

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

TOM RETZLAFF	)	
Plaintiff,	)	
	)	
v.	)	NO. 5:08-CV-00170-OLG
	)	
LYNDA YVONNE DE LA VINA,	)	
DIANE BAKER WALZ, KYLE	)	
MERLETTE SNYDER,	)	
KATHERINE ANNE POPE,	)	
Defendants.	)	

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VIDEOTAPED DEPOSITION OF TOM RETZLAFF  
September 24, 2008

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BE IT REMEMBERED that the videotaped deposition of TOM RETZLAFF was reported by Lydia L. Edwards, Certified Shorthand Reporter, by machine shorthand on September 24, 2008, at the Office of the Attorney General of Texas, located at 3460 North east Parkway, San Antonio, Texas, between the times of 10:32 o'clock a.m. and 3:30 o'clock p.m., after which time the deposition was reduced to writing and set forth as follows:

EXHIBIT <b>H</b>
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1 APPEARANCES

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3 FOR THE PLAINTIFF:

4 Tom Retzlaff, Pro Se

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6 San Antonio, Texas 78291

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8 FOR THE DEFENDANT:

9 Lars Hagen

10 Assistant Attorney General

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12 Capitol Station

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15

16 ALSO PRESENT:

17 Gail Jensen (UTSA Counsel)

18 Louis D. Martinez

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1 (Before the deposition commenced, an

2 instrument was marked for

3 identification as Exhibit A.)

4 THE VIDEOGRAPHER: This is the

5 videotaped deposition of Tom Retzlaff. This is the

6 beginning of Tape 1. Today's date is September 24th,

7 2008. We are on the record at 10:32.

8 MR. HAGEN: Okay. This is a

9 Defendants' deposition. I think Louis Martinez who

10 is here wanted to make a clarifying statement about

11 his role in today's deposition, I think.

12 MR. MARTINEZ: I think as well. For

13 the purposes of the record, I would like to state

14 that while I was the attorney of record in the state

15 court case filed in the County Court at Law No. 10 in

16 Bexar County, Texas, Cause No. 336249, once this case

17 was removed, due to the fact that I don't have a

18 federal license, I don't consider myself to be the

19 attorney of record in this case. Although I have not

20 been formally removed from this case, I, for purposes

21 of the record, wanted to clarify that. Mr. Retzlaff

22 will be proceeding pro se in this deposition. I'm

23 here as another party present, but will not be

24 representing him.

