

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 IV
(Pages 367-471)

Tuesday, April 3, 2012
10:00 a.m. - 5:15 p.m.
(Afternoon Session)

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

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P R O C E E D I N G S

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1
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3 (Proceedings continued from Volume III of the
4 same day.)

5 (The following proceedings were held before
6 the Court out of the hearing and presence of the Jury:)

7 THE COURT: All right, Counsel, are you ready
8 to go?

9 Mr. Santamaria, would you please take the
10 stand again before I bring the jury in.

11 (The Jury entered the courtroom after which
12 the following proceedings were held:)

13 THE COURT: All right. Counsel, are you
14 ready for cross?

15 MS. KITTERMAN: Yes, Your Honor.

16 THE COURT: All right. You may begin.

CROSS EXAMINATION

(JESS R. SANTAMARIA)

17
18
19 BY MS. KITTERMAN:

20 Q. Good afternoon, Mr. Santamaria.

21 Mr. Santamaria, you just testified a lot
22 about your Christian background and your beliefs and how
23 important it was that you became a citizenship of this
24 country; is that correct?

25 A. Yes.

1 Q. And that you have strong beliefs in the
2 founding of this country?

3 A. Yes.

4 Q. And you're proud to be a citizen of this
5 country; is that correct?

6 A. Yes.

7 Q. And part of this country is our U.S.
8 Constitution; correct?

9 A. Yes.

10 Q. And one of the most important parts is the
11 First Amendment, your freedom of speech; is that
12 correct?

13 A. Yes.

14 Q. And do you believe that that's important,
15 freedom of speech?

16 A. Yes.

17 Q. In fact, you regularly exercise your rights
18 of freedom of speech, don't you?

19 A. Yes.

20 Q. And you have advertisement space reserved in
21 a Palm Beach newspaper called the Town Crier, don't you?

22 A. Yes.

23 Q. And you use that space regularly to voice
24 your opinion about politics, government, whatever you
25 please; is that correct?

1 A. Yes.

2 Q. And, in fact, you've held yourself out as a
3 government watchdog; right?

4 A. No, I hold myself out -- other people call me
5 a government watchdog. I call myself a public servant.
6 That's a title I'm very proud of. I often sign my name
7 public servant. It's other people who called me a
8 watchdog.

9 Q. You haven't said that you are a one-man
10 government watchdog?

11 A. No, that was taken out of context. It's what
12 other people are saying about me, it's not what I -- I
13 believe I am a public servant doing whatever I can to
14 serve the public. And that's -- if the statement was
15 made, it was taken out of context. It was meant to be
16 other peoples making that statement of me.

17 Even if you might have gotten it in the
18 deposition of me, still, the intent was -- the intent
19 was that other people call me a watchdog, but I am
20 truly -- I consider myself a public servant.

21 Q. Mr. Santamaria, you just mentioned your
22 deposition. Do you recall having your deposition taken
23 on March 24th?

24 A. Yes.

25 Q. Do you remember a Court Reporter was present,

1 in fact, it was Miss Sullivan at your deposition?

2 A. Yes.

3 THE COURT: Do you have a copy of the
4 deposition for me?

5 MS. KITTERMAN: I do.

6 THE COURT: Would you please hand him one?

7 MS. KITTERMAN: Yes. I'll direct you which
8 one to look at.

9 BY MS. KITTERMAN:

10 Q. At your deposition, do you remember being
11 sworn in to tell the truth?

12 A. Yes.

13 Q. Did you tell the truth on that date?

14 A. The statement, I am a watchdog --

15 Q. It's a simple question.

16 A. I may have said it. I am admitting I may
17 have said it. But I'm telling you now that I never
18 intended to call myself a watchdog because in all my --
19 if you look at my public record and the letters that I
20 sign, it's I sign as a public servant. Yes, the answer
21 is yes, I made the statement that I said I was a
22 watchdog, but it's incorrect. I incorrectly made that
23 statement.

24 So I'm admitting today that that was not my
25 intent. It came out that way. I made a mistake in

1 making that comment because that's probably the only
2 time that the word watchdog was said by me, supposedly
3 attributing it to me. But I, myself, I'm telling you
4 now, I always consider myself a public servant. But I
5 did make that statement in your deposition.

6 Q. Okay. And you said that you made it once in
7 the deposition; is that correct?

8 A. Again, I don't remember if I said it once or
9 twice.

10 Q. Okay. So would you flip to Page 87 of your
11 deposition transcript, please. It's the first volume.

12 A. (Witness complies.)

13 MR. MARIANI: Line, please?

14 MS. KITTERMAN: Seventeen and 18.

15 BY MS. KITTERMAN:

16 Q. Mr. Santamaria, I have a bigger copy for you.
17 I think I handed you the minis. Here you go. I'll take
18 these two and give you these, the top one.

19 A. Okay.

20 Q. Okay.

21 A. I'm on Page 87.

22 Q. Okay. If you direct yourself to Lines 17 and
23 18, can you read what your statement was on that date?

24 A. Okay.

25 Q. Read it out loud, please.

1 A. "One of the things that" -- you mean line?

2 Q. Is it correct that you said, I'm what you
3 say, I'm a one-man government watchdog.

4 A. I'm on -- I'm a one-man government watchdog.

5 Q. Okay. So you said it?

6 A. Well, the truth --

7 Q. It's a simple yes or no.

8 A. I said it, yes. I already said it that I
9 have said it. So I am admitting I said it.

10 Q. Thank you.

11 A. Because I am a watchdog. If you want to
12 say -- if you want to say -- I agree with the people who
13 call me a watchdog because I am watching over
14 government, that's what I do. I do watch over
15 government among other things.

16 Q. Okay. And I think we discussed, you believe
17 in your First Amendment right to speak out against
18 public officials; correct?

19 A. Yes.

20 Q. In fact, you filed or supported seven
21 different lawsuits against the government or elected
22 officials because you found something wrong with their
23 actions; is that correct?

24 A. Yes. Yes.

25 Q. Okay. And you stated that you would be

1 concerned if you thought one of the elected officials
2 had a felony record; is that correct?

3 A. Yes.

4 Q. In fact, didn't you say that you helped
5 dethrone the mayor of Royal Palm Beach?

6 A. I joined other people who supported the
7 opponent of the mayor, and we did succeed in getting the
8 other mayor to replace the existing incumbent, yes.

9 Q. That you got to dethrone him?

10 A. Whatever word you want to use or I may have
11 used. The fact is we supported an opponent of the
12 incumbent and we succeeded in replacing him.

13 Q. Okay. Wasn't it true that that mayor of
14 Royal Palm Beach had recommended a project to be
15 approved which included a gas pump or a -- in a
16 convenience store?

17 A. Yes.

18 Q. And the mayor backed off of that project; is
19 that correct?

20 A. I don't know what you mean by backed off.

21 Q. He changed his mind?

22 A. About?

23 Q. Approving the gas pumps.

24 A. Yes.

25 Q. Is that because his friends objected so he

1 didn't want to go forward?

2 A. Yes.

3 Q. And you filed suit against that mayor because
4 that was your project, the gas station; correct?

5 A. Yes. Yes, he encouraged me to apply for the
6 development of that commercial project.

7 Q. Okay. So when he backed off his word, you
8 sued him?

9 A. Well, I didn't sue him, I sued the fact that
10 it was an approved use that was being denied. The thing
11 is the project was an allowed use for the land and you
12 couldn't turn it down because it was zoned for that
13 purpose. The land was approved for a gas station, it
14 was a convenience store with gas. It wasn't a gas
15 station, it was a convenience store with gas pumps. So
16 it was an approved use.

17 So if it's an approved use, you have to
18 determine why it's going to be wrong. We have every
19 right to build a convenience store with gas because it
20 was properly zoned.

21 Q. But the mayor changed --

22 A. So we did not sue because he changed his
23 mind, we sued because it was approved for that purpose.

24 Q. Again, you recall giving your deposition that
25 is in front of you; correct?

1 A. Yes.

2 Q. Okay. And once again, a Court Reporter was
3 there, you were sworn in to tell the truth; right?

4 A. Yes.

5 Q. Just like you were today?

6 A. Yes.

7 Q. And your attorney was there with you;
8 correct?

9 A. Yes.

10 Q. And if you would turn to Page 96 of your
11 deposition, please.

12 A. Okay.

13 Q. And on Line 20, my question to you: And what
14 was the seventh lawsuit? And you said, the seventh was
15 an approval of a development that was against Lamstein.
16 Lamstein is the -- that was the mayor of Royal Palm
17 Beach at the time; is that correct?

18 A. The -- I don't think -- when I probably used
19 the word seventh, I didn't mean it in chronological
20 order. The -- Lamstein was no longer the mayor. If you
21 want to go chronologically, he would no longer have been
22 the mayor.

23 Q. Okay.

24 A. So I was using the word seventh as one of the
25 seven, but not chronologically the seventh.

1 Q. I'm actually directing you to your answer.

2 A. Okay.

3 Q. Where you said, this was Lamstein again who
4 recommended -- who wanted a project approved which
5 included gasoline pumps in a convenience store. But
6 then when some neighbors came and said, oh, gasoline
7 pumps cause gas fumes and gas fumes cause cancer, so
8 some of the friends of the mayor at that time were
9 against a convenience store with gas pumps. But the
10 mayor was the one who initially encouraged that
11 development. So he backed off when his friends objected
12 to that. So, again, I had to file suit.

13 I said, you're the one who wanted it and now
14 there's not --

15 There's no violation of any code. So anyway,
16 we won that lawsuit in a court of law. The judge ruled
17 that the convenience store with gas was, in fact,
18 approved use and you could not turn it down.

19 Is that what you said?

20 A. I guess if it's here, that's what I said.

21 Q. Okay.

22 A. And that's -- that is the same lawsuit. But
23 it was -- the word seventh is irrelevant because I --
24 it's one of the seven lawsuits that Lamstein was the
25 mayor. The topic is the same. The topic is accurate,

1 the mayor is accurate, the circumstances are accurate,
2 except it's not the seventh in a chronological sequence.
3 But everything is exactly the way it was. He originally
4 wanted it built, then he changed his mind because some
5 residents didn't want it. But I sued because it had to
6 be approved because it was properly zoned. So all of
7 those are accurate.

8 Q. Uh-huh.

9 A. And we won the lawsuit because it was
10 properly zoned.

11 Q. And, Mr. Santamaria, you testified here
12 today, I believe, that your baptismal name was Jesus
13 Vicente Santamaria; is that correct?

14 A. My baptismal name was Jesus Vicente. The
15 Santamaria name comes automatically. When you are
16 baptized in the Christian faith, your only -- the
17 baptismal names are the Christian names. Santamaria is
18 not part of the baptismal.

19 Q. Was your birth name Jesus R. Santamaria?

20 A. It was Jesus Vicente.

21 Q. Do you recall signing an affidavit in this
22 case?

23 A. Yes -- well, I must have signed an affidavit,
24 yes.

25 Q. Where you swore under oath that you were

1 telling the truth?

2 A. Yes.

3 Q. And in that affidavit, you stated -- well, I
4 can show it to you. In Line 6 -- here's the first page.
5 You stated, while it's true that my birth name is
6 Jesus R. Santamaria, and then you go on to say you
7 changed your name to Jess, I believe in 1990; is that
8 correct?

9 A. Yes.

10 Q. Okay. So was your birth name Jesus R.
11 Santamaria or Jesus Vicente Santamaria?

12 A. What do you want me to read in Line 6? I'm
13 looking at Line 6, one, two, three, four, five, six.

14 Q. The sixth paragraph.

15 A. Oh, Paragraph 6?

16 Q. Paragraph 6 on the second page.

17 A. Now, my birth name was Jesus Vicente.

18 Q. Okay. So this affidavit was incorrect?

19 A. This -- is this an affidavit?

20 Q. Yes, sir. Is that your signature on the
21 back?

22 A. Yeah. I don't know how -- my birth name is
23 Jesus Vicente. Now, here it shows Jesus R.

24 Q. Well, that was your sworn testimony.

25 A. Well, I don't know how this happened. Is

1 this -- what -- what is the beginning of this document?

2 Where is Page 1?

3 Q. You have it in your possession, sir.

4 A. Page 1?

5 Q. Yes.

6 A. No, I have Page 2 and 3. Oh, this one.

7 Okay. So it says Jesus R., it should be Jesus Vicente.

8 Q. Okay. So that sworn testimony was wrong?

9 A. Well, I presume if you're going to use the
10 term birth name, birth name is definitely Jesus Vicente.
11 That is what shows in my baptismal certificate.

