life I'm living
2 now is the same life I lived as a young boy. As early
3 as 12 years old, I've always believed in giving of
4 myself. I feel it's an obligation.

5 Another statement that I believe is to whom
6 much is given, much is expected. And I have been
7 blessed, and I want to share whatever I have. If I have
8 a little, I want to share a little. And now that I have
9 a lot, I want to share everything I have with everybody.
10 So I -- it's who I've always been my entire life.

11 Q. Jess, you've -- have you received awards over
12 the years from the business community?

13 A. Again, modesty aside, I have received
14 numerous awards throughout my life. Every time I
15 receive an award, I get more humbled. Again, I feel
16 that there is a higher power who guides me. And, yes, I
17 have received many awards over the years.

18 Q. Would you name two, a few of the awards
19 you've received over the years and just briefly tell us
20 what they are and why they're important to you?

21 A. Yes, two in particular. I guess the most
22 important of the two would be Excellence in Enterprise
23 award, which I received in the mid-'90s. And that was
24 for the entire county. It was not just for Royal Palm
25 Beach or Wellington, where I live.

1 In the past, I've received many awards but
2 just in my small community. But in the mid-'90s, I was
3 part of a group of movers and shakers of Palm Beach
4 County, other prominent people that I'm sure some of you
5 will recognize, and it involved the entire Palm Beach
6 County. And I was number one, the businessman who has
7 done most. The title was Excellence in Enterprise. I
8 was awarded the award as the businessman who's done the
9 most for Palm Beach County to make it a better place to
10 live.

11 And, again, I feel -- every time I get
12 recognized like that, I feel, I feel humble because I am
13 really an average person. I never said I had high IQ, I
14 have a pretty regular average IQ. I just have been
15 unusually blessed by my creator.

16 And the other one, you said two. I guess
17 I'll mention the other one is a similar award the
18 following year, which was the top chief executive
19 officer in Palm Beach County. It was also for the
20 entire county. And, once again, I can humbly say that I
21 was chosen number one CEO who has contributed the most
22 for making Palm Beach County a good quality place to
23 live in.

24 Q. None of that civic and community involvement
25 in the 1970s, the 1980s, the 1990s, and the first five

1 years or so of this century involved being a politician,
2 did it?

3 A. No. No, it definitely did not involve being
4 a politician.

5 Q. And why did you not run -- during all those
6 years, you've been in Florida now since the mid-'70s, I
7 guess?

8 A. Since mid-'70s.

9 Q. During all those years, up to and including
10 2005, why had you never run for political office?

11 A. I never felt the need for running for
12 political office. I -- public service has been in my
13 blood, in my life since I was, like I said earlier, as a
14 young boy. So public service is what I've been doing
15 for my entire life without being an elected official. I
16 don't need to be an elected official, I can be a regular
17 private citizen and there is a lot I can do just among
18 the people without any title. I don't need a title to
19 contribute to society.

20 Q. So in 2006, however, you decided to run for a
21 County Commission seat; is that correct?

22 A. Yes, I did.

23 Q. Tell us why in 2006 -- before the 2006
24 election, you elected to run for the County Commission
25 seat for District 6.

1 A. I had never much interest in running for
2 public office. But I guess in 2006, something happened
3 which changed my mind. And I -- a national magazine of
4 the United States, I think it was Time magazine, gave
5 Palm Beach County the shameful title of "Corruption
6 County". Corruption County." I was ashamed that the
7 county I lived in, the county I love, the county I've
8 given so much of myself was now nationally recognized as
9 "Corruption County."

10 And, again, one of the things I learned, as I
11 said earlier, early in life, is evil succeeds when good
12 men and women do nothing. And I will never do nothing
13 if I see something that is wrong and corrupt and not
14 good for the community. So at that time, I knew that
15 the commissioner who was in my district, who actually
16 also lived where I live in Royal Palm Beach, I knew that
17 he was probably the most corrupt of all in the
18 County Commission.

19 So I said, I have to get in there and get him
20 out of office. I will not allow a corrupt official
21 right here in my backyard, get away with it. So I was
22 willing to sacrifice four years of my life for Palm
23 Beach County against my better judgment and against my
24 family who did not want me to run for office. And my
25 friends did not want me to run for office.