25 THE REPORTER: Would you raise your

<p style="text-align: right;">6</p> <p>1 right hand?</p> <p>2 (At this time, the witness was placed</p> <p>3 under oath by Lydia L. Edwards, Court</p> <p>4 Reporter.)</p> <p>5</p> <p>6 TOM RETZLAFF</p> <p>7 was called as a witness for the Defendants and, after</p> <p>8 having been duly sworn to tell the truth, testified</p> <p>9 as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. HAGEN:</p> <p>12 Q. Before we go into deposition and discovery</p> <p>13 mode, Mr. Retzlaff, first of all, I just want to ask</p> <p>14 you if you've had your deposition ever taken before?</p> <p>15 A. Yeah.</p> <p>16 Q. You have? How many times?</p> <p>17 A. I don't know.</p> <p>18 Q. Can you estimate? Was it zero to five times</p> <p>19 or five to ten times or ten or more times?</p> <p>20 A. I don't know, five times maybe.</p> <p>21 Q. Okay. In relationship to those depositions,</p> <p>22 each time you're sworn to tell the truth. You</p> <p>23 understand that, correct?</p> <p>24 A. Yes.</p> <p>25 Q. You understand there's a federal penalty for</p>	<p style="text-align: right;">8</p> <p>1 and move around, let me know, okay?</p> <p>2 A. Well, I'm taking morphine. So I might need</p> <p>3 to just rest and close my eyes for a bit if I get too</p> <p>4 tired.</p> <p>5 Q. Okay. Is there any reason that you believe</p> <p>6 that that's going to interfere with your telling</p> <p>7 truthful answers to questions I ask you here today?</p> <p>8 A. I am not a medical doctor. I do not know</p> <p>9 what the effect of morphine and other drugs have on</p> <p>10 the body.</p> <p>11 Q. Are you taking the position that because</p> <p>12 you're taking morphine as a painkiller you cannot</p> <p>13 testify today?</p> <p>14 A. I'm here today. I don't know. You know, I'm</p> <p>15 not a doctor. I'm taking morphine and several other</p> <p>16 medications as well.</p> <p>17 Q. Okay. Has any doctor advised you not to</p> <p>18 participate in legal proceedings since you've been</p> <p>19 taking morphine?</p> <p>20 A. I've never asked a doctor whether I should</p> <p>21 participate. So --</p> <p>22 Q. You haven't been given that restriction so</p> <p>23 far?</p> <p>24 A. No. I've never -- the issue has never come</p> <p>25 up.</p>
<p style="text-align: right;">7</p> <p>1 not telling the truth while giving testimony in</p> <p>2 federal cases, correct?</p> <p>3 A. No.</p> <p>4 Q. Okay.</p> <p>5 A. I know there's a state penalty, but --</p> <p>6 Q. Okay. Just to make you aware, there's a</p> <p>7 statute -- federal statute that requires you to tell</p> <p>8 the truth in the course of giving deposition</p> <p>9 testimony and that there's a penalty for that. I'll</p> <p>10 represent that fact to you and ask you to, of course,</p> <p>11 abide by what you've already sworn to do, which is to</p> <p>12 tell the truth and answer the questions I have for</p> <p>13 you.</p> <p>14 A. Okay.</p> <p>15 Q. Another guideline that I always try to remind</p> <p>16 witnesses about is the fact that you are to answer</p> <p>17 with words and not just nodding your head so that the</p> <p>18 court reporter can record actually what your</p> <p>19 responses are. Do you agree to do that?</p> <p>20 A. Yes.</p> <p>21 Q. Also, if you need a break, just let me know.</p> <p>22 We can take some time. You can stand up and stretch.</p> <p>23 I notice that you have what appears to be an injured</p> <p>24 arm today. We don't want any blood clots forming.</p> <p>25 If you want to stretch your legs, stretch your arms</p>	<p style="text-align: right;">9</p> <p>1 Q. Okay. But for clarification you haven't been</p> <p>2 given that restriction so far, just for my</p> <p>3 understanding?</p> <p>4 A. No. I never asked for one. I suppose if I</p> <p>5 could ask for one I'd probably get it, but --</p> <p>6 Q. Okay. You haven't asked for one, and none</p> <p>7 has been prescribed to you so far.</p> <p>8 A. Correct.</p> <p>9 Q. Do I understand that right?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. How long have you been on morphine due</p> <p>12 to this injury?</p> <p>13 A. Well, I've been taking morphine on and off</p> <p>14 for two or three years. I've got a herniated disk in</p> <p>15 my back as well as two in my neck. I was in a</p> <p>16 motorcycle accident a couple of years ago. And then</p> <p>17 with regards to my arm here, I broke it pretty badly</p> <p>18 and have two steel plates along with 10 or 12 screws</p> <p>19 in the arm holding it together.</p> <p>20 Q. When did that injury happen?</p> <p>21 A. The injury happened about a year and a half</p> <p>22 ago. I've had three surgeries on it. They did the</p> <p>23 surgery -- I think it was like maybe nine months ago.</p> <p>24 And then I reinjured it again when I was riding my</p> <p>25 motorcycle doing something I shouldn't have been</p>