12 Q. In your baptismal certificate or your birth
13 certificate?

14 A. Baptismal, birth. Yeah, I guess there is a
15 difference between birth, birth name and birth
16 certificate.

17 Q. Well, did you draft that affidavit, sir?

18 A. What is that?

19 Q. Did you draft that affidavit?

20 A. My lawyer did.

21 Q. Okay. And when you signed it and you swore
22 that everything on there was true, did you read it?

23 A. I read it.

24 Q. And at that time, you agreed with what it
25 said?

1 A. At that time, I did not realize that the
2 Vicente was not there. But then, again, the word birth
3 name and baptismal are two different things. What the
4 hospital wrote in the -- what the hospital wrote at the
5 hospital, I don't know.

6 Q. Okay.

7 A. If I just may make a statement?

8 Q. No, there is no question pending.

9 Do you recall, sir, receiving requests for
10 admissions in this case?

11 A. I don't know what you're talking about.

12 MS. KITTERMAN: Your Honor, may I approach?

13 THE COURT: Yes, sir -- ma'am, excuse me.

14 MS. KITTERMAN: It's okay.

15 MR. MARIANI: Do you have a copy, please?

16 MS. KITTERMAN: Yes.

17 BY MS. KITTERMAN:

18 Q. If you would take a second, sir, and let me
19 know if you recognize that document.

20 THE COURT: These are admissions propounded
21 in this case?

22 MS. KITTERMAN: Yes, Your Honor.

23 THE COURT: All right. Ladies and Gentlemen,
24 admissions are -- and during our Rules of Civil
25 Procedure, a party can propound questions to

1 another party for them to admit or deny the
2 accuracy of the statement. And that is an
3 admission, what we refer to as an admission.

4 MS. KITTERMAN: Your Honor, may I move the
5 request for admissions and response into evidence?

6 THE COURT: I don't know. We'll see. We'll
7 see. What is it exactly do you want to -- do you
8 want to put in the whole thing?

9 MS. KITTERMAN: Well, the questions -- the
10 questions and the answers are printed on separate
11 pages. But the question on request Number 7 was,
12 please admit that plaintiff's legal or given name
13 is Jesus R. Santamaria. Plaintiff's response
14 was --

15 THE COURT: Then why don't you ask him what
16 his response was?

17 BY MS. KITTERMAN:

18 Q. What was your response, sir?

19 A. To what?

20 Q. Number 7.

21 A. Deny as to plaintiff's legal name. Admit
22 that plaintiff's baptismal name was Jesus R. Santamaria.

23 Q. So in this document, you were saying that
24 your baptismal name was Jesus R. Santamaria; correct?

25 A. Yes.

1 MS. KITTERMAN: May I move this into
2 evidence, Your Honor?

3 MR. MARIANI: No objection.

4 THE COURT: All right. Admitted without
5 objection.

6 MS. KITTERMAN: This is Defendant's Exhibit 1
7 and 2.

8 (Defendant's Exhibit Nos. 1 and 2 were
9 admitted into evidence.)

10 BY MS. KITTERMAN:

11 Q. Mr. Santamaria, you were asked about when you
12 became a citizen. We saw or we had a chance to talk
13 about your Certificate of Naturalization; is this
14 correct?

15 A. Yes.

16 Q. And upon that Certificate of Naturalization,
17 on the back of the document, I don't know if you still
18 have it up there with you, is Plaintiff's Exhibit --

19 THE COURT: Ten?

20 MS. KITTERMAN: Ten.

21 BY MS. KITTERMAN:

22 Q. Do you still have a copy of your certificate
23 up there with you?

24 A. No, I don't.

25 Q. On the back of the document, sir, can you

1 please tell me what it states?

2 A. Name change by decree of court from Jesus
3 Vicente Santamaria as part of the naturalization.

4 Q. Okay. So in 1990, you were changing your
5 name from Jesus Vicente Santamaria?

6 A. Yes.

7 Q. So do you know what name you came over to the
8 United States with? Was it Jesus Vicente, Jesus Ross,
9 Jesus R.; do you know?

10 A. Jesus Vicente is my baptismal name.
11 Jesus Vicente probably shows also on my passport. But
12 on what -- on contracts and legal documents and on my
13 diploma, my diploma will show Jesus R. Santamaria. So
14 that's part of the confusion is that my legal documents,
15 whether -- whether it was a diploma as a chemical
16 engineer or my diploma at the Wharton School, it will
17 show Jesus R. Santamaria.

18 So that's -- that's the name I use on legal
19 documents which I sign. But the baptismal name is
20 Jesus Vicente. And I used the R -- you know, I
21 dropped -- I dropped the Vicente on all legal documents
22 because I now inserted my mother's maiden name, which is
23 Ross. And that's where the initial R comes from.

24 Q. Okay. So your legal documents were Jesus R.
25 Santamaria?

1 A. All my legal documents will show when I sign
2 contracts, it's Jesus R.

3 Q. Okay. Isn't it true that one of the first
4 times you met Mr. Schaller, he had approached you about
5 this Fargo Avenue project?

6 A. Yes.

7 Q. And wasn't it true at that time, you offered
8 him 10,000 to basically go deal with it himself?

9 A. Well, you have to start, why did I offer him
10 10,000. I cannot just -- the issue here is because the
11 County did not have any funding for the MSTU program,
12 where the property owners would have to -- if he wanted
13 to proceed with paving the road, paving the road with no
14 funding from the County, the property owners would have
15 to contribute 100 percent instead of 50/50 which has
16 been in the past. I volunteered to contribute to his
17 road, \$10,000.

18 Q. But you volunteered to contribute that
19 \$10,000 before it was even brought up to the board,
20 didn't you?

21 A. When I found out -- I offered to -- the
22 10,000 when I found out that the County did not have any
23 funding for the MSTU program. So to help him, help him
24 raise enough money to put up the road, I offered \$10,000
25 personally, yes.

1 Q. To help Mr. Schaller raise money to --

2 A. For him -- for his --

3 Q. -- pave a road?

4 A. For the residents of his road to pick up the
5 other 50 percent.

6 Q. But it hadn't been brought to the County, had
7 it?

8 A. Had it been brought to the County?

9 Q. Yes.

10 A. No, I offered it even before. As soon as I
11 found out from the engineer, George Webb, that there was
12 no funding available and that they would have to come up
13 with the entire 100 percent, yes, I offered like I often
14 do, I offered to contribute to causes. And at that
15 time, I was happy to help him get his road paved. So
16 that was my way of helping him is contributing to that
17 extra cost because of lack of funding from the County.

18 Q. And isn't it true that you didn't understand
19 what the MSTU program entailed?

20 A. I under -- see, I understand the basics. The
21 basics is very simple. Somebody wants to pave the road
22 that is not paved, they apply to the County for paving
23 the road. The MSTU program, as was explained earlier by
24 the lady engineer.

25 Q. Sir, I was asking for your understanding.

1 A. I'm giving you the understanding. I know the
2 basics. The basics is it's 50/50. Assuming that more
3 than half of the residents in a road request the paving
4 of the road -- I'm answering your question.

5 If more than 50 percent of the residents
6 request to pave the road then, in the past, if the
7 County has the funding, the County contributes half of
8 the costs on \$100,000 cost, 50,000 would be chargeable
9 to the residents and 50,000 to the County to be paid
10 over a ten to 20-year period together with the tax bill.
11 So that I understand.

12 Q. Okay.

13 MS. KITTERMAN: One second. May I approach
14 the witness, Your Honor?

15 THE COURT: Yes, ma'am.

16 BY MS. KITTERMAN:

17 Q. Mr. Santamaria, if you would take a look at
18 the document that I have handed you and let me know if
19 you recognize it?

20 A. Yes.

21 Q. And how do you recognize it?

22 A. It was written by me in July 8th, 2009,
23 addressed to Bob Weisman, the county administrator.

24 Q. Okay. If you would take a look at that
25 e-mail and let me know if you -- it's in the same

1 substantial position -- or situation it is when you
2 first drafted it?

3 A. It seems to be.

4 Q. Okay.

5 MR. MARIANI: Your Honor, if counsel is going
6 to admit this, we have no objection, to help her
7 out.

8 MS. KITTERMAN: Thank you.

9 THE COURT: What is it?

10 MS. KITTERMAN: It's a memorandum from
11 Mr. Santamaria dated July 8th, 2009, to
12 Bob Weisman.

13 THE COURT: And what is the identification?

14 THE CLERK: Three, Your Honor.

15 MS. KITTERMAN: Defendant's Exhibit 3.

16 THE COURT: Okay. Defendant's 3 admitted in
17 evidence without objection.

18 (Defendant's Exhibit No. 3 was admitted into
19 evidence.)

20 THE COURT: And when you find a good place to
21 stop, we'll go ahead and give them an afternoon
22 break, all right?

23 MS. KITTERMAN: All right.

24 BY MS. KITTERMAN:

25 Q. Mr. Santamaria, the purpose of this memo on

1 July 8th, 2009, was to say basically to Mr. Weisman
2 that --

3 MR. MARIANI: Objection, counsel testifying.

4 THE COURT: The document speaks for itself,
5 is that what you're referring to?

6 MR. MARIANI: Yes, Your Honor.

7 THE COURT: What is the question?

8 MS. KITTERMAN: That Mr. Schaller was
9 entitled to an apology for encouraging him to
10 waste -- or spend his time on this project.

11 THE COURT: So what is the question to this
12 gentleman?

13 MS. KITTERMAN: Isn't that true, is that the
14 way this document was drafted.

15 BY MS. KITTERMAN:

16 Q. Is that why this document was drafted?

17 A. This document was drafted because in my
18 opinion, the notices to the other residents who were
19 going to contribute to his road were not sent before the
20 vote. So when the -- the County made a mistake of
21 sending the notice after the vote, it should have been
22 sent before the vote. So if the -- if the notices had
23 been sent as normal, then those people paying would have
24 objected to the contribution to that road and,
25 therefore, we would not have approved.

1 If the people who were going to contribute
2 half of the cost of the road were going to object like
3 they did later on, we would have saved a lot of trouble
4 for Mr. Schaller, he would not have gone through all of
5 the time and what he said was a \$4,000 expense on his
6 part. So because of the mistake of not sending the
7 notice before the vote, I felt he was owed an apology.

8 Q. And that wasn't Mr. Schaller's mistake not to
9 send the petition, was it?

10 A. No, it was not his mistake.

11 Q. Okay.

12 A. And so I was willing -- I felt sorry for him.
13 And when he said that it cost him \$4,000, again, I felt
14 sorry for him and I offered to refund him the \$4,000 he
15 claimed he spent for the application.

16 Q. Isn't it true that this memo was drafted
17 after a vote on July 7th, 2009, where you sustained or
18 you agreed with the unanimous to table Mr. Schaller's
19 Fargo Avenue project after you made the motion in June?

20 A. The residents, about 40 or 50 of them showed
21 up at the second meeting after they received the notice
22 that they had to contribute to his road. And they said,
23 no, we will not contribute to his road.

24 With all of those opposition from these
25 residents, the vote of all commissioners present was

1 then to change the original approval and put it off.
2 And I voted with the seven commissioners. So it was a
3 unanimous rescission of the prior approval.

4 Q. Okay. And you keep referring to his road.
5 Fargo Avenue is not owned by Mr. Schaller, is it?

6 A. No, the road on his house. The road that
7 services his house.

8 Q. And when you're saying they reversed, the
9 board reversed their decision, they reversed their
10 decision on the motion that you made --

11 A. No, I did not make the motion.

12 Q. In June --

13 A. Somebody else.

14 Q. In June, you made the motion to have Fargo --

15 A. To approve it -- yes, I made the motion to
16 approve it. But I did not make the second motion at the
17 later date to rescind the first approval, somebody else
18 did.

19 Q. Right. But you agreed with them?

20 A. And I went along with all seven
21 commissioners.

22 Q. Right. Okay.

23 MS. KITTERMAN: We can take a break,
24 Your Honor.

25 THE COURT: Ladies and gentlemen, we're going

1 to give you an afternoon break. Let's be back here
2 at 3:30, all right? We'll recess until then.

3 (A brief recess was taken.)