1 So I really did not accept the advice of
2 either my family nor my friends who said, don't do it,
3 don't do it because you're going to be slandered, you're
4 going to be libeled. Your opponents will do all kinds
5 of things to defame you.

6 I felt it was a sacrifice I was willing to
7 make. I had faith in the laws of this United States
8 that would protect me. I was willing to risk four years
9 of my life to see what I can do to get rid of corruption
10 in Palm Beach County. And so I decided it was my
11 obligation to do something from the inside this time.

12 And you might say in a way, the fellow that I
13 wanted to replace by running against him, the FBI got
14 him ahead of me and he ended up in jail for the next
15 five years, before I was elected.

16 Q. Have you been paid a salary as a
17 County Commissioner?

18 A. Yes, I've been paid a salary of 92,000 a year
19 as a County Commissioner.

20 Q. Okay. For each year since 2006 when you were
21 first elected, each year, what have you done with your
22 County Commission salary?

23 A. I have donated every penny I make as a
24 County Commissioner to different kinds of charities,
25 organizations, scientific organizations. I do not want

1 to be paid for public service. I never want to be paid
2 for public service. You know, fortunately, I have
3 enough income from other sources. So I donate my entire
4 salary since I was elected in 2006, for different types
5 of civic organizations, charitable organizations,
6 schools. So I don't want to make any money out of my
7 public service. My public service is voluntary, it's
8 free. I feel I'm obligated to serve my community.

9 Q. Why is that important to you not to -- I know
10 you received the salary and then you donate it, but why
11 is that important to you?

12 A. It's extremely important to me because that's
13 the way I've lived my life. It goes back to my
14 childhood. It goes back to the lessons I learned from
15 my parents, from my teachers in school. Again, keep in
16 mind, I have 17 years of solid Christian education. And
17 I take that very, very seriously in every day of my
18 life.

19 Q. In 2010, you decided to run for reelection in
20 the County for the seat that you occupied then. Why did
21 you choose to run for reelection?

22 A. I really had no intention of going beyond
23 four years. I felt four years was enough to give, to
24 give to my fellow man, to my community. I really
25 thought long and hard. I was already 70 -- gee, I was

1 already 73, 73 years old. I said -- you know, my wife
2 and my children said, don't run a second term, you told
3 us you would only do one term. And they said, you've
4 had enough. You can end it there. And I really had
5 every intention to stop at the end of four years, but,
6 again, something happened.

7 What happened was a good -- well, first, a
8 good thing happened. The Grand Jury, the Grand Jury in
9 the county recommended because of the corruption that
10 was going on and eight, eight officials -- five elected
11 officials and three businessmen had already gone to
12 jail. So this proved that we were, in fact, corruption
13 county. Eight went to jail; three of them
14 commissioners, two were elected officials of West Palm
15 Beach and three were businessmen.

16 So the Grand Jury recommended that we have an
17 Office of Inspector General. And I was so happy, I was
18 so happy that now we would have the equivalent like an
19 FBI agency permanently overlooking government in Palm
20 Beach County. So I said, boy, now I can rest, somebody
21 else will be watching over our government.

22 But over the next six or so months, some
23 groups did not want the Inspector General. They did not
24 want to be watched. So they threw every possible
25 obstacle to prevent the Inspector General from doing

1 their work. And so the good that they were supposed to
2 do to watch over government was being obstructed by
3 certain officials in the government. I couldn't
4 understand why these people were putting all kinds of
5 obstacles so that the Office of Inspector General, in
6 this case, Sheryl Steckler could not do her work freely
7 and independently.

8 So, again, I was compelled. I said, again, I
9 had to stay for four more years, much as I did not want
10 to, much as my family did not want me to. Again, I went
11 against the will of my own family because, again, I felt
12 obligated, I had to stay on. I had to stay on to do
13 whatever I could to keep the Inspector General doing her
14 job the way it was meant to be by the Grand Jury report.
15 And that's the reason I -- again, I'm sacrificing four
16 years of my life. And, again, I'm working for free for
17 the community. I'm donating again all of my
18 compensation to different civic organizations.