10	<p>1 doing. So --</p> <p>2 Q. When did you most recently reinjure it?</p> <p>3 A. Yesterday.</p> <p>4 Q. Okay. You had -- the last time we had a</p> <p>5 deposition setting, we -- you had a -- you set a</p> <p>6 doctor's appointment --</p> <p>7 A. Yes.</p> <p>8 Q. -- that conflicted with the deposition</p> <p>9 setting?</p> <p>10 A. Yes.</p> <p>11 Q. And also you said that you had a court</p> <p>12 setting --</p> <p>13 A. Yes.</p> <p>14 Q. -- that interfered with this deposition</p> <p>15 setting. Do you remember that?</p> <p>16 A. Yes. I had a doctor's appointment at the</p> <p>17 Pain Clinic at the hospital.</p> <p>18 Q. And when I say "this deposition," I'm talking</p> <p>19 about the deposition setting earlier this month --</p> <p>20 A. Right.</p> <p>21 Q. -- that you-all wanted canceled, correct?</p> <p>22 A. Right.</p> <p>23 Q. Okay. What was the reason for that doctor</p> <p>24 appointment?</p> <p>25 A. Well, I was at the Pain Clinic. They did a</p>	12	<p>1 A. Yeah. The morphine that I take are little</p> <p>2 pills that they give me. I got a prescription for</p> <p>3 morphine as well as Lortab, Vicodin, a bunch of other</p> <p>4 stuff.</p> <p>5 Q. Okay. And just for my information, you've</p> <p>6 been taking, you said, morphine pills --</p> <p>7 A. Yeah.</p> <p>8 Q. -- off and on for about two or three years</p> <p>9 now?</p> <p>10 A. Yeah. I got 60 milligram pills and 30</p> <p>11 milligram pills.</p> <p>12 Q. Okay. And fair to say you've been taking</p> <p>13 these morphine pills around the time that you've had</p> <p>14 court hearings --</p> <p>15 A. No, I don't.</p> <p>16 Q. -- in the last two or three years, correct?</p> <p>17 A. No, I don't.</p> <p>18 Q. Oh, you haven't. So let's go back to the</p> <p>19 earlier-this-month, September, deposition setting.</p> <p>20 You received a course of painkillers in the morning,</p> <p>21 correct?</p> <p>22 A. Well --</p> <p>23 Q. That was your testimony. Do I have -- do I</p> <p>24 misunderstand --</p> <p>25 A. I know exactly what it was that they gave.</p>
11	<p>1 surgical procedure on my neck because of the pain</p> <p>2 from the vertebrae.</p> <p>3 Q. Okay. Were you on morphine that day?</p> <p>4 A. I don't know what drugs they injected me with</p> <p>5 then.</p> <p>6 Q. Okay. Am I correct that you had a medical --</p> <p>7 this medical appointment in the morning of that</p> <p>8 September day?</p> <p>9 A. Yes.</p> <p>10 Q. And then in the afternoon of that September</p> <p>11 day you had a court hearing in state court, correct?</p> <p>12 A. Yeah. I think the court hearing, yeah, was</p> <p>13 like at 2:00 o'clock or something like that, yeah.</p> <p>14 Q. Okay. So in spite of -- I mean, you went to</p> <p>15 your medical appointment in the morning, and you were</p> <p>16 injected with some drugs for pain?</p> <p>17 A. Yeah. They -- they injected -- well, they</p> <p>18 ran a metal tube or something into my neck right up</p> <p>19 to where the nerves are at, and then they injected</p> <p>20 some chemicals on there to, I guess, reduce the</p> <p>21 swelling and to make the pain go away.</p> <p>22 Q. Okay. And your testimony is that later in</p> <p>23 that day then you appeared for your court hearing?</p> <p>24 A. Yeah.</p> <p>25 Q. Okay.</p>	13	<p>1 They did -- I know there was some lidocaine involved,</p> <p>2 and then they put something inside that, some kind of</p> <p>3 steroid kind of stuff, I think; and they were trying</p> <p>4 to locate which particular nerve was causing the</p> <p>5 particular problem. And when I go back, I think</p> <p>6 they're going to like do an electrolysis kind of</p> <p>7 thing where they burn out that nerve.</p> <p>8 Q. So going back to that day of September where</p> <p>9 in the morning you went in for this procedure and to</p> <p>10 receive those drugs, remember --</p> <p>11 A. (Nods affirmatively.)</p> <p>12 Q. -- that afternoon, then, you appeared in</p> <p>13 court -- in state court for a motions hearing,</p> <p>14 correct?</p> <p>15 A. Yes, just for some brief argument on a motion</p> <p>16 to recuse.</p> <p>17 Q. And that was your motion, correct --</p> <p>18 A. Yes.</p> <p>19 Q. -- on that case? Okay. And just for</p> <p>20 clarification, was that a motion to recuse Judge</p> <p>21 Crouch --</p> <p>22 A. Yes.</p> <p>23 Q. -- in a state court case where she had</p> <p>24 entered an order that barred you from filing further</p> <p>25 litigation --</p>