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

6 THE COURT: Have a seat.

7 All right. Ready to go?

8 All right. Sir, you want to come up on the
9 stand?

10 (Mr. Santamaria returned to the witness
11 stand.)

12 THE COURT: Bring them in.

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

15 THE COURT: All right. Have a seat, please.
16 Continue with your examination, please.

17 MS. KITTERMAN: Yes, Your Honor.

18 Your Honor, I believe we left off at a memo.
19 I'm going to show plaintiff's counsel. These are
20 two memos, one is Bob Weisman in response to the
21 commissioner.

22 Your Honor, may I approach the witness?

23 THE COURT: Yes, ma'am.

24 BY MS. KITTERMAN:

25 Q. Mr. Santamaria, I'm handing you Defendant's

1 proposed Exhibit Numbers 4 and 5, I believe, for
2 identification purposes.

3 If you could look at the first one and let me
4 know if you recognize that document?

5 MR. MARIANI: Which is that exhibit?

6 MS. KITTERMAN: That is the memo from
7 Bob Weisman to Commissioner Santamaria on
8 July 10th, 2009.

9 THE CLERK: If we mark the exhibit before we
10 hand it to the witness, that way we know which is
11 which.

12 (Defendant's Exhibit Nos. 4 and 5 were marked
13 for identification.)

14 MR. MARIANI: Your Honor, if counsel is
15 attempting to authenticate, we have no objection.

16 THE COURT: Do you want those into evidence?

17 MS. KITTERMAN: Yes, Your Honor.

18 THE COURT: There not being any objection, I
19 will allow it to come into evidence.

20 MS. KITTERMAN: Thank you.

21 THE COURT: That means they're what, 4 and 5?

22 MS. KITTERMAN: Four and 5, Your Honor.

23 THE COURT: Defendant's 4 and 5 in evidence
24 without objection.

25

1 (Defendant's Exhibit Nos. 4 and 5 were
2 admitted into evidence.)

3 BY MS. KITTERMAN:

4 Q. Commissioner Santamaria, the memo that is
5 written to you by Robert Weisman on July 10th, 2009,
6 what was this memo entailing?

7 A. He disagreed with my prior memo saying the
8 County had made a mistake in not sending the notice
9 before the vote. So he basically disagreed.

10 Q. Okay. And for Exhibit 5, it was your memo in
11 response back to Bob Weisman from
12 Commissioner Santamaria on July 10th, 2009. Would you
13 take a look at that, please. And let me know --

14 A. July 10th?

15 Q. Yes, sir.

16 A. Okay.

17 Q. What was the purpose for you responding to
18 Mr. Weisman with this memo?

19 A. Well, I think he was addressing a different
20 topic than I had in mind. My topic was merely the
21 notice not being sent prior to the vote. He had other
22 explanations, which I agreed with his other
23 explanations, but it was a different topic. So, really,
24 he had a different idea of the topic. And so -- so
25 that's why I said it was directed in general to

1 everyone. So I basically explained that there was a
2 different, different opinions on different topics.

3 Q. All right. When you say different topics,
4 are you referring to the Fargo Avenue project?

5 A. Yes. It's still the Fargo Avenue.

6 Q. Okay.

7 A. But my -- like I said, my topic was solely
8 saying that the County made a mistake by not sending the
9 notice prior to the vote approving the paving of Fargo.
10 Had it been sent before the vote, we would not have had
11 the problem because then we would never have approved
12 the project to begin with.

13 Q. Okay. And on your July 10th, 2009 memo, if
14 you turn to the back, didn't you say -- is that the time
15 you requested training on the MSTU program?

16 A. Yes. I felt -- I felt there was probably
17 need. The amnesty program is simple on the surface, but
18 the process could -- I never went to any training. I
19 knew the basics, the basics as I explained earlier in
20 your questioning, that people want their road paved,
21 they apply. If more than 50 percent of the residents of
22 that road request it, it's processed. And if the funds
23 are available, then it's -- the -- it's normal for the
24 County to pay half and the residents of that road to pay
25 half. So that's the standard. That's the same pol --

1 but the mechanics and the technicalities, it's a little
2 more complex. And that's why I felt additional training
3 would be helpful.

4 Q. And you've been a commissioner since 2006;
5 correct?

6 A. November of 2006.

7 Q. Okay. So during your time as a commissioner,
8 have you ever been awarded as a chair or vice chair
9 within the commission?

10 A. No.

11 Q. I'm going to turn your direction now to the
12 Request For Inquiry that we've been talking about. I
13 don't know if you have a copy of what was introduced
14 into evidence. It's Plaintiff's Exhibit 1.

15 MS. KITTERMAN: May I approach the witness,

16 Your Honor?

17 Here you go, Mr. Santamaria.

18 BY MS. KITTERMAN:

19 Q. We've talked a lot about the Request For
20 Inquiry. And you've stated that everything in the
21 Request For Inquiry was false; is that true?

22 A. What I say about this is there are true
23 statements that are twisted and the end result is false
24 to accomplish the objectives of Mr. Schaller, which is
25 similar to the testimony of the lady engineer.

1 In other words, he starts with something that
2 is somewhat true, but by the time he twists and turns
3 and distorts it, the ending is false. And that's why I
4 was -- and that's why I was absolved of all of these
5 accounts by three agencies except for that little
6 pocketbook.

7 Q. I will get to that in a second. When you
8 first got this Request For Inquiry, and you said that
9 you were disappointed or you were embarrassed because
10 Mr. Schaller, you knew Mr. Schaller had published this;
11 correct?

12 A. What's that?

13 Q. You were embarrassed, you were sad, you were
14 outraged that Mr. Schaller had published this Request
15 For Inquiry?

16 A. Yes, I was outraged that he would dare call
17 me a criminal.

18 Q. Okay. And you said you saw this originally
19 with Mr. Andy Reid?

20 A. Yes.

21 Q. Mr. Andy Reid is a member of the media; is
22 that correct?

23 A. Yes.

24 Q. At that time that you met with Mr. Andy Reid
25 and you told him that you were appalled with this

1 Request For Inquiry, did you call Mr. Schaller a scorned
2 lover at that time?

3 A. I did.

4 Q. In fact, haven't you called Mr. Schaller a
5 lunatic and insane?

6 A. Yes, for him to have done something like
7 this, it required somebody who was not very mentally
8 well because -- or, actually, in a way, a genius to be
9 able to manipulate facts and make something that is
10 true, distorted and accomplish a false ending for the
11 benefit of Mr. Schaller.

12 Q. Okay.

13 A. So I did, I used those terms --

14 Q. Okay.

15 A. -- as I was shocked at how somebody could
16 make these types of accusations.

17 Q. Okay. The Request For Inquiry, Number 1, it
18 accused you of using your county staff for your campaign
19 work; is that correct?

20 A. Yes.

21 Q. It's dealing with the Glades area funding
22 project; is that correct?

23 A. One of the items had to do with --

24 Q. The Glades area funding project?

25 A. The 404 million funding of the County.

1 Q. So just to back up so everybody understands,
2 you had asked your assistant, Miss Johnnie Easton to get
3 you the summary on the Glades area funding; correct?

4 A. Yes. We asked the economics department --
5 again, you got to back up. You got to back up and see
6 where it started. It started by rumors back in the
7 Glades area that were started by opponents of
8 Jess Santamaria, meaning me, that I had not done
9 anything, the County had not done -- done nothing for
10 the benefit of the Glades. And, of course, if the
11 County had done nothing, then I being the district
12 commissioner was also responsible for having done
13 nothing over the four-year period. So I wanted to find
14 out, what has the County done -- I wanted to verify if
15 the County had done nothing.

16 So by checking with the economics department,
17 they submitted a list of funding for the Belle Glade
18 area and it showed a total of 404 million. So I felt it
19 was necessary to correct the false rumors that were
20 being spread in the Glades area who were opponents of
21 mine and probably supporters of Mr. Schaller.

22 Q. Okay. So you directed Miss Easton to e-mail
23 the Glades area funding to your campaign --

24 A. I asked her to e-mail it during her lunch
25 break.

1 Q. During her lunch break?

2 A. Yes.

3 Q. Is it your understanding that County
4 officials can use their computer to e-mail your election
5 materials during your lunch break?

6 A. No. It is my understanding that employees of
7 the County may use their computer during -- outside of
8 regular working hours. That seems to be something that
9 is being done by a lot of employees of the County, they
10 use the computer either after 5:00 or before 8:00 and
11 lunch breaks.

12 So that seems to be a normal, how you might
13 say, activity that is allowed by the County. I
14 personally don't allow it in my own office. And I -- if
15 it were my decision, I wouldn't allow any employee to
16 allow the use of the equipment. But in this particular
17 case, it's a normal, a normal thing.

18 Q. Well, you just said you wouldn't allow it,
19 but you're the one that directed her to use her County
20 system to e-mail something.

21 A. Because it's allowed. It is normally allowed
22 by everything.

23 Q. You directed --

24 A. It's a standard operating procedure that all,
25 a hundred percent of employees are allowed to use County

1 equipment like the computer outside of their work hours.

2 Q. But they're not allowed to use it for your
3 election purposes, are they?

4 A. This was -- the -- I would expect that that
5 would be part of -- when you say election purposes, it
6 took -- it took my assistant during her lunch break
7 about five seconds of her time to drop a piece of paper
8 and fax it.

9 Q. That wasn't the question. The question was:
10 The County doesn't allow County officials to work on
11 your election on their systems.

12 A. Where do you have that it specifically does
13 not allow it?

14 MS. KITTERMAN: Your Honor, may I approach
15 the witness?

16 THE COURT: Yes, please.

17 BY MS. KITTERMAN:

18 Q. Here you go, Mr. Santamaria.

19 MS. KITTERMAN: I'll mark this as Defendant's
20 Exhibit 6 for identification purposes.

21 (Defendant's Exhibit No. 6 was marked for
22 identification.)

23 BY THE COURT:

24 Q. Mr. Santamaria, do you recognize this
25 document?

1 A. No, I don't. But what line do you want me to
2 read?

3 Q. On Page 2, under acceptable activities, one
4 of the County provisions appears to say that it's
5 unacceptable in matters directed towards the success or
6 failure of a political or religious party, candidate for
7 partisan for political office or partisan political
8 groups or activity in support of religious or political
9 fundraising.

10 A. Okay. I'm not sure if this would pertain to
11 that specific activity. The specific activity was
12 supposed to correct a misinformation that was being
13 disseminated in the Glades area. And, again, basically,
14 what this is is what it is. What it is, is I had --
15 there were false rumors that I checked and when I found
16 out what the correct information was, I decided to
17 forward it for -- for correcting the false rumors being
18 disseminated in the Glades.

19 Q. To your campaign advisor?

20 A. Through my campaign advisor.

21 Q. Okay.

22 A. So that's what it is and that's what it is.
23 It took my assistant somewhere in the vicinity of five
24 seconds to pick up a piece of paper, drop it in the fax
25 machine and send it during her lunch break.

1 Q. So whether it was five seconds or not, that's
2 a violation of the --

3 A. Those are the facts.

4 Q. -- County rules?

5 A. Those are the facts and you can use it any
6 way you want.

7 Q. Okay.

8 Also, part of the Exhibit 1 of the Request
9 For Inquiry, Roman numeral 4, alleged that your County
10 staff member Dennis Lipp was sending e-mails to his
11 wife --

12 A. Where do I look at now?

13 Q. On your first page.

14 A. Here?

15 Q. No. On the Request For Inquiry, the spiral
16 notebook.

17 A. Okay. What page?

18 Q. The first page.

19 A. The first page.

20 Q. Right. The first page that has the exhibit
21 numbers on it.

22 A. You'll have to tell me what --

23 Q. Page 1, at the bottom. See it says
24 Exhibit 1, Paragraph 2; Exhibit 2, Paragraph 3;
25 Exhibit 3.

1 A. Okay.

2 Q. Okay. So under Paragraph 1, little Roman
3 numeral 4, this Request For Inquiry was alleging that
4 your staff member Dennis Lipp was asking somebody to
5 print out your petitions. Do you see that?