19 MR. MARIANI: Your Honor, just a couple of
20 housekeeping matters. I want to introduce
21 exhibits, Your Honor, Exhibits 6, 7, 8 and 9 in
22 respect of Mr. Santamaria's involvement with the
23 community. These are self-authenticating newspaper
24 articles about his community service. I'd like to
25 admit them into evidence.

1 MS. KITTERMAN: I have an objection as it's
2 hearsay.

3 MR. MARIANI: Your Honor, it is admissible
4 under exception 803.21, evidence of -- and 19.
5 803.19, and 803.21.

6 THE COURT: Are you familiar with those two
7 statutes, 19 and 21?

8 MS. KITTERMAN: Yes, Your Honor, I'm looking
9 at them right now and I don't believe that
10 addresses newspaper article hearsay that a reporter
11 is basically giving an opinion or statement about
12 what Mr. Santamaria did in '95 -- in '92, '90 --
13 '85 and 1995. I believe Mr. Santamaria is up there
14 testifying himself. I don't believe that the
15 hearsay exception applies to these news articles.

16 THE COURT: Well, I believe 90.80321,
17 representation as to character, pursuant to that
18 statute, in that section is applicable to this
19 particular cause of action. I'll overrule the
20 objection.

21 (Plaintiff's Exhibit Nos. 6 through 9 were
22 admitted into evidence.)

23 THE CLERK: Six, seven, eight and nine,
24 Your Honor in evidence?

25 THE COURT: Yes, it's in evidence over

1 objection.

2 THE CLERK: Okay.

3 MR. MARIANI: I just want to publish to the
4 jury the titles, I won't ask any more questions.

5 Palm Beach Post, Thursday, March 9, 1995,
6 "Santamaria Receives Honor." February 20, 1992,
7 the Town Crier, "Spotlight, Palms West Recognizes
8 Santamaria for Service."

9 June 13, 1985, Town Crier, Loxahatchee,
10 "Lions Honor Santamaria as Citizen of the Year."
11 May 11th, 1995, Town Crier, "Santamaria Wins Second
12 Prestigious County Honor."

13 Your Honor, while we're on this break, I
14 would like to also -- not break, but I would like
15 to also submit into evidence at this time, two
16 exhibits. Our Exhibit 11, which is Palm Beach
17 County Commission on Ethics Public Report and Final
18 Order of Dismissal. And Exhibit 13 is Palm Beach
19 County, Office of Inspector General Report of
20 Investigation, Case Number 2010-0009. Both of
21 these documents appear on the defendant's exhibit
22 list.

23 MS. KITTERMAN: I have no objection.

24 MR. MARIANI: Excuse me. Both should be
25 admitted as public records.

1 THE COURT: Very well. They're in evidence
2 without objection.

3 MR. MARIANI: Thank you.

4 (Plaintiff's Exhibit No. 11 and 13 were
5 admitted into evidence.)

6 MR. MARIANI: Eleven and 13, is without
7 objection?

8 THE COURT: Without objection.

9 MS. KITTERMAN: Without objection.

10 BY MR. MARIANI:

11 Q. Now, Jess, I would like to ask you a few
12 questions about your Baptismal name. Were you baptized
13 as a child?

14 A. Yes, I was baptized as a child.

15 Q. In the Philippines?

16 A. In the Philippines.

17 Q. What was your Baptismal name?

18 A. I was baptized Jesus Vicente.

19 Q. Could you please spell --

20 A. Those are my two Christian names.

21 Q. Please spell that baptismal name.

22 A. Jesus is J-e-s-u-s, Vicente, V-i-c-e-n-t-e.

23 Q. Since you were in school in the Philippines,
24 what name have you been known as?

25 A. Jess.

1 Q. Spell that, please?

2 A. J-e-s-s.

3 Q. Have you always introduced yourself as Jess
4 since you were a young boy in the Philippines?

5 A. Yes, as far back as I can remember. It's the
6 only name I used with my friends, my neighbors, my
7 schoolmates, Jess. It's always been Jess.