<p style="text-align: right;">14</p> <p>1 A. Actually that's --</p> <p>2 Q. -- in courts?</p> <p>3 A. -- not true.</p> <p>4 Q. Okay. I'm just asking. Was it --</p> <p>5 A. Yeah.</p> <p>6 Q. -- a motion to recuse her about an order</p> <p>7 where she restricted you in some fashion?</p> <p>8 A. No. It was a motion to recuse based on her</p> <p>9 having a secret, ex-parte, off-the-record meeting</p> <p>10 with opposing counsel in the case.</p> <p>11 Q. And this is -- okay. I understand that --</p> <p>12 A. That's what the motion --</p> <p>13 Q. -- that's the basis of your --</p> <p>14 A. That's what the --</p> <p>15 Q. -- motion to recuse her. And what I'm</p> <p>16 talking about is the motion -- or the order that she</p> <p>17 put in place in relationship to that case. That was</p> <p>18 an order that restricted some of your filings and</p> <p>19 also made further restrictions upon you, correct?</p> <p>20 A. Yeah. That was a two-day order --</p> <p>21 Q. Okay.</p> <p>22 A. -- a temporary two-day order.</p> <p>23 Q. And she since then has announced an intention</p> <p>24 to make that a permanent order, correct?</p> <p>25 A. Well --</p>	<p style="text-align: right;">16</p> <p>1 relevance objection. Feel free to do that. But you</p> <p>2 also have to understand that under the rules I'm able</p> <p>3 to ask a wide range of questions. If it's reasonably</p> <p>4 calculated to lead to the discovery --</p> <p>5 A. Sure.</p> <p>6 Q. -- of admissible evidence, then I can ask it,</p> <p>7 and you have to answer truthfully --</p> <p>8 A. Well, or I can --</p> <p>9 Q. -- on the status of it. So I may ask --</p> <p>10 A. -- or I could stop the deposition and move</p> <p>11 for a protective order.</p> <p>12 Q. Okay. Going back to my question for you,</p> <p>13 what was the outcome of that motion to recuse?</p> <p>14 A. The outcome of the hearing is that the</p> <p>15 recusal motion was denied.</p> <p>16 Q. Okay. And do you know the status of Judge</p> <p>17 Crouch's order restricting your litigation</p> <p>18 activities?</p> <p>19 A. There is no status of it.</p> <p>20 Q. Okay. So I should talk -- what cases was</p> <p>21 that order entered in?</p> <p>22 A. I don't know what the case number was.</p> <p>23 Q. What was the name of the case? Who were you</p> <p>24 suing?</p> <p>25 A. GoAmerica Communications Company.</p>
<p style="text-align: right;">15</p> <p>1 Q. And that gave rise to your motion to recuse</p> <p>2 her?</p> <p>3 A. No.</p> <p>4 Q. Do I understand --</p> <p>5 A. No. I don't know what she is -- what she</p> <p>6 intends to do. I have not spoken with Judge Crouch</p> <p>7 for -- I don't know. The last time we were in court,</p> <p>8 I think it was in June sometime.</p> <p>9 Q. Okay.</p> <p>10 A. So I don't know what it is that she's</p> <p>11 planning on doing or anything like that.</p> <p>12 Q. What was the outcome of the hearing that you</p> <p>13 had in the September day when we were first set to</p> <p>14 take your deposition here? What was the outcome of</p> <p>15 that motion to recuse?</p> <p>16 A. How is that relevant to this stuff?</p> <p>17 Q. Are you refusing to answer that question</p> <p>18 about --</p> <p>19 A. I'm just curious as to how it's relevant. I</p> <p>20 don't want to spend, you know, all day here just</p> <p>21 answering questions willy-nilly. I mean, we're here</p> <p>22 about a lawsuit that I filed against Lynda De La Vina</p> <p>23 and some others.</p> <p>24 Q. Okay. But will you bear with me? And if you</p> <p>25 have an objection to relevance, you can make it a</p>	<p style="text-align: right;">17</p> <p>1 Q. That was the defendant?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Were there other defendants that you</p> <p>4 added to that case?</p> <p>5 A. Yeah. But I don't remember what their names</p> <p>6 were. The main company was GoAmerica and then some</p> <p>7 of the people that worked at GoAmerica.</p> <p>8 Q. Did you file that case in 2008?</p> <p>9 A. Yeah, I think so.</p> <p>10 Q. Okay. I think I know the case that you're</p> <p>11 talking about. Now, coming back to the questions</p> <p>12 that I was asking you about your state here today,</p> <p>13 any reason to believe that you, you know, cannot give</p> <p>14 truthful answers in response to questions that I'm</p> <p>15 asking you?</p> <p>16 A. No. But sometimes my recollection might not</p> <p>17 be off.</p> <p>18 Q. My not be off or --</p> <p>19 A. Or might not be, you know, as it should be.</p> <p>20 Q. Okay. Would you let me know if you're having</p> <p>21 that kind of difficulty?</p> <p>22 A. Well, I'm not a medical doctor, and it's just</p> <p>23 like asking a person who's drinking whether or not</p> <p>24 they're drunk. You know, all drunks think that</p> <p>25 they're fine and safe to drive, but when looked at</p>