6 A. Yes, I see it.

7 Q. Okay. Did you ever ask Mr. Lipp to print out
8 your petitions?

9 A. No.

10 Q. What petitions would he be printing out?

11 A. I don't know.

12 Q. Would it be your political petitions?

13 A. I don't know.

14 Q. Okay.

15 A. I didn't see them.

16 Q. If you go to Exhibit 1D, it's Page 14 of the
17 Request For Inquiry.

18 A. Okay.

19 Q. Subject, Brother's Keeper, location
20 Wellington mall.

21 A. Okay.

22 Q. It looks like an e-mail saying, could you
23 print up a bunch of Jess's petitions.

24 A. Okay.

25 Q. Do you know what that is?

1 A. This might have been something to do with
2 Brother's Keeper. That's a nonpolitical organization.

3 Q. Does Brother's Keeper have petitions?

4 A. Probably. I don't know what the petitions
5 are because it was not under my direction. I had
6 nothing to do with it, I had no knowledge of it. It was
7 done by Dennis Lipp and I have no knowledge of what he
8 did or didn't do. But if it has the name
9 Brother's Keeper, then it is my organization, which is a
10 charitable organization.

11 Q. Did Mr. Lipp act without your authority while
12 he was working for you with the County?

13 A. He did act without my knowledge.

14 Q. He did?

15 A. Yes, he did.

16 Q. With regard to the petitions?

17 A. Well, with regards to this -- if you want to
18 talk about this one, yes. I don't know what this is
19 about, I have no idea what it is. I still don't know
20 what it is. And that's it. He did it on his own
21 initiative.

22 Q. Is this the first time you've seen this
23 allegation?

24 A. No, I saw it when I -- I read this whole
25 document.

1 Q. Okay.

2 A. So I read this whole document and, of course,
3 I saw this page. And I had nothing to do with this
4 page.

5 Q. But you're saying it's false. So you don't
6 know whether it's false?

7 A. I have no idea what this page is. I have no
8 involvement with this page. This is 100 percent
9 Mr. Lipp's activity. He's the one who prepared this, I
10 have nothing to do with it.

11 Q. Okay. Let's go on to Exhibit 2, Paragraph 2,
12 Exhibit 2. The allegation was that you misused your
13 public position. Do you see that?

14 A. Yes.

15 Q. Do you recall a situation where you were
16 accused of misusing your public position?

17 A. I see this in Exhibit 2, yes.

18 Q. Okay.

19 A. It's false. It's also false.

20 Q. Do you recall the incident?

21 A. I recall the incident and it's false.

22 Q. Okay. What was the incident?

23 A. I never prevented Mr. Schaller from attending
24 my meetings.

25 Q. Okay.

1 A. So whenever he came -- he attended most of my
2 meetings. He sat down, he participated, he sometimes
3 asked questions. We -- I allowed him to speak and
4 express himself. There was one time that he disrupted
5 my meeting, and he disrupted my meeting because he was
6 bringing up the Fargo, the Fargo Street. And the topic
7 was going to -- I had my own set of topics and I had
8 announced it in my publication that the agenda was going
9 to be strictly my topics. He ignored my instructions
10 and he disrupted my meeting and repeatedly kept on
11 talking about Fargo. And I told him if he continued, I
12 would ask him to be removed from the premises. And
13 that's why he was removed because he disrupted my
14 meeting.

15 Q. If you turn to Page 16, sir, the allegation.

16 A. (Witness complies.)

17 Q. The allegation wasn't that you had him
18 removed from a meeting, the allegation was that you
19 prevented him or you were attempting to prevent him from
20 entering into a County meeting.

21 A. That's false. I never prevented him.

22 Q. Okay. And on page --

23 A. Like many of these allegations, they're
24 false. He's a master at trying to twist things around
25 and make a false thing, something that starts to be

1 true, but really the ending is false. So the accusation
2 is a hundred percent false. I never, ever prevented him
3 from coming to any of my meetings.

4 Q. Mr. Santamaria, on Page 17 and 18, there is a
5 police report attached with an officer giving detail of
6 the incident. Do you see that?

7 A. I see that.

8 Q. Okay. Do you recall speaking to a police
9 officer that evening?

10 A. I recall speaking to a police officer when I
11 was starting a meeting at 7 o'clock. And it was already
12 7 o'clock and there was 150 people waiting for me to
13 open the meeting. And Mr. Schaller had a huge, a huge
14 fire truck, private fire truck obstructing traffic at
15 the entrance to my mall. He had it with his huge sign,
16 Vote Andy Schaller, right there in the middle of the
17 street blocking the traffic.

18 And then we had to call an officer to have
19 the truck moved. And there I am with a hundred people
20 waiting for me to start the meeting and somebody was
21 supposed to take care of it for me, and somebody
22 insisted that I go out. So I was forced to get away
23 from my meeting to attend to this obstruction of this
24 humongous fire truck obstructing our traffic flow in our
25 center.

1 Q. When you went outside, you talked to the
2 police officer; is that correct?

3 A. What's that?

4 Q. When you went outside from your meeting --

5 A. Yes, I was forced to go outside. They called
6 me three times and I said, take care of it yourself.
7 And they insisted that I go out. And here I am, again,
8 with 150 people waiting for me to start the meeting and
9 I have to leave because of this obstruction of the
10 traffic with this humongous fire truck.

11 Q. Do you recall at that time saying to the
12 police officer, asking him if he knew who you were and
13 that Mr. Schaller has to be trespassed now?

14 A. No, that's a -- I don't agree with that. Had
15 I seen those statements, of course I would contest it.
16 I did not say that.

17 Q. You did not say that to the officer?

18 A. No, I did not say that.

19 Q. So his report is incorrect?

20 A. Yeah, I was just -- I was just exacerbated
21 that here I am trying to start a very important meeting
22 with 150 residents waiting for me to start the meeting
23 and I have to go outside. Yes, I was exacerbated. I
24 was exacerbated why I had to go to remove this truck of
25 Mr. Schaller with his huge campaign sign in the middle

1 of the road.

2 Q. Were you asking for Mr. Schaller to be
3 removed or his fire truck?

4 A. No, I wanted the truck to be removed.

5 Q. Did you say to the police officer that you
6 didn't need to do anything further and stated that you
7 know Sheriff Bradshaw?

8 A. I don't recall saying that. Sheriff, yeah,
9 see, everything is taken out of context. Mr. Schaller,
10 Mr. Rick Bradshaw, the Sheriff is renting space through
11 Wellington in my mall. So the deputies, the deputies
12 are occupying, occupying the -- they're renting from me
13 in the same building we're talking about, in the same
14 building. So in that sense, I do know the Sheriff
15 because he's my tenant.

16 Q. Did you say that to the officer?

17 A. I don't recall what I might have said. But
18 I'm trying to say one more time, what I'm trying to say
19 is --

20 MS. KITTERMAN: Your Honor.

21 THE WITNESS: -- because of the obstruction
22 of this truck and me trying to start a meeting --

23 THE COURT: Mr. Santamaria.

24 THE WITNESS: Yes.

25 THE COURT: Excuse me, sir. I want you to

1 take a deep breath; all right?

2 All right. Now, we'll get through this a lot
3 faster if we answer the question as concisely and
4 as precisely as possible. She asked you a yes or
5 no question, you answer yes or no, and you can
6 explain yourself.

7 Now, what is your question, again, ma'am?

8 BY MS. KITTERMAN:

9 Q. I asked him if he recalled saying to the
10 officer that he knows Rick -- Sheriff Rick Bradshaw.

11 A. I believe that that would not have been the
12 way I would have said it.

13 THE COURT: So that means no?

14 THE WITNESS: That means no.

15 THE COURT: Okay.

16 BY MS. KITTERMAN:

17 Q. So if that is in the police officer's report,
18 that would be a false statement as well?

19 A. That would be a misconstrued statement.

20 Q. It's either --

21 A. Taken out of context, like a lot of other
22 things.

23 Q. Taken out of context by the officer?

24 A. Yes.

25 Q. Okay. If you go back to the first page, sir,

1 Paragraph 3, Exhibit 3.

2 A. Uh-huh.

3 Q. This is alleging that you destructed public
4 records. Is that what it alleges?

5 A. That's what it alleges.

6 Q. Okay. Do you recall what this incident --

7 A. Yes.

8 Q. -- was detailing?

9 A. Yes. It's a pocketbook like this
10 (indicating). A pocketbook like this, which I have kept
11 forever. I have -- I always keep my appointments of any
12 kind of an appointment, to pick up bread and milk in a
13 convenience store, to go to my doctor's or dental
14 appointments. This is the pocketbook. And I never
15 considered this to be a public document. I never
16 considered this to be a public document because my
17 assistant has a calendar and all my official County
18 business is recorded by my assistant in the office.

19 So never, never did I think that this thing
20 that I've always carried forever, forever in my pocket
21 and I'm carrying it right now. It has all kinds of
22 things whether it's like I said, picking up bread and
23 milk or picking up the medicine in the drug store or
24 going to my doctor's appointment, it's all in here. I
25 never thought that I had to keep this for one year. I

1 never imagined that I had to keep this for one year.
2 But then I found out that I was supposed to keep it for
3 one year.

4 So as soon as I was told by the
5 Inspector General that this is something I should keep
6 for one year, I have been doing it. Now that I have
7 been told some seven or eight months ago, I don't know,
8 maybe a year ago, she said, you should keep it for one
9 year. So I'm keeping it for one year.

10 Q. Didn't the County provide you some of your
11 pocket calendars?

12 A. See, I bought --

13 Q. Yes or no?

14 A. The answer is, some, yes. In other words,
15 without my knowledge, sometimes my assistant would pay
16 for it. I prefer to pay for it myself with my own
17 money. But there might have been a year or two where
18 she paid it without my knowledge, and probably there
19 might have been a year that it was paid by the County
20 without my telling her to do so.

21 Q. Do you put County meetings in that pocket
22 calendar?

23 A. I also put County meetings among other
24 things.

25 Q. Okay. So that Exhibit Number 3, I think you

1 were just saying that the Inspector General had told you
2 that you need to keep your pocket calendars; correct?

3 A. Yes, so now I do.

4 Q. Okay. So that Exhibit Number 3, the
5 allegation in the Request For Inquiry was not false?

6 A. It's true because of my not realizing that I
7 had to keep this for 12 months. In that sense, it's
8 true.

9 Q. Okay. If you turn the page, sir, to
10 Paragraph 4, Exhibit 4, the allegation is that the
11 Wellington mall signage had no disclaimer. Do you
12 recall that?

13 A. Yes.

14 Q. Was that dealing with one of your political
15 advertisements?

16 A. Yes.

17 Q. Would you turn to Exhibit 4-E, please, it's
18 on Page 63.

19 A. Page 63?

20 Q. Yes.

21 A. Okay.

22 Q. Is that one of your political banners?

23 A. No, it's not a banner.

24 Q. I apologize.

25 A. It's a paper, it's a paper sign.

1 Q. Okay. Is that one of your political paper
2 signs?

3 A. Yes.

4 Q. Was this hanging in the Wellington mall?

5 A. It was in a door in the Wellington mall.

6 Q. Okay. Does that picture or your sign have --

7 A. It says, vote, August 24th, primary election,
8 reelect Jess Santamaria.

9 Q. Does it have the required political
10 advertisement language on there?

11 A. The people -- the person who prepared this
12 sign --

13 THE COURT: Sir, it's a yes or no. Then you
14 can.

15 THE WITNESS: It does not, no.

16 THE COURT: Now, you can.

17 THE WITNESS: It does not have the sign
18 because the sign company that prepared this paper
19 sign and they put it on the door, either forgot or
20 didn't know that you have to put, paid political
21 advertisement. So that's what I mean, it's a
22 truth, it's true, but it's twisted to make me look
23 bad. It's a twist. It's the same distortion and
24 twisting of facts. This is true, I ordered this
25 sign, I had the sign company put it up. They

1 forgot to put paid political ad.

2 BY MS. KITTERMAN:

3 Q. Sir.

4 A. All right. So it's true.

5 Q. Sir, right. So the allegation was Wellington
6 mall signage has no disclaimer. So that's true?

7 A. That's true.

8 Q. Okay. So there was no twist right there;
9 correct?

10 A. It's true, but the twist is to make it bigger
11 than it really is.

12 Q. Okay. Paragraph 5, Exhibit 5, back to the
13 second page, sir.

14 A. Okay.

15 Q. This allegation relates to the Callery Judge
16 vote. Do you recall that incident?

17 A. I recall the incident.

18 Q. Okay. The Callery Judge vote, was that the
19 quasi-judicial hearing, zoning hearing on May 7th, 2007?

20 A. Yes.

21 Q. Okay. Didn't you oppose the Callery Judge
22 development of 10,000 houses?

23 A. Yes, I opposed the 10,000 homes in the middle
24 of the -- in the middle of the orange groves because it
25 would really have destroyed the quality of life in our

1 community. And 10,000 was just excessive development in
2 our backyard.