8 Q. Why have you never stated your name as Jesus?

9 A. I have been reluctant to use the name Jesus
10 because Jesus, of course, is also in English, Jesus.
11 And in my religion, my religion, Jesus or Jesus is the
12 son of God. And I have such a high respect for the name
13 that I don't deserve -- I don't deserve the name, the
14 name. And that's the reason I never use it publicly.
15 I'm Jess to everybody I know.

16 Q. Have you become a United States citizen?
17 Have you become a United States citizen?

18 A. Yes. I have become a -- I've always desired
19 to become a U.S. citizen since 1970. When I decided to
20 make the United States my country, I gave complete
21 loyalty to the United States of America. And, yes, I
22 right away went through the process of applying for
23 citizenship because it's a two-step process. You first
24 have to go through a permanent visa, which is more
25 commonly known as the green card.

1 Q. When did you ultimately become a
2 United States citizen?

3 A. I -- because of the long waiting list for
4 Filipino applicants, there was a long waiting list and
5 it took a long time. I finally got my green card --
6 they said the first step was to get your green card. I
7 got it in '85. And then the normal process takes five
8 more years to actually get citizenship.

9 So right after I got my green card in 1985,
10 of course, I immediately applied for citizenship. And
11 that took five years. So in March of 1990 is when I was
12 finally sworn in as a official U.S. citizen.

13 Q. Let me show you a document which has been
14 marked for identification as Plaintiff's Exhibit 10, and
15 ask you if you recognize this as your Certificate of
16 Naturalization into the United States as a citizen.

17 A. Yes, this is the certificate which made me
18 officially, officially a U.S. citizen.

19 MR. MARIANI: Your Honor, I would like to
20 move our Exhibit 10 into evidence.

21 THE COURT: Any objection?

22 MS. KITTERMAN: My only objection,
23 Your Honor, is the back of the exhibit. It's -- I
24 was just recently sent that. So I don't know if it
25 is on the original certificate or if that's how it

1 came.

2 MR. MARIANI: That's it.

3 THE COURT: Let me see what you're talking
4 about. Counsel, side bar.

5 (The following proceedings were held out of
6 the hearing of the Jury:)

7 MS. KITTERMAN: Authenticity, Your Honor.

8 Because the back of that document, the Certificate
9 of Nationalization, that's the first time I'm
10 seeing the back of it. And when I was asking him
11 in deposition whether or not he, where he had that
12 paperwork to change his legal name, he did not
13 identify that as the paperwork. So now I just got
14 that after his depo.

15 MR. MARIANI: I can ask more questions, but
16 that is the official document. It's a public
17 record. It's a record of a vital statistic.

18 THE COURT: I have to recognize it.

19 Overruled.

20 (The following proceedings were held in the
21 presence and hearing of the Jury:)

22 THE COURT: The objection is overruled. It's
23 in evidence over objection. Is that 10?

24 MR. MARIANI: Yes, Your Honor.
25

1 (Plaintiff's Exhibit No. 10 was marked and
2 admitted into evidence.)

3 BY MR. MARIANI:

4 Q. Could I have that back for a second. No,
5 actually, hold onto that and I'll ask the question
6 first.

7 A. Yes, sir.

8 Q. Jess, is that an accurate copy of your
9 Certificate of Naturalization?

10 A. Yes, this is an accurate copy of my
11 citizenship when I took the oath of office on March the
12 26th of the year 1990 in Miami. I was sworn in.

13 Q. And so that is the day you became a
14 United States citizen.

15 A. Officially.

16 Q. Can you tell us whether you changed your name
17 officially when you became a United States citizen?

18 A. Yeah, this is the opportunity I was waiting
19 for. I was waiting for this opportunity to take off the
20 name Jesus or Jesus as my name. This was the -- because
21 I never used it, but it was still my legal name. But
22 now I had the opportunity, I was told by the immigration
23 officials to make my official legal name forever and
24 ever and ever Jess, which is what I've always called
25 myself is Jess.

1 So this was my opportunity and I certainly
2 took advantage of it. And I said my name from here on
3 will not only be something I use with everybody I know,
4 but it's on every legal document. The name Jesus or
5 Jesus will no longer appear on any document. And so
6 from there on, legally, not only was I known throughout
7 all my friends and acquaintances and anybody I came
8 across, now every legal paper, I am now
9 Jess Ross Santamaria.