18	<p>1 objectively from a third-person point of drunk, you</p> <p>2 know, then you can obviously tell that even though</p> <p>3 the guy might think, "Yeah, I'm safe to drive, he</p> <p>4 probably isn't.</p> <p>5 Q. Okay. Who treated you in relationship to</p> <p>6 your -- what you're saying was your injury yesterday?</p> <p>7 A. I haven't seen a doctor yet. I'm going there</p> <p>8 tomorrow. I'm getting a -- I got a CT scan scheduled</p> <p>9 at 2:30 tomorrow.</p> <p>10 Q. Did anyone prescribed the brace that you're</p> <p>11 wearing right now?</p> <p>12 A. Well, yeah. I got this from the VA.</p> <p>13 Q. Okay. Was that something that you got</p> <p>14 yesterday or that you've had over time?</p> <p>15 A. No. I've had it over time --</p> <p>16 Q. So you --</p> <p>17 A. -- for different times when there's been</p> <p>18 injuries to the arm.</p> <p>19 Q. So --</p> <p>20 A. The whole joint is just kind of held together</p> <p>21 by screws and things line that. And, you know, when</p> <p>22 there's problem with it from putting too much stress</p> <p>23 on it or lifting too much or something like that --</p> <p>24 Q. When did you have the surgery that resulted</p> <p>25 in the hardware in your right arm?</p>	20
19	<p>1 A. I feel warm and fuzzy.</p> <p>2 Q. Okay. Who prescribed the -- did you call</p> <p>3 it -- what kind of medication?</p> <p>4 A. Morphine.</p> <p>5 Q. Who prescribed that for you?</p> <p>6 A. The VA.</p> <p>7 Q. And what doctor?</p> <p>8 A. Dr. Whitten.</p> <p>9 Q. And where is he located?</p> <p>10 A. At the VA.</p> <p>11 Q. Where?</p> <p>12 A. Here in San Antonio.</p> <p>13 Q. Okay. And what's the address of the VA in</p> <p>14 San Antonio?</p> <p>15 A. I don't know what the address is. It's in</p> <p>16 the Medical Center.</p> <p>17 Q. Dr. Whitten is a medical doctor?</p> <p>18 A. Yes.</p> <p>19 Q. Is he your primary care person at the Medical</p> <p>20 Center?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And when do you believe he last</p> <p>23 prescribed you morphine?</p> <p>24 A. Let's see. It was refilled maybe three weeks</p> <p>25 ago.</p>	21
19	<p>1 Q. And that was for the purpose of treating what</p> <p>2 pain?</p> <p>3 A. Correct.</p> <p>4 Q. What pain --</p> <p>5 A. Pain.</p> <p>6 Q. -- did he prescribe that for?</p> <p>7 A. For pain.</p> <p>8 Q. What part of your body?</p> <p>9 A. Well, I have pains in my neck. I have pains</p> <p>10 in my back. I have pains in my arm.</p> <p>11 Q. Okay.</p> <p>12 A. Because of the pains in my arm, I can't sleep</p> <p>13 well at night. So I take something different to help</p> <p>14 me sleep at night.</p> <p>15 Q. Okay.</p> <p>16 A. You know, I can feel the hardware moving and</p> <p>17 rubbing in my arm at times. And it just drives me</p> <p>18 nuts, and it hurts like hell. Other times it's okay.</p> <p>19 Q. Okay.</p> <p>20 A. But sometimes if I do too much with it --</p> <p>21 and I've seen the hardware that they have in there</p> <p>22 because during one of the surgeries they had to</p> <p>23 remove all of the hardware and put some new stuff in,</p> <p>24 and I asked them to save the old stuff so I could</p> <p>25 look at it.</p>	21

22	<p>1 Q. Okay.</p> <p>2 A. And it looks like an erector set materials,</p> <p>3 is really what it is. And, you know, I swear to God</p> <p>4 I can hear it bending and creaking, but the doctors</p> <p>5 say it's not. But I can -- I can feel it.</p> <p>6 Q. Okay. A couple of other questions about the</p> <p>7 origins of these pains: You said you've had a few</p> <p>8 motorcycle accidents?</p> <p>9 A. One.</p> <p>10 Q. Okay, one. That gave rise to the surgery</p> <p>11 that originally installed the hardware in your right</p> <p>12 arm?</p> <p>13 A. No, no.</p> <p>14 Q. Okay.</p> <p>15 A. No. The motorcycle accident was before the</p> <p>16 arm injury.</p> <p>17 Q. Okay. When was the motorcycle accident?</p> <p>18 A. I think it was in March or April of 2005.</p> <p>19 Q. Okay.</p> <p>20 A. And really, again, these are just like</p> <p>21 irrelevant, and I'm pretty much going to stop</p> <p>22 answering these questions because they don't have</p> <p>23 anything to do with this case. It just sounds more</p> <p>24 like a fishing expedition to me, and, you know,</p> <p>25 making inquiries of my personal, private medical</p>	24
23	<p>1 background just doesn't seem applicable to this.</p> <p>2 Q. Well, Mr. Retzlaff, you have to understand</p> <p>3 that part of what I'm doing here is asking you</p> <p>4 questions that relate to your ability to testify here</p> <p>5 today, and by getting a chronology of what the</p> <p>6 injuries are and when they occurred, we can assess</p> <p>7 better -- a reader of the transcript can better</p> <p>8 assess your capability to testify accurately under</p> <p>9 oath here today. So --</p> <p>10 A. Well, a three-year-old motorcycle accident</p> <p>11 certainly doesn't have --</p> <p>12 Q. That's why I'm asking you when it happened.</p> <p>13 So it happened in March of 2005?</p> <p>14 A. Right.</p> <p>15 Q. And, then, since then you've suffered an</p> <p>16 injury that has caused the installation of hardware</p> <p>17 in your right arm?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. When did that happen?</p> <p>20 A. That happened on Thanksgiving of 2006. I was</p> <p>21 arm wrestling.</p> <p>22 Q. Okay. And then you ended up having surgery</p> <p>23 as a result of that injury?</p> <p>24 A. Yeah, and then a couple of months later</p> <p>25 surgery again.</p>	25