3 Q. And you were opposed to that before the
4 quasi-judicial hearing; correct?

5 A. And I opposed it.

6 Q. Before the hearing?

7 A. Yes.

8 Q. And isn't it true that you may have paid for
9 the bus for a bunch of people to come and object to the
10 Callery Judge vote?

11 A. Yes. The -- yes, the bus was paid by
12 somebody else. And then I may have later on when I
13 realized it was paid by somebody else, I would have
14 reimbursed them somewhere in the vicinity of \$300.

15 Q. For the bus?

16 A. For the bus.

17 Q. Did you reimburse that same individual for
18 the T-shirts that said Village --

19 A. I had nothing to do with T-shirts.

20 Q. You did not reimburse the person for
21 T-shirts?

22 A. I did not have anything to do with T-shirts
23 and I did not pay any money for T-shirts.

24 Q. Do you recall at your deposition, when I
25 asked you whether or not you paid for the T-shirts, your

1 response?

2 A. My response, I didn't know because I have no
3 recollection. I have no recollection of reimbursing for
4 T-shirts.

5 Q. Okay. So you don't know?

6 A. I don't know.

7 Q. Okay. Do you know whether as a commissioner,
8 when you sit on a quasi-judicial hearing, that you're
9 supposed to make up your mind before you hear the
10 evidence?

11 A. Say that again.

12 Q. As a commissioner, when you sit on a
13 quasi-judicial hearing, are you supposed to make up your
14 mind on a vote prior to hearing the evidence?

15 A. Most of the time you don't make up your mind
16 until you get all the evidence. But in this particular
17 case, where there's going to be -- I knew this was
18 already approved. See, this project of 10,000 homes and
19 millions of square feet of commercial was going to ruin
20 our community. And the great, great majority of the
21 people in that community did not want this excessive
22 development. That was, it was approved before I became
23 a commissioner. And that was probably one of the
24 reasons, also, that I felt for me to run for office, to
25 prevent this, this over excessive development that was,

1 that was negatively impacting our quality of life.

2 I was against this development even before I
3 was a commissioner. I knew, I attended all of the
4 meetings, I was fully aware of all of the pluses and
5 minuses. And, yes, I was against the development before
6 I became a commissioner and I was against the
7 development while I was a commissioner. There was no
8 change of my mind. And the public strongly supported
9 me. Hundreds and thousands of petitions were signed,
10 hundreds of people attended in opposition. And I was, I
11 was joining the people as their representative to oppose
12 this development long before, long before I was a
13 commissioner.

14 Q. Right. So prior to the quasi-judicial zoning
15 hearing where you're supposed to listen to the evidence,
16 you had your mind made up?

17 A. I had my mind made up long before.

18 Q. Okay. If you turn to the next page, this is
19 discussing the County's procurement procedures.

20 A. Okay.

21 Q. And this Exhibit 6 was accusing you of
22 violating those procedures when you ordered business
23 cards from Print-It Plus. Do you recall that?

24 A. Yes.

25 Q. Do you recall the incident that the business

1 cards were printed?

2 A. Yes.

3 Q. What was that?

4 A. My assistant who had just joined me by the
5 name of Dennis Lipp needed business cards and I told him
6 to get business cards. And I gave him money so that I
7 paid for the business cards myself.

8 Q. Okay. Did you have County approval to use
9 the County logo on that business card?

10 A. Yes. All -- I don't need County approval,
11 assistants have business cards. We don't -- we are not
12 required to get approval for the use of the County logo.
13 A business card is a business card. If you work for a
14 bank, you have the logo of the bank. You don't ask for
15 an approval. All employees are allowed to have a
16 business card with the County logo. I don't see why I
17 need a official approval of a business card.

18 Q. Are you familiar with any County rule that
19 states that you are required to get permission to use
20 the County logo?

21 A. Right. These are one of those common sense
22 things, that the County logo by all assistants --
23 assistants of the commissioner are allowed business
24 cards. If you don't have a business card and you're an
25 assistant to the County Commissioner, I cannot imagine

1 that I would be denied a logo of a business card. I
2 mean, you're -- I use common sense.

3 Q. So did you not read the rules that relate to
4 the County logo and how you're supposed to get
5 permission for that?

6 A. I do not believe I need an official
7 permission to have an employee calling card, have the
8 logo of the County.

9 MS. KITTERMAN: Your Honor, may I approach
10 the witness?

11 THE COURT: Yes, ma'am.

12 BY MS. KITTERMAN:

13 Q. Mr. Santamaria, I'm handing you a document
14 that is marked for identification as Defendant's
15 Exhibit 7.

16 THE CLERK: Seven.

17 (Defendant's Exhibit 7 was marked for
18 identification.)

19 BY MS. KITTERMAN:

20 Q. Would you take a look at that document, sir,
21 and let me know if you recognize it.

22 A. I don't recognize it, but you tell me what
23 you want me to read.

24 Q. Well, it states to all County personnel, is
25 this something that you would receive in the normal

1 course of business?

2 MR. MARIANI: Your Honor, counsel hasn't
3 identified the date of the document.

4 MS. KITTERMAN: Yes.

5 BY MS. KITTERMAN:

6 Q. Issue date, December 20th, 2010.

7 A. Effective date is December 20th. This is
8 before I hired Mr. Lipp.

9 Q. Okay.

10 A. I mean after, I'm sorry. This was after I
11 hired him.

12 Q. Did you receive this document?

13 A. I don't recall receiving this document.

14 Q. Okay. Did you ever receive a document with
15 regard to the use of the County logo?

16 A. I don't remember receiving a document
17 receiving -- identifying the use of the County logo.

18 Q. Okay.

19 MR. MARIANI: I'd like this document marked
20 for identification, Your Honor, please. What
21 number is it?

22 MS. KITTERMAN: Seven.

23 MR. MARIANI: Thank you.

24 BY MS. KITTERMAN:

25 Q. Sir, if you turn to Page 71 of the Request

1 For Inquiry.

2 A. (Witness complies.)

3 Q. Does this appear to be the business card that
4 you approved Mr. Lipp to order?

5 A. Yes.

6 Q. Okay. And on there, he has a title of
7 executive assistant; is that correct?

8 A. Yes.

9 Q. Is that the title that you gave him?

10 A. Yes.

11 Q. On the County website, what was his title?

12 A. Secretary because that's the only -- that's
13 the amount of salary that I had budget for.

14 Q. Okay.

15 A. In other words, there are different amounts
16 of salary for different position. And the amount that I
17 still have available for an assistant had a title
18 secretary for that amount that he was going to be paid.
19 So that's what I hired him for. I let him know that I
20 couldn't pay him too much, but when he joined me, he
21 knew it was going to be a salary not as much as the
22 other assistants.

23 But he was the most -- with his background,
24 with his background and experience, I felt I wanted him
25 to be my executive assistant. So I gave him my title,

1 executive assistant, and he was the senior assistant in
2 my office among the three assistants.

3 Q. Okay. But according to the County, he was a
4 secretary?

5 A. According to the salary scale, he received a
6 salary of a secretary.

7 Q. Okay. If you turn to Page 3, sir, of the
8 Request For Inquiry. The second allegation under
9 Number 6, the allegation was that you violated
10 procurement procedures when you hired a private
11 contractor to repair the Belle Glade courthouse locks.
12 Do you recall that?

13 A. Yes, that was a wrong allegation again.
14 Another, another wrong allegation.

15 Q. Did you receive proper approval for the
16 locks?

17 A. Yes, I did. I hired a locksmith. I was
18 asked by the chief judge of the County, he called me and
19 he said, Mr. Santamaria, could you help us secure our
20 Belle Glade courthouse. So there were a lot of problems
21 there, and I agreed with the chief judge, Peter Blanc.
22 So I said, I'll see what I can do.

23 So I came to the County, the County
24 administrator and the lady in charge of facilities, who
25 does these improvements on a building. And he said, no,

1 we cannot -- we know the situation but we cannot spend
2 any more money because we're building them another
3 facility which will be ready next year and we cannot
4 help him.

5 So I went back to the chief judge and I said,
6 Judge, the County cannot help you, but I see the
7 problem. Your judge and your staff, they're concerned.
8 They're concerned in the Glades area of their safety.
9 You're concerned and I can see your concern, I would
10 like to help. The only thing I can -- because, again,
11 when I see a problem, I want to help. And I want to
12 help financially, as well. So I offered to personally,
13 personally pay for the locks that were necessary and he
14 accepted.

15 Chief Judge Peter Blanc accepted my offer to
16 provide the locks to provide their safety. And I had
17 got a locksmith. And I then went to the administrator
18 Bob Weisman to get all the necessary approvals to
19 approve the locksmith, to approve the work. And I got
20 all of those things approved by the administrator of
21 Palm Beach County. So everything, yes, was approved
22 contrary to these allegations here.

23 Q. Do you have that approval in writing?

24 A. Yes, I do.

25 Q. But you didn't produce it pursuant to a

1 public records request that involved this inquiry?

2 A. It was -- we did what we had to do, it's with
3 Mr. Weisman. It's in the proper -- I don't know what
4 else you're addressing. I did what I was supposed to do
5 with the County. I got all of the approvals. So this
6 is wrong. This information in this Request For Inquiry
7 is wrong.

8 Q. Okay. Sir, this information, do you know
9 that the information that contains -- that is contained
10 in allegation Number 6, is based on public records
11 requests from documents that came from your office. Do
12 you know that?

13 A. You misunderstood them. And they're wrong.

14 Q. I misunderstood?

15 A. Yes. You and Mr. Schaller misunderstood them
16 and they're wrong. They're wrong. I'm telling you, I
17 got all of the approvals in writing from the County.

18 Q. Okay. But they weren't produced then to
19 Mr. Schaller. Do you know?

20 A. I know exactly, I know exactly. The chief
21 judge --

22 Q. Sir, that's not what I asked you.

23 A. -- asked for my help, I followed all of the
24 rules. This is incorrect information and misleading
25 again.

1 Q. That's not what I asked you.

2 A. I did everything that had to be done,
3 correctly and properly.

4 Q. I understand that. But it's still not what I
5 asked you. I asked you if that writing were within your
6 office and there was a public records request to your
7 office involving this issue, wouldn't you have had to
8 disclose that to Mr. Schaller?

9 A. I did everything that had to be done, period.

10 MS. KITTERMAN: Your Honor, would you please
11 direct the witness to answer my question.

12 THE COURT: Again, sir, it's a yes or no
13 question.

14 You want to ask --

15 THE WITNESS: Ask the question again. I'll
16 give you a yes or no answer.

17 THE COURT: Listen to her question. I think
18 that's part of the problem.

19 THE WITNESS: Right. Ask the question
20 slowly.

21 BY MS. KITTERMAN:

22 Q. If you had approval in writing for the locks,
23 that writing would be kept within your public records;
24 correct? That approval would be kept within your public
25 records; correct?

1 A. Yes.

2 Q. And when Mr. Schaller did a public records
3 request to you with regard to the locks and with regard
4 to the procurement procedures, he did not receive a copy
5 of that approval?

6 MR. MARIANI: Objection. Not in evidence,
7 that fact.

8 THE WITNESS: I don't --

9 THE COURT: Wait a minute, sir, your counsel
10 has made an objection. I've got to make a ruling.

11 I'm going to sustain it to the form of the
12 question. Rephrase the question in a form of a
13 question, not a statement.

14 BY MS. KITTERMAN:

15 Q. Did you produce to Mr. Schaller pursuant to a
16 public records request the approval for the locks?

17 A. As far as I know, all my assistants were
18 instructed by me to give you or anybody else to give
19 whatever they asked. So I do not know, number one, if
20 you got it and if you got it or misplaced it. You could
21 have gotten it together with all the others and
22 misplaced it.

23 But I have always instructed all of my staff
24 to provide you -- not only you, but anybody, everything
25 they possibly can. And in fact, in fact, we have

1 somebody within the County that that's their job to make
2 sure that every dot is dotted, every I is dotted and
3 every T is crossed. So there is somebody who does that.