10 Ross is -- in the Spanish tradition, we carry
11 our mother's maiden name. We have -- in the Spanish
12 tradition, we have equal pride in the name of the
13 father, but we're equally proud of the name of our
14 mother. So we carry both, the father's last name and
15 the mother's last name because they both were strong
16 influences in my life. And I wanted to make sure that I
17 carried both my mother's last name and my father's last
18 name.

19 Q. And in March of 1990, did you formally ask
20 the district court, officially, to change your name to
21 Jess?

22 A. Yes.

23 Q. And did the same court that granted you
24 citizenship into the United States formally change and
25 officially change your name on that day to Jess?

1 A. Yes.

2 Q. So from that point forward, has your legal
3 name been Jess Ross Santamaria?

4 A. Yes, all my legal documents.

5 Q. Now, I would like to ask you, Jess, a few
6 questions about Mr. Schaller's publication, the
7 Exhibit 1 and 2 that are in evidence.

8 MR. MARIANI: And may I have those, please.

9 BY MR. MARIANI:

10 Q. Exhibit 1 has the date on it on the front
11 page of it, September 13, 2010. On that day,
12 September 13th, 2010, were you visited by a newspaper
13 reporter in your County Commission office?

14 A. Yes.

15 Q. What is the name of the reporter and what
16 newspaper?

17 A. The name of the reporter was Andy Reid and he
18 was a reporter for the Sun Sentinel.

19 Q. Did Mr. Reid tell you the purpose of his
20 visit to you that day?

21 A. Yes, he wanted to show me something. That's
22 what he told my assistant when he walked in the office.
23 He told my assistant, he wanted to see me to show me
24 something.

25 Q. What did he show you?

1 A. He showed me a booklet. A booklet.

2 Q. Was it like Exhibit 1?

3 A. Yes, like Exhibit 1.

4 Q. And what did he do when he showed it to you?

5 A. He wanted my opinion on it.

6 Q. But what did he do?

7 A. He flipped through the pages of this booklet
8 of over a hundred pages. He flipped through it, but my
9 recollection is he stopped at a page and opened it and
10 pointed at that page and said, what do you think of
11 this. And the page basically was a shocker. It shocked
12 me and devastated me that Mr. Schaller, because of
13 course I knew already that this hundred-and-some pages
14 was presented by Mr. Schaller and it accused me of being
15 a convicted felon. And it was a real unnerving event
16 for me.

17 Q. I'm going to show you Exhibit 2, which is in
18 evidence. Is this the page Mr. Reid flipped to?

19 A. Yes, that's the page that was shown to --
20 that was turned. Among other pages, this is the one
21 that kind of -- he wanted me to comment on, it's my
22 recollection.

23 Q. Okay. What did you say in front of Mr. Reid
24 about how you felt when he showed you that document?

25 A. It's really hard for me what I said exactly

1 because I was just, I was shocked, I was devastated. I
2 had never come across this in my entire life. I had
3 never seen any -- I was already 73 years old. And in my
4 entire -- no one ever accused me of being a criminal.

5 I just -- I just couldn't understand how
6 anybody could call me a convicted felon, accusing me of
7 criminal, when I had been so careful throughout my
8 entire life of living, living by the rules, by living by
9 the rules of God and man in every possible way. And I
10 could not understand how anybody could ever call me a
11 criminal, a convicted felon. It was just a real
12 devastating shocker for me.

13 Q. How has being labeled a convicted felon
14 affected you?

15 A. Immensely, immensely, because I value -- I
16 value my reputation. I value my name, as I've already
17 stated. It's the way I grew up, you know, and it
18 actually got worse. It actually got worse because then
19 when I realized that this document was publicized on the
20 website, now this is a document that is going all around
21 the world. And I'm thinking to myself, I'm thinking to
22 myself, what will my friends and classmates at the
23 Wharton School in Philadelphia think if they, some come
24 across this convicted felon charge. What will my -- the
25 people who know me in Manila, Philippines, if they come

1 across.