<p style="text-align: right;">26</p> <p>1 originally set your deposition, you haven't seen any 2 doctor --</p> <p>3 A. A medical doctor?</p> <p>4 Q. -- or medical provider?</p> <p>5 A. No, I don't think. You mean since two weeks 6 ago?</p> <p>7 Q. Since the day that we -- that you appeared in 8 court to move to recuse Judge Crouch, number one, and 9 on that same day the day that you went to The Pain 10 Clinic next to University Hospital.</p> <p>11 A. Yeah. I don't think so.</p> <p>12 Q. Okay. You sound unsure about that?</p> <p>13 A. Well, I mean, I've got lots of different 14 appointments going on at lots of different times --</p> <p>15 Q. Okay. And then --</p> <p>16 A. -- on many different things.</p> <p>17 Q. -- you're saying that your intention is to go 18 to a doctor tomorrow?</p> <p>19 A. Well, I have an appointment tomorrow.</p> <p>20 Q. Okay. And that's to see who?</p> <p>21 A. That's to get a CT scan done.</p> <p>22 Q. Okay. Where?</p> <p>23 A. At the VA.</p> <p>24 Q. So that's an appointment that you have with 25 Dr. Whitten?</p>	<p style="text-align: right;">28</p> <p>1 Q. Okay. In light of this history, you let me 2 know if you are for some reason not able to testify 3 today because of a drug that you believe you're 4 taking, okay?</p> <p>5 A. I'll do my best.</p> <p>6 Q. Okay. Would you tell us your social security 7 number?</p> <p>8 A. No.</p> <p>9 Q. You're refusing to answer that question?</p> <p>10 A. Yeah.</p> <p>11 Q. Okay. What is your address -- your home 12 address?</p> <p>13 A. P.O. Box 92, San Antonio 78291-0092.</p> <p>14 Q. Where do you live?</p> <p>15 A. That's my address.</p> <p>16 Q. What is your -- where do you live in San 17 Antonio?</p> <p>18 A. I'm not giving that.</p> <p>19 Q. You're not providing the Defendants with your 20 social security number or where you live in San 21 Antonio?</p> <p>22 A. Correct.</p> <p>23 Q. Who do you live with?</p> <p>24 A. Myself.</p> <p>25 Q. You live alone?</p>
<p style="text-align: right;">27</p> <p>1 A. No. Whitten is just -- he's just the GP guy. 2 He doesn't run the machines. He doesn't interpret 3 the results or do anything like that.</p> <p>4 Q. Okay. In terms of who you have your 5 appointment with tomorrow, as far as you know where 6 do you go? Who do you see?</p> <p>7 A. Well, it'll be at the X-ray Department. So 8 I'll show up there and see whoever is there to see.</p> <p>9 Q. A radiologist of some sort?</p> <p>10 A. I don't know.</p> <p>11 Q. Okay. Well, you made the appointment with 12 somebody. And the question is who --</p> <p>13 A. No. Actually I didn't make the appointment. 14 The appointment was made for me.</p> <p>15 Q. Okay. By Dr. Whitten?</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 A. They -- they -- you know, they -- I don't 19 know how their system works, but you get a call or a 20 letter in the mail or whatever --</p> <p>21 Q. Okay.</p> <p>22 A. -- telling you to show up.</p> <p>23 Q. You in light of --</p> <p>24 A. In fact, I got to get a blood test, too, 25 today. I forgot.</p>	<p style="text-align: right;">29</p> <p>1 A. At times.</p> <p>2 Q. Do you live with anyone -- share your 3 residence with anyone now?</p> <p>4 A. Not right at this exact moment.</p> <p>5 Q. Okay. When did you last share your residence 6 with another person, and who was that person or 7 people?</p> <p>8 A. Why is that relevant?</p> <p>9 Q. These are ordinary civil discovery requests.</p> <p>10 A. Well, it's not ordinary to me, and I'm not 11 going to answer them.</p> <p>12 Q. Okay. Are you married?</p> <p>13 A. No.</p> <p>14 Q. Have you been married?</p> <p>15 A. Yes.</p> <p>16 Q. And what was your wife's name?</p> <p>17 A. Again, that's -- listen, you want to start 18 asking me questions.</p> <p>19 Q. Mr. Retzlaff, I'm sorry. Look, these are 20 questions I ask of every single, solitary civil 21 plaintiff in a case where they've sued the people I 22 represent.</p> <p>23 A. Okay.</p> <p>24 Q. They're within bounds. They're?</p> <p>25 A. Well, you say that. I don't think they are.</p>