4 So there is such an approval and it should
5 have been given to you, and it might have been given to
6 you and you might have lost it or misplaced it.

7 Q. I might have lost it?

8 A. Mr. Schaller might have.

9 Q. Okay. If you go on to Page 3, I'm going to
10 skip seven, jump to eight. Paragraph 8, Exhibit 8, the
11 allegation was that Santamaria was soliciting signatures
12 for your candidate petitions at a County forum. Do you
13 see that?

14 A. Yes, I see that.

15 Q. Do you recall that situation?

16 A. I don't recall the situation but I recall the
17 item on this, on this book of allegations.

18 Q. Were you not aware that your wife was handing
19 out petitions at your County forum?

20 A. No, I was not aware.

21 Q. Okay. Were you not aware that there were
22 petitions at your sign-in table at your County forum?

23 A. No, I was not aware.

24 Q. Do you typically walk around and look at what
25 is going on at your County forum?

1 A. No, I am too busy preparing for my agenda.
2 So when I arrive, everybody is coming to me, greeting
3 me, shaking my hands. So I spend a lot of time with my
4 constituents and I'm getting ready for my meeting at
5 7 o'clock.

6 Q. Okay. So you don't know if somebody was
7 handing out your petitions?

8 A. No, I don't.

9 Q. If you turn to the next page, Page 4,
10 Paragraph 9, it's Exhibit 9. And the allegation is
11 staff involvement in Santamaria reelection campaign. Do
12 you see that?

13 A. I see that.

14 Q. Okay. And I believe that this allegation
15 relates to your assistants again using your County --
16 using the County e-mail system to further your election.
17 Do you recall incident?

18 A. Same idea, same response.

19 Q. What do you mean same idea, same response?

20 A. Well, what is the question, I'll give you --

21 Q. Do you recall that situation?

22 A. I recall, yes.

23 Q. What is it?

24 A. What it says, I recall reading this thing.
25 This is the same thing that you asked me earlier, e-mail

1 to Richard Giorgio. You already asked me the question.

2 Q. Who is Richard Giorgio?

3 A. He is my campaign manager, or was.

4 Q. Okay. And you stated that Miss Easton sent
5 that e-mail --

6 A. Sent that, yes.

7 Q. -- on her break?

8 A. Right.

9 Q. We'll move on to Paragraph 10, Exhibit 10.
10 And the allegation is that Dennis Lipp, who you've
11 titled your executive assistant, was working on his
12 duties at Loxahatchee Groves during Palm Beach County
13 time. Do you recall that allegation?

14 A. Yes, I recall the allegation and it's false.

15 Q. It's false. Do you know whether he was
16 working on his duties at Loxahatchee Grove while he was
17 on County time?

18 A. No.

19 Q. Do you know that he was?

20 A. I know that he wasn't.

21 Q. You know that he wasn't?

22 A. I know that he wasn't because, number one, I
23 had no idea about this situation. Number two, when
24 this, this came out in this booklet of allegations, this
25 was done on his -- on his own time.

1 Q. It was done on his own time?

2 A. His own time. He accumulates what is known
3 as compensatory time and he had accumulated compensatory
4 time. And he did some of his work, personal work, this
5 is personal work, on his own time, which he is allowed
6 to do according to County rules.

7 Q. He's allowed to do personal work?

8 A. He's allowed to do personal things on
9 compensatory time.

10 Q. Was he doing personal things or --

11 A. But I was unaware of it, but he is allowed to
12 do it.

13 Q. He was doing work for Loxahatchee Groves?

14 A. Yes.

15 Q. And he was using the County e-mail system
16 again to do his work with Loxahatchee Groves?

17 A. Which he is allowed to do.

18 Q. He's allowed to use the County system?

19 A. He's allowed to do like we already discussed
20 earlier. I personally may disagree with it, but that's
21 a County rule. And he was merely following County rule.

22 Q. Did you know that that was a County rule?

23 A. Yes, I know that it is a County rule. But I
24 did not know that he was doing this work. He was doing
25 it because he knew that he could do it. So he was doing

1 what he's allowed to do.

2 Q. He was doing that work while he was working
3 for you?

4 A. Yes.

5 Q. And I think that you stated that this Request
6 For Inquiry came to you on September 13th, 2010; is that
7 correct?

8 A. Yes.

9 Q. Okay. If you turn to Page 8 -- 28, sorry, of
10 the Request For Inquiry. No, nine. I'm sorry, Page 9.
11 It appears to be a public records request invoice.

12 Does the County bill for the public records
13 request at the same time that they hand the requesting
14 party the documents?

15 A. I don't know the billing system.

16 Q. Okay. What is the date of this invoice?

17 A. It's -- according to what is written here,
18 invoice number -- invoice date is September 7th, 2010.

19 Q. Six days before the Request For Inquiry was
20 published.

21 A. Six days before.

22 Q. Now I'm going to go back to Exhibit 7, the
23 one we're here for today.

24 A. Where is Exhibit 7?

25 Q. Well, on Page 3 is where it lists, does just

1 Jess Santamaria have a felony record. And on Page 76 is
2 where the felony record is attached. Do you see that?

3 A. Yes.

4 Q. Okay. Did any of the investigating agencies
5 do an investigation on you because of this felony
6 record?

7 A. I presume they did, but I wouldn't know.

8 Q. So you don't know?

9 A. They don't ask my permission.

10 Q. Was there in any of their reports that they
11 did an investigation into this felony record?

12 A. They -- none of the reports showed it. And
13 my assumption is that they do their normal work and
14 found nothing to confirm the supposed allegation.

15 MS. KITTERMAN: Okay. I believe plaintiff
16 introduced into evidence the Office of Inspector
17 General report and the Palm Beach County Commission
18 on ethics report? I'm not sure.

19 MR. MARIANI: Yes, they're in evidence.

20 MS. KITTERMAN: Eleven and 13, can I see
21 them?

22 THE CLERK: Thirteen. There is no 11. Oh,
23 let me see here. Yes. Sorry.

24 MS. KITTERMAN: Your Honor, may I approach
25 the witness?

1 THE COURT: Yes, sure.

2 BY MS. KITTERMAN:

3 Q. Sir, I'm handing you Plaintiff's Exhibit 11,
4 which is the Palm Beach County Commission on Ethics, and
5 Plaintiff's Exhibit 13, which is the report of the
6 Office of Inspector General. With regard to the Palm
7 Beach County Commission on Ethics, isn't it true that
8 the commission found that they did not have jurisdiction
9 to rule on Counts 1, 2, 3, 4, 6, 7, 9, and 10?

10 A. Yes.

11 Q. And isn't it true that because the
12 allegations in the Request For Inquiry with regard to
13 five and six and eight predated the effective date of
14 the County Commission on Ethics, so -- which was
15 May 1st, 2010, so that's why those counts were
16 dismissed?

17 A. Yes.

18 Q. Okay. So they didn't review the accuracy of
19 the allegations contained within this Request For
20 Inquiry, did they?

21 A. I guess based on this, they felt it was
22 outside of their jurisdiction.

23 Q. Right.

24 A. So I -- there were certain items there that
25 are outside of their jurisdiction because of the timing.

1 Q. Right. So they didn't find that the Request
2 For Inquiry was false?

3 A. I guess that's what it implies.

4 Q. Okay. And then in regard to the Office of
5 Inspector General, sir.

6 A. Okay.

7 Q. On Page 1 of the report. The
8 Inspector General -- isn't it true that the
9 Inspector General only researched or investigated the
10 Exhibits 3, 6, 9 and 10?

11 A. Where does it say that?

12 Q. Underneath background, sir.

13 A. Okay.

14 Q. Is that true?

15 A. That's what it says, a review of the exhibits
16 reveal the following allegations under the jurisdiction
17 of the Inspector General, Exhibit 3, Exhibit 6,
18 Exhibit 9, and Exhibit 10.

19 Q. Okay. And with regard to Exhibit 3, I
20 believe we discussed that the Inspector General found
21 that the allegations supported -- or the facts supported
22 the allegation of destruction of public record; correct?

23 A. Yes.

24 Q. Okay. And with regard to Exhibit 6, the
25 Inspector General did not do an investigation as to

1 whether or not Dennis Lipp or you violated the County
2 policy based on the using of the County logo, did she
3 address that?

4 A. Do you want me to read it?

5 Q. Well, do you recall? Do you recall the
6 Inspector General addressing whether or not --

7 A. No, I don't recall.

8 Q. Okay. And it's not stated in this
9 investigative report, is it?

10 A. Whatever it says is what it says. If you
11 want me to read something, I'll be glad to read it.

12 Q. Nope. So the Inspector General report found
13 that the violation relating to the destruction of public
14 records was sustained. The other three, she found there
15 wasn't enough evidence; is that correct?

16 A. Whatever it says, it says.

17 Q. Okay. I believe the state commission -- were
18 you investigated by the state of ethics commission?

19 A. Yes.

20 Q. And what did they investigate you on?

21 A. This truck incident we spent about 20 minutes
22 earlier, about this humongous fire truck illegally
23 obstructing traffic in my mall.

24 Q. Was Mr. Schaller driving that fire truck?

25 A. No, he must have hired someone to do it for

1 him.

2 Q. Okay. And wasn't it true that the Sheriff
3 was called before he even got there?

4 MR. MARIANI: Who got there? Objection.

5 BY MS. KITTERMAN:

6 Q. Mr. Schaller.

7 A. I don't recall it was before or after or
8 during.

9 Q. Okay.

10 A. Because I leave those things up to my
11 maintenance manager. I was trying to start a meeting
12 inside.

13 Q. Okay.

14 A. So I was not involved.

15 MS. KITTERMAN: Your Honor, if I may use a
16 demonstrative aid of Plaintiff's Exhibit Number 2.

17 MR. MARIANI: Excuse me. It's Exhibit 2.
18 Just put a two over there.

19 MR. BARSKY: Your Honor, is it okay if I
20 observe, if I stand in the back?

21 THE COURT: Stand over in the corner, you
22 should be able to see. I assume you're familiar
23 with the document?

24 MR. BARSKY: I just want to see what she's
25 pointing at.

1 THE COURT: That's fine.

2 BY MS. KITTERMAN:

3 Q. Mr. Santamaria, this is the felony judgment
4 we're here for today?

5 A. I have one in front of me here.

6 Q. Where on this document does it show that this
7 Jesus R. Santamaria is not you?

8 A. It doesn't.

9 Q. There is no birth date on there, is there?

10 A. I don't think I see a birth date.

11 Q. Is there --

12 A. I don't recall seeing a birth date, nor did
13 I -- anyway.

14 Q. Is there a Social Security number?

15 A. It's either there is or there isn't. Is
16 there a Social Security number? I -- at the moment, I
17 don't see anything that appears to be a Social Security
18 number.

19 Q. Is there an address?

20 A. I didn't see anything that appears to be an
21 address.

22 Q. Okay. So there is nothing on this actual
23 document that identifies that this is not related to
24 you, is there?

25 A. I wouldn't use the word -- I don't know. I

1 don't know if there is anything. I don't know.

2 Q. Well, take a look at it and let me know.

3 A. Well, I'm looking at it. I have one right
4 here in front of me. It's harder for me to look at that
5 than to look at this one in front of me. It's easier
6 for me to look at this one.

7 Q. You can look at that one and let me know what
8 is on there that identifies this is not you.

9 A. A reader -- my opinion is that anybody who
10 looks at this for the first time --

11 Q. Mr. Santamaria, that is not my question.

12 A. What is your question?

13 Q. What on this document identifies that it is
14 not you?

15 A. I don't know. I don't know what identifies
16 that it is not me. I'm telling you what my -- if you
17 want an opinion, I'll give you an opinion.

18 Q. I don't want your opinion.

19 A. But to answer your question, I don't know.

20 Q. And at the top of this document, it says
21 felony record for Jesus R. Santamaria; correct?

22 A. Yes.

23 Q. And the felony record says Jesus R.
24 Santamaria; is that correct?

25 A. Right.

1 Q. And then it inquires, does Santamaria have a
2 felony record? Is that correct?

3 A. Yes.

4 Q. And across the felony record, it says, this
5 is not a certified copy; is that correct?

6 A. Yes.

7 Q. Do you know where this noncertified copy came
8 from?

9 A. No.

10 Q. Do you know that it came from the Internet?

11 A. No.

12 Q. Do you know whether if it came from the
13 clerk's office from the actual file, it would not have
14 been stamped, this is not a certified copy?