2 Now that this is on the Internet, the whole
3 world is -- so sooner or later some people who know
4 Jess Santamaria are going to find out, Jess, I thought
5 he was a good guy. He's a criminal in Royal Palm Beach.
6 So it really, it really ruined my days and months after
7 that.

8 Q. Why did you sue Mr. Schaller?

9 A. I felt I had no choice. I felt I had no
10 choice. I had to correct this wrong. Here is someone
11 who I had known for -- for, for about a year. And I
12 really -- what I had been warned, what I had been warned
13 about by my friends not to run for office, I had already
14 been warned, don't run for office because you're going
15 to be libeled, you're going to be slandered, people are
16 going to say lies about you.

17 Now, here, I just -- this now came to
18 reality. What I was warned about running for office,
19 don't run for office, I was told, because of this. Now
20 I saw it in my face, 118 pages of false accusations.
21 Actually, the whole book was false accusations, but this
22 one page crossed the line. This one page crossed the
23 line. I probably could handle all 117 pages of false
24 statements, but somebody calling me a criminal, he
25 crossed the line. And I had to stop it. I had to stop

1 it.

2 And not only for me. I had to stop it
3 because, you know, we all know what is happening today
4 during elections. It's mudslinging, mudslinging, back
5 and forth. That's why people don't want to even vote
6 anymore. But the problem is because of this type of
7 malice, this type of false accusations that is going on,
8 good people don't want to run.

9 That's -- that's why I was told not to run
10 because of precisely because of what's happening. This
11 false, defaming of good people will discourage people
12 from running for office. And I had to -- I had to file
13 a lawsuit. This has got to stop. When somebody crosses
14 the line and knows, knows for sure that this is a lie,
15 and defames and libels and slanders people, this has got
16 to stop.

17 It's -- it's undermining the democratic
18 system of this country. It's undermining the democratic
19 system. The good people will not run for office. Is
20 that what we want? Do we want to be put with the choice
21 of who is the less bad person, because who is going to
22 want to run? If we allow this thing to continue,
23 defaming the reputation of good people, well-intentioned
24 people who want to offer their lives to do good for the
25 community.

1 MS. KITTERMAN: Objection, Your Honor.

2 THE WITNESS: But this has got to stop.

3 THE COURT: It's a narrative.

4 BY MR. MARIANI:

5 Q. I just have a few more questions, Jess. Did
6 you ever tell -- and I want you to listen very
7 carefully. Did you ever tell Mr. Schaller your birth
8 name was Jesus?

9 A. Never.

10 Q. Are you sure?

11 A. Positive.

12 Q. How are you so sure?

13 A. Because I never tell anybody. Why would I
14 tell him? I never tell anybody because I -- I just
15 never have. Never in the past, never in the present and
16 never in the future.

17 Q. I have no other --

18 A. I am Jess Ross Santamaria.

19 MR. MARIANI: I have no other questions now.

20 THE COURT: All right. Cross?

21 MS. KITTERMAN: Your Honor, may I take a few
22 minutes?

23 THE COURT: Come up here.

24 (The following proceedings were held out of
25 the hearing of the jury:)

1 THE COURT: What is the problem?

2 MS. KITTERMAN: It's not a problem. I just
3 want a couple of minutes to put my notes together.

4 THE COURT: It's early for me to take a break
5 here for these people, because I don't want them
6 going about 3 o'clock, I want to give them their
7 afternoon break. I'll give you five minutes I I'll
8 tell them to go sit down.

9 (The following proceedings were held in the
10 presence and hearing of the Jury:)

11 THE COURT: Ladies and gentlemen, I want you
12 to step back in the back room for about five
13 minutes while we reorganize. And then I'll give
14 you -- I'll still give you your afternoon break
15 when we get through this cross-examination around 3
16 o'clock, okay?

17 (The Jury left the courtroom after which the
18 following proceedings were held:)

19 MR. MARIANI: Your Honor, with your
20 permission, may the witness step down?

21 THE COURT: Yes, we're in recess for about
22 five minutes here.

23 (A brief recess was taken.)

24 (Proceedings continued in Volume IV.)

25 - - -

- - -

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 Reporter, State of Florida at large, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 14th day of July, 2012.

PAMELA J. SULLIVAN, RPR, FPR, CLR