<p style="text-align: right;">30</p> <p>1 Q. That's fine. But I'm telling you they're 2 within bounds, and they're not for any improper 3 purpose on my part. And if you want to continue to 4 refuse questions -- proper questions that we have 5 about you and about your claims ultimately -- 6 A. Well, you haven't asked anything about my 7 claims. 8 Q. First I'm asking you questions -- background 9 information, basic questions about who you are and 10 your circumstances. These are ordinary questions. I 11 will continue these questions. 12 A. Okay. 13 Q. If you want to continue to refuse these 14 questions, I suppose you can elect to improperly do 15 that, but, you know, you're just delaying the course 16 of getting through a proper course of civil 17 discovery. So I'm going to go ahead -- first I'm 18 going to object to your question -- your answers to 19 these proper questions as nonresponsive. 20 And then I'm going to reask, have you 21 ever been married? 22 A. Okay. See, now, it's your position that 23 they're proper. 24 Q. I'm not going to debate you. 25 A. Okay.</p>	<p style="text-align: right;">32</p> <p>1 have? 2 A. Yeah, pretty much. 3 Q. How -- well, pretty much. What else? 4 A. Well, sometimes I might find a scratch-off 5 ticket where I'll get lucky. 6 Q. Okay. So you get student loan money and buy 7 lottery tickets with it? 8 A. No. I just -- 9 Q. Okay. Then what is the source of the income 10 that you use to buy lottery tickets? 11 A. Student loans. 12 Q. Okay. And what else? 13 A. And the only time I buy a lottery ticket is 14 if the jackpot is over 50 million dollars. 15 Q. Okay. So -- 16 A. And I buy one ticket. 17 Q. So what are all of your sources of income? 18 A. Well, sometimes my family is nice enough to 19 loan me some money. 20 Q. Okay. And in terms of the income that you do 21 have, how much and how often do you receive it in the 22 form of student loans? 23 A. Once in the fall, once in the spring. 24 Q. Okay. When is the last time that you 25 received a disbursement of student loan money?</p>
<p style="text-align: right;">31</p> <p>1 MR. HAGEN: I'll object as 2 nonresponsive. 3 Q. (BY MR. HAGEN) Go ahead. And the question 4 is, what is the name of your former wife, your 5 ex-wife? 6 A. And, again, that's not relevant. 7 Q. Okay. So you're refusing to answer that 8 question? 9 A. Yes. 10 Q. Okay. You've answered that you have been 11 married in the past, correct? 12 A. Yes. 13 Q. Okay. Do you have children? 14 A. Yes. 15 Q. Okay. What are their names? 16 A. That's not relevant either. 17 Q. Who do they live with? 18 A. One lives on their own, and one lives with 19 the mother. 20 Q. Okay. What are their ages? 21 A. That's not relevant to this either. 22 Q. In terms of your income, what is your current 23 source of income? 24 A. Student loans. 25 Q. Is that the only source of income that you</p>	<p style="text-align: right;">33</p> <p>1 A. This fall. 2 Q. Okay. Are you enrolled in school? 3 A. Yes. 4 Q. Where are you enrolled? 5 A. Not relevant. 6 Q. Are you refusing to answer the question about 7 where you're enrolled in school? 8 A. Yeah. 9 Q. How much did you receive in the form of a 10 student loan disbursement this fall? 11 A. I'm not going to answer that either. 12 Q. How much money do you receive as gifts or 13 loans from your family? 14 A. I'm not sure because I don't keep track. 15 Q. Okay. Is it on an annual basis or monthly 16 basis even as, you know, 500 bucks a month? 17 A. It's not -- 18 Q. Is it -- 19 A. -- on a monthly basis. It's just whenever. 20 Q. How much is it? 21 A. There's no set amount. 22 Q. How much do you remember last receiving as 23 in the form of a gift or loan from your family? 24 A. I think 1,500. 25 Q. Okay. When did that happen?</p>