15 A. I had no idea where it came from.

16 Q. Okay. And you have no information that
17 Mr. Schaller actually knew that that was not related to
18 you?

19 A. I feel that it was impossible for him not to
20 know that it was not me because of his thoroughness and
21 his resourcefulness. Over a year, I have known him to
22 be very meticulous, very thorough, very resourceful,
23 very intelligent, very clever. And I cannot imagine
24 that he would have stopped at looking at one page
25 without researching what else was behind it.

1 Q. But you have no facts to prove that
2 Mr. Schaller knew that that felony did not belong to
3 you?

4 A. Other than my knowledge of him of being so
5 extensively resourceful in getting a lot of information
6 for the minutest of items like you just did in this
7 book, you see the thoroughness. He was very shrewd,
8 smart in getting so much minute information. So I
9 cannot imagine it's humanly possible that he stopped on
10 that page. He would have been so curious, he would have
11 been so curious that he have spent and gotten --

12 MS. KITTERMAN: Your Honor, nonresponsive.

13 THE WITNESS: He would have a lot more.

14 THE COURT: Let's move on, counsel.

15 MS. KITTERMAN: Okay.

16 BY MS. KITTERMAN:

17 Q. Do you have any facts, did Mr. Schaller tell
18 you that he knew that did not relate to you?

19 A. I am 100 percent sure he knew that it was not
20 me.

21 Q. That was not my question.

22 A. But that's the only answer I have.

23 Q. Did he tell you that it was not -- that he
24 knew that it was not related to you?

25 A. When I saw it -- when I saw this --

1 THE COURT: Sir, did he tell you that he knew
2 it was false?

3 THE WITNESS: No, he didn't tell me.

4 THE COURT: That's all then. Quite simple.
5 Thank you.

6 THE WITNESS: Okay. No, he did not tell me.

7 THE COURT: It's getting late here, we need
8 to wind it up.

9 BY MS. KITTERMAN:

10 Q. Do you know of anybody else he told that he
11 knew that wasn't you?

12 A. No, I don't know.

13 Q. Do you know of any facts to prove that
14 Mr. Schaller had serious doubts as to whether that was
15 you?

16 A. I don't know.

17 Q. Do you have any evidence to show that
18 Mr. Schaller knew when he made that statement that it
19 was false?

20 A. His background and my experience with him is
21 my evidence.

22 Q. Do you have any facts?

23 A. It's his background is my facts. It's based
24 on what I know of him and what other people know of him.

25 Q. What people?

1 A. The lady engineer, Tanya O'Connell (sic).

2 Q. He told her that he knew that felony judgment
3 was not related to you?

4 A. No, I did not say that. That he -- the way
5 he conducts himself, he's a genius and master at getting
6 information and twisting things around to accomplish his
7 ultimate goal.

8 Q. So other than your belief of what he does, do
9 you have any facts?

10 A. Those are my facts, my knowledge of him for
11 over a year and the way he operates.

12 Q. And all of the documents within the Request
13 For Inquiry except for the felony record that came off
14 the Internet, they came from public records requests
15 from your office, didn't they?

16 A. They sure did.

17 Q. Okay.

18 A. I presume. Most of -- I wouldn't know if it
19 was all of them, but a large portion of it came from the
20 public request. And it goes back to my -- how he twists
21 a fact, twists it to accomplish his ultimate goal, which
22 is false.

23 Q. Did Mr. Schaller ever tell you he knew where
24 to research case information?

25 A. No.

1 Q. Did he ever tell you he knew where to
2 research whether somebody had a felony conviction?

3 A. No.

4 Q. Do you know if he told anybody else that?

5 A. I don't know.

6 Q. Mr. Santamaria, you have stated that you have
7 an exemplary name, that you have a great reputation in
8 this community. Can you tell me one person whose
9 opinion or thought of you has changed because of this
10 felony record?

11 A. I don't know. I don't know especially
12 because of the -- in today's Internet system, it goes
13 around the world. So I don't know. Anybody who knows
14 me locally, in all likelihood, their opinion would not
15 change of me because they know of me locally. But those
16 who know me casually or those from out of town or those
17 people in Philadelphia that know me or those people in
18 the Philippines that know me, I don't know. It's not
19 possible for me to know.

20 Q. Has anybody from the Philippines contacted
21 you and said, hey, I saw this felony judgment and is
22 this you?

23 A. Not yet.

24 Q. Do you know of any newspaper that it had been
25 published in that you were a felony or you had a felony

1 record since this Request For Inquiry was handed out?

2 A. No.

3 Q. Do you know of any website other than
4 Mr. Schaller's that this felony judgment or the Request
5 For Inquiry was published?

6 A. I don't know.

7 Q. Do you know whether Mr. Schaller's website
8 singles out this felony judgment?

9 A. I don't know.

10 Q. Do you know whether if you search your name,
11 that this felony judgment comes up?

12 A. I don't know because I don't do any searching
13 myself.

14 Q. So you don't know if anybody can see this
15 felony record?

16 A. I don't know, but I know that it can reach
17 many people and those people may decide to keep it for
18 themselves.

19 Q. You just stated that you didn't know how it
20 would get to other people. How do you know that they
21 would know where to search for this?

22 A. I don't know.

23 Q. And isn't the first time that this felony
24 record actually was published to the public, meaning in
25 the newspaper, was because of your lawsuit?

1 A. No, I don't know that.

2 Q. But it -- you don't know whether it was
3 published in any other newspaper before this lawsuit?

4 A. I don't know.

5 Q. Mr. Santamaria, have you ever used the
6 Town Crier to paint Mr. Schaller in a false light?

7 A. No, I have not -- I have never put anything
8 under a false light. Whatever I put down was factual.

9 Q. Everything you put down in the Town Crier was
10 factual?

11 A. Yes.

12 MS. KITTERMAN: Your Honor, would you like me
13 to go on?

14 THE COURT: Yes, ma'am.

15 MS. KITTERMAN: May we approach?

16 (The following proceedings were held out of
17 the hearing of the jury:)

18 MR. MARIANI: There is no relevance to any of
19 this information. And I would think that it's
20 important for us to look at this before it's
21 published to the jury.

22 THE COURT: Why isn't that relevant?

23 MR. MARIANI: There's no counterclaims in the
24 case, no issues.

25 THE COURT: What about reliability of the

1 witness and credibility of the witness and interest
2 of the witness and whether or not the witness has a
3 bone to pick and to color his testimony. Don't you
4 think it goes to -- there's a wide latitude on
5 that. I have to give that.

6 MR. MARIANI: That's fine, Your Honor.

7 (The following proceedings were held in the
8 presence and hearing of the Jury:)

9 MS. KITTERMAN: Your Honor, may I move
10 Defendant's Exhibit 6 and 7 into evidence?

11 THE COURT: Which? Was that the ones that we
12 just talked about?

13 MS. KITTERMAN: No, I'm just doing this for
14 the clerk.

15 MR. MARIANI: We objected to 7 or I'm going
16 to object to 7. The effective date is after all of
17 the issues in this case.

18 MS. KITTERMAN: Do you have any objection to
19 6?

20 MR. MARIANI: Same objection.

21 THE COURT: Put your ears back on.

22 (The following proceedings were held out of
23 the hearing of the Jury:)

24 THE COURT: Isn't this what we were just
25 talking about, not just a minute ago?

1 MR. MARIANI: No, not seven, though. Seven
2 is December 20th, that's why I asked for the date
3 and --

4 THE COURT: She can't hear you. That's not
5 good. All right.

6 What is this?

7 MR. MARIANI: Counsel is trying to imply that
8 that was in effect before the September 13th date
9 when all of the documents or whenever all of the
10 documents were pulled. This doesn't happen until
11 December of 2010. So there's no way that that
12 relates to whatever anybody's responsibility was
13 before September 13th of 2010.

14 THE COURT: This is the abuse of the County
15 logo? Was that what it says?

16 MS. KITTERMAN: Yes.

17 MR. MARIANI: But that wasn't put into effect
18 until after the circumstances.

19 THE COURT: Was that in evidence --

20 MR. MARIANI: Yes.

21 THE COURT: -- Exhibit Number 1?

22 MR. MARIANI: Yes. But the point is that
23 this document creates whatever it creates at
24 December 20th, which is months, many, many months
25 after --

1 THE COURT: We got two months? I got
2 October, November, December, three months later,
3 this document comes in, and what is the purpose of
4 this document?

5 MS. KITTERMAN: The use of the County logo.

6 THE COURT: What has that got to do with?

7 MS. KITTERMAN: The Request For Inquiry.

8 THE COURT: Exhibit Number 1?

9 MS. KITTERMAN: This is one of the
10 allegations that he violated --

11 THE COURT: But apparently this is a policy
12 that doesn't go into effect until after that.

13 MS. KITTERMAN: That's what the document may
14 indicate. But that doesn't mean that he wasn't --

15 THE COURT: I'll sustain the objection. You
16 can go ahead and put it in as an exhibit, okay.

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

19 MR. MARIANI: What about Exhibit 6, for
20 identification.

21 THE COURT: No, you don't have any objection
22 to six, right?

23 MR. MARIANI: No.

24 THE COURT: Six is admitted without
25 objection.

1 (Defendant's Exhibit No. 6 was admitted into
2 evidence.)

3 THE COURT: Counsel, how much more do you
4 have?

5 MS. KITTERMAN: Just a few.

6 THE COURT: Okay, good.

7 MS. KITTERMAN: Your Honor, may I approach
8 the witness?

9 THE COURT: Yes. Since you're getting along
10 so nicely, you can go up there.

11 MS. KITTERMAN: Thank you.

12 THE COURT: I tell them they can't do that
13 when they start fighting and it gets nasty. But
14 that is why we call it a civil court of law.

15 BY MS. KITTERMAN:

16 Q. Mr. Santamaria, I'm handing you for
17 identification four different newspaper articles -- or,
18 no, I'm sorry, four different advertisements placed by
19 you.

20 MR. MARIANI: To speed this along, we're
21 happy to agree to the admission of all of this.

22 THE COURT: All right. In evidence without
23 objection. What number is it again?

24 THE CLERK: Next number is eight.

25 MS. KITTERMAN: Eight, 9, 10, 11.

1 THE CLERK: I don't know what you've got
2 there.

3 MS. KITTERMAN: All right. Eight, 9, 10, and
4 then 11.

5 THE CLERK: In evidence, Your Honor?

6 THE COURT: Yes, they're in evidence without
7 objection.

8 (Defendant's Exhibit Nos. 8, 9, 10, 11 were
9 admitted into evidence.)

10 BY MS. KITTERMAN:

11 Q. Mr. Santamaria, I'm handing you what has been
12 marked as Defendant's Exhibits 7, 8 and 9.

13 MR. MARIANI: I think it's eight.

14 THE COURT: Eight, 9, 10 and 11.

15 BY MS. KITTERMAN:

16 Q. Eight, 9, 10 and 11. Number 8 is an
17 advertisement called, Birds of a Feather Flock Together,
18 by Jess Santamaria. Do you see that?

19 A. Yes.

20 Q. Where did you publish this?

21 A. At the Town Crier, the local Town Crier.

22 Q. And you paid for this advertisement?

23 A. Yes.

24 Q. And you used a photo of Mr. Schaller with
25 Mayor Darell Bowen?

1 A. Yes, during their -- during his campaign.

2 Q. During whose campaign?

3 A. Mr. Schaller's campaign.

4 Q. Right. This was this published during
5 Mr. Schaller's campaign?

6 A. Yes. He had it on one of his campaign ads
7 and it was on his website. He had his --

8 Q. Mr. Schaller?

9 A. Mr. Schaller had it on his website.

10 Q. The advertisement that we're looking at, was
11 this published during Mr. Bowen's campaign or --

12 A. No, Mr. Schaller's campaign.

13 Q. What you wrote was during Mr. Schaller's
14 campaign?

15 A. No, no.

16 MR. MARIANI: Well, is there a date on the
17 document?

18 THE WITNESS: No, the picture. The picture.

19 BY MS. KITTERMAN:

20 Q. Okay.

21 A. What I wrote, I wrote before the election,
22 before the -- during the campaign of Mr. Darell Bowen.

23 Q. Okay. And in this advertisement, you state
24 that Mr. Schaller has attempted to malign your
25 reputation by publishing 119 pages of false allegations

1 which resulted in Palm Beach County Inspector General
2 and the Palm Beach County Commission on Ethics, and
3 after a thorough investigation, they concluded that all
4 of the allegations were nothing but distorted false and
5 misleading statements. You said that?

6 A. I said that and I'm saying it right now.

7 Q. I think we just went through the --

8 A. Yeah, we just went through this and it's the
9 whole, this entire 118 pages is a distortion of facts.

10 Q. We just went through the Inspector --

11 A. In fact, one of them is a complete,
12 100 percent false statement.

13 Q. Sir, we just went through the Inspector
14 General report.

15 A. We just did.

16 Q. And if I may -- and the public Palm Beach
17 County Commission on Ethics, and neither stated that the
18 allegations were distorted, false or misleading, did
19 they?

20 A. No, they did not use those words.

21 Q. Okay. And the next advertisement that you
22 placed, Justice Prevails Again. Do you see that?

23 A. Yes, I see this.

24 Q. And you're stating in this that the Florida
25 ethics board cleared you and they said that it was --

1 the allegations of Mr. Schaller were totally baseless
2 with zero merit. Is that what you wrote?

3 A. Yes.

4 Q. And the State of Florida Commission on
5 Ethics, did they say it was totally baseless in their
6 report?

7 A. No. They -- I am the one saying it.

8 Q. And the Palm Beach County Commission on
9 Ethics and the Office of Inspector General, again, you
10 say that they found that Andy Schaller's allegations
11 equally baseless with zero merit. Is that what you
12 wrote?

13 A. That's what I wrote. And like I've stated
14 already here earlier today, the only -- out of all of
15 this 118 pages of distortions, the only thing that I was
16 told is that I should have kept -- and I still say the
17 same thing over and over again, this is -- of all of
18 this distorted allegations of Mr. Schaller, the only
19 thing they said, I should have kept this for 12 months.

20 Q. Well, they didn't say that they were
21 distorted allegations, did they?

22 A. No, I did.

23 Q. Right.

24 A. I did.

25 Q. So the Palm Beach County Commission on Ethics

1 actually didn't rule on anything because they said they
2 didn't have jurisdiction; correct?

3 A. Yes.

4 Q. And then your advertisement that says,
5 Inquiry Clears Commissioner, again, you've put in here
6 that you've been cleared of Andy's libelous 118-page
7 document that Andrew Schaller wrote to malign you in his
8 attempt to run for commission. The document is replete
9 with falsehoods and misleading information. That's what
10 you wrote?

11 A. That's what it is.

12 Q. Okay. That's what -- so the
13 Inspector General didn't say that, did she?

14 A. They did not say that.

15 Q. And the Palm Beach --

16 A. But that's what it is.

17 Q. And the Palm Beach County Commission on
18 Ethics, they did not say that either, did they?

19 A. Yeah, but they also cleared me completely.
20 They did not say that, but they also cleared me of this
21 118 pages of distortions.

22 Q. They cleared you or they didn't rule on it --

23 A. They both.

24 Q. -- because they didn't have jurisdiction?

25 A. Both. They cleared me and they didn't rule

1 on it.

2 Q. How can they clear you if they didn't rule on
3 it?

4 A. I have nothing further to say.

5 Q. Well, you said that they --

6 A. What.

7 Q. -- cleared you and they didn't rule on it.
8 So I'm just confused.

9 A. I've said -- I said that there is nothing
10 here that I did that any of the three agencies found
11 that other than the pocketbook. So other than the
12 pocketbook not being kept for 12 months, there was
13 nothing. To me, this is a total vindication of all of
14 these distortions.

15 Q. But, again, the Palm Beach County Commission
16 on Ethics.

17 A. That's it.

18 Q. They didn't --

19 A. Right.

20 Q. -- rule on the allegations, did they?

21 MR. MARIANI: Objection, asked and answered.

22 THE WITNESS: Yes.

23 THE COURT: He's answered it a couple of
24 times.

25

1 BY MS. KITTERMAN:

2 Q. Did you ever contact Mr. Schaller and ask him
3 to take the Request For Inquiry off of his website?

4 A. No.

5 Q. Did you ever contact Mr. Schaller and tell
6 him that the felony judgment did not relate to you?

7 A. No, I did not tell him.

8 Q. Did you ever ask him to remove the felony
9 judgment from the Request For Inquiry?

10 A. No, I did not.

11 Q. One minute.

12 In fact, the only time that you addressed
13 Mr. Schaller was that you said you would see him in
14 court rather than --

15 A. No, I did not say.

16 Q. You did not say that?

17 A. No, I did not.

18 Q. I believe you said that on your direct.

19 A. No, I did not.

20 Q. But other than this lawsuit --

21 A. I really have nothing to talk to him about.
22 I have tried to avoid him as best I can. I really want
23 to have nothing to -- I have nothing to tell him other
24 than to have this thing decided by this court. So I
25 have nothing to tell him.

1 This has been a horrendous experience for me.
2 Never in my life in my 74 years on earth has anyone --
3 has anyone ever done 1/100th, 1 percent of this. This
4 is something completely out of this world that I never
5 imagined would ever happen to me in my 74 years on
6 earth. It is unimaginable that somebody would do
7 something like this.

8 Q. Mr. Santamaria, didn't you say that the
9 process was painful going -- painless going through the
10 Inspector General?

11 A. Yes, because I have no problem with the
12 Inspector General. Yeah, it was painless. Sure it was
13 painless because I welcomed her. I let all of my
14 assistants open all of the doors and all of the windows
15 and all of the cabinets. So she was welcome.

16 So in that sense, sure, it was painless. And
17 I welcomed her. So the work of the Inspector General is
18 perfectly welcome and both ethics commission. That's
19 painless because that's the way I can vindicate
20 myself --

21 Q. So the first time that --

22 A. -- is by being investigated.

23 Q. So the first time that you advised
24 Mr. Schaller that you had an objection to the Request
25 For Inquiry and/or the felony judgment was when you

1 filed this lawsuit months after?

2 A. Yes, I wanted to wait for the election to be
3 over. I did not want this to be the subject of the
4 election.

5 Q. Okay.

6 A. I wanted the subject of the election to be
7 his credentials and my credentials. And that's what I
8 tried to show here, where he had no credentials. So his
9 only way of winning the election was to malign me. That
10 was his only way because he had nothing to offer.

11 Q. Speaking of that advertisement that you were
12 just holding, in the middle, you put some narrative with
13 regard to Andy Schaller personally costing the County,
14 \$250,000?

15 A. That was by the report of the auditor and the
16 engineer who said they spent thousands of hours because
17 of working on his case for Fargo Street.

18 Q. Andy Schaller did not direct the County to
19 spend \$250,000?

20 A. That was already explained earlier today.
21 No, he did not direct them to do it, but it was his
22 persistence, his nonstop demands on the staff and on the
23 County Commissioners that created all of this humongous
24 amount of work by both the engineering department and
25 the auditing department that no one had ever caused such

1 amount, volume of work on a relatively small road as was
2 explained by the engineer. They had never come across
3 anybody so demanding as Mr. Schaller.

4 Q. Didn't you say in your deposition that that
5 narrative paragraph that you're referring to was just
6 political talk?

7 A. Which one?

8 Q. Your deposition, that paragraph.

9 A. I don't know the question. What -- I don't
10 understand your question.

11 Q. Didn't you say that the paragraph that you're
12 looking at.

13 A. (Indicating.)

14 Q. Yes, where you said that Mr. Schaller
15 personally cost the County 250,000 and over a thousand
16 hours, you stated that that was just political talk?

17 A. I don't know. What it says is what it says.
18 Do you want me to read it?

19 Q. No.

20 A. I can read it to you.

21 Q. I want to know --

22 A. I didn't memorize it. So I don't know if
23 what you're saying is factual. So I will have to read
24 it for me to say yes or no.

25 Q. Okay. Read it to yourself.

1 A. What -- I don't see the words political talk
2 here.

3 Q. No, in your deposition. Is everything that
4 you wrote in there true or is it a little bit --

5 A. Everything here happened. There was a lot
6 of -- we've gone over this so many times. He cost
7 thousands of hours, over a thousand by the auditing
8 department and over a thousand hours of the engineering
9 department. If you calculate the cost of staff, it's in
10 excess of 200,000, in the vicinity of \$250,000 of
11 expenses. That's correct.

12 Q. Mr. Schaller cost that, or the Fargo Avenue
13 project?

14 MR. MARIANI: Objection, argumentative, asked
15 and answered.

16 THE COURT: I'm going to sustain this.

17 BY MS. KITTERMAN:

18 Q. The Request For Inquiry, it was published
19 during the election campaign; is that correct?

20 A. Yes.

21 MS. KITTERMAN: No further questions,
22 Your Honor.

23 THE COURT: Redirect?

24 MR. MARIANI: I'm going to have some
25 redirect, but it's going to be probably about

1 35 minutes. We can do it early tomorrow.

2 THE COURT: All right. Ladies and gentlemen,
3 I'm going to go ahead and recess for tonight. I
4 ask you to be back here in the morning at
5 10 o'clock so we can get started. Hopefully we
6 get -- it's going to go to you tomorrow afternoon.
7 So you know what you're supposed to do and not
8 supposed to do.

9 Now, whether -- I don't know if anything has
10 been reported, but you are not to read the
11 newspapers, listen to the television or radio or
12 anything. Remember, your decision must be based
13 upon the evidence that is presented in this
14 courtroom and the law that I give you. And you're
15 not to be influenced by any outside sources of any
16 kind of any nature.

17 So you know what you're supposed to do.
18 Please honor that because that's very fundamental
19 to our judicial system, that you make your decision
20 and keep an open mind until this case is completely
21 closed and what happens in this courtroom is the
22 determining factor.

23 Have a good evening, drive home safely. I'll
24 see you back at 10 o'clock in the morning.
25

1 (The Jury left the courtroom after which the
2 following proceedings were held:)

3 THE COURT: All right. Now, let's talk a
4 little bit about what we're doing here. So what
5 are we going to do after finishing up with the
6 commissioner?

7 MR. MARIANI: We're going to rest.

8 THE COURT: You're going to rest. And what
9 do you have?

10 MS. KITTERMAN: I would like to move on my
11 directed verdict.

12 THE COURT: Aside from that, what else do you
13 have? I'm talking about witnesses.

14 MS. KITTERMAN: Mr. Schaller and potentially
15 based on the redirect, I have the Inspector General
16 subpoenaed. And I also have Michelle Santamaria
17 still subpoenaed.

18 THE COURT: You have whom?

19 MS. KITTERMAN: Michelle Santamaria.

20 MR. MARIANI: She's already appeared.

21 THE COURT: She has a right to call her back,
22 but I'm not going to listen to cumulative testimony
23 here.

24 MS. KITTERMAN: I understand, Your Honor.

25 THE COURT: What about your jury instructions

1 and verdict form, have you come to an agreement on
2 that?

3 MR. MARIANI: We have submitted ours. We
4 have a verdict form, perhaps we can talk about the
5 instructions. We've submitted those already,
6 but --

7 THE COURT: Well, I have one set here,
8 proposed.

9 MR. MARIANI: Well, we'll sit tonight and
10 work out something.

11 THE COURT: I have defendant's here.

12 MR. MARIANI: We'll bring something in, in
13 the morning.

14 THE COURT: Well, look, we're on a tight
15 schedule.

16 MR. MARIANI: I understand.

17 THE COURT: All right? And I don't have a JA
18 so I'm not going to be able to correct your stuff.
19 So you really need to come to an agreement. I want
20 you both to sit down tonight and work out these
21 jury instructions and a verdict form and I want an
22 agreement in the morning. And what you can't agree
23 on, fine, I'll be happy to try to arbitrate that.

24 MR. MARIANI: I think we'll work it out,
25 Your Honor.

1 THE COURT: It's pretty straightforward and
2 it's all standard.

3 MR. MARIANI: Understood.

4 MS. KITTERMAN: Thank you, Your Honor.

5 BAILIFF: Court is in recess.

6 (The evening recess was taken at 5:15 p.m.)

7 (Proceedings continued in Volume V of the
8 following day.)

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C E R T I F I C A T E

THE STATE OF FLORIDA
COUNTY OF PALM BEACH.

I, PAMELA J. SULLIVAN, Registered Professional 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