34	<p>1 A. I'm not sure.</p> <p>2 Q. Who gave it to you?</p> <p>3 A. My father.</p> <p>4 Q. Does -- what is his name?</p> <p>5 A. Robert.</p> <p>6 Q. Retzlaff is his --</p> <p>7 A. Yes.</p> <p>8 Q. -- last name? Does he live in San Antonio?</p> <p>9 A. No.</p> <p>10 Q. Where does he live?</p> <p>11 A. It doesn't matter. It's not relevant. This</p> <p>12 isn't a fishing expedition, okay?</p> <p>13 Q. Mr. Retzlaff, I have seen several lawsuits</p> <p>14 that you have filed claiming poverty status for</p> <p>15 excusing yourself from filing a fee associated with</p> <p>16 your lawsuit. Are you aware of that?</p> <p>17 A. Yes.</p> <p>18 Q. You've done that many times, haven't you?</p> <p>19 A. I wouldn't say many times.</p> <p>20 Q. You've done it five times in relationship to</p> <p>21 UTSA -- at least five times in relationship to UTSA</p> <p>22 or its officials, correct?</p> <p>23 A. Yes.</p> <p>24 Q. You've done it at least five times since</p> <p>25 November of 2007, correct?</p>	36
35	<p>1 A. I don't think so.</p> <p>2 Q. Okay. Well, the record speaks for itself,</p> <p>3 and we can look to that in terms of your state court</p> <p>4 litigation.</p> <p>5 A. Okay.</p> <p>6 Q. But you've also done it in relationship to</p> <p>7 the state court case that you brought against Li-Dan</p> <p>8 Xu, X-u --</p> <p>9 A. I guess.</p> <p>10 Q. -- correct? A defendant that you sued,</p> <p>11 Danielle Xu, in one of these cases, correct?</p> <p>12 A. Oh. Yeah, I guess.</p> <p>13 Q. Okay. So my question for you is, what are</p> <p>14 all the sources of your income?</p> <p>15 A. Okay.</p> <p>16 Q. So answer the question.</p> <p>17 A. Well, again, I don't think that that's</p> <p>18 relevant to the claims in this case.</p> <p>19 Q. Okay. So you're refusing to answer the</p> <p>20 question about what your income sources are. Just</p> <p>21 for my benefit and information, for the Court's</p> <p>22 benefit and information, is that the position you're</p> <p>23 taking?</p> <p>24 A. Well, I get student loans. I occasionally</p> <p>25 get some money loaned to me from my father.</p>	37
36	<p>1 Q. What is your father's name?</p> <p>2 A. I told you his name --</p> <p>3 Q. Okay. Where does --</p> <p>4 A. -- is Robert.</p> <p>5 Q. Robert Retzlaff. Where does Robert Retzlaff</p> <p>6 live?</p> <p>7 A. He lives in Rochester, Minnesota.</p> <p>8 Q. Okay. You said the last amount of money he</p> <p>9 gave you was \$1,500; is that correct?</p> <p>10 A. I think so.</p> <p>11 Q. Okay. When did he give that to you?</p> <p>12 A. I'm not sure exactly when it was. I think it</p> <p>13 was to help out with some rent or something a couple</p> <p>14 of months ago.</p> <p>15 Q. Okay.</p> <p>16 A. I can't recall.</p> <p>17 Q. Before the \$1,500, where -- how much did he</p> <p>18 lend you --</p> <p>19 A. I don't recall.</p> <p>20 Q. -- the time before?</p> <p>21 A. I don't recall.</p> <p>22 Q. He's given you over \$20,000 in recent years?</p> <p>23 A. In my lifetime?</p> <p>24 Q. In the last four -- say, two years?</p> <p>25 A. I don't know.</p>	37

38	<p>1 note for him for \$50,000 at one point many years ago.</p> <p>2 Q. Okay. What other sources of income do you</p> <p>3 have?</p> <p>4 A. But as far as how much that he's loaned me</p> <p>5 altogether, I can't really say.</p> <p>6 Q. Okay. What other sources of income do you</p> <p>7 have?</p> <p>8 A. Nothing really.</p> <p>9 Q. Okay. Nothing really. I'm asking you about</p> <p>10 that "really" part. What else --</p> <p>11 A. Well, if --</p> <p>12 Q. -- do you have in the way of income?</p> <p>13 A. -- if I can pick up an odd job every now and</p> <p>14 then, I do so, but in my situation, it's sort of</p> <p>15 difficult to find a job for several reasons. One is,</p> <p>16 I have a felony conviction from 12 years ago. In</p> <p>17 addition, I've got physical disabilities.</p> <p>18 Q. Okay. Let me ask you about the employment</p> <p>19 that you've had in recent months or years. When is</p> <p>20 the last time you were employed?</p> <p>21 A. Maybe two years ago or three years ago.</p> <p>22 Q. Since two years ago, you haven't had the odd</p> <p>23 job that you just testified --</p> <p>24 A. And it was with --</p> <p>25 Q. -- that you took? Excuse me.</p>	40	
39	<p>1 A. Yeah.</p> <p>2 Q. The -- when is the last time you've had the</p> <p>3 odd job that you testified to taking?</p> <p>4 A. I'm not sure.</p> <p>5 Q. You don't remember working since two years</p> <p>6 ago?</p> <p>7 A. Well, I have done some work since then.</p> <p>8 Q. What's the work that you've done?</p> <p>9 A. You know, answering phones at a local</p> <p>10 business or doing emails or just odd jobs around the</p> <p>11 office.</p> <p>12 Q. Okay. So at the local business, what</p> <p>13 business did you work for?</p> <p>14 A. I'm not going to give that out.</p> <p>15 Q. Okay. In terms of creating emails, where did</p> <p>16 you create emails as an odd job?</p> <p>17 A. Well, no. I mean, just writing. I mean,</p> <p>18 emails come in, and then responses need to be made or</p> <p>19 organizing files, that kind of thing.</p> <p>20 Q. Who did you perform that work for?</p> <p>21 A. Okay. I'm not going to give that out.</p> <p>22 Q. Is that in the office environment that you</p> <p>23 made reference to?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. What office did you work for?</p>	<p>1 A. I'm not going to give that out.</p> <p>2 MR. HAGEN: And I'm objecting to all</p> <p>3 those responses as nonresponsive.</p> <p>4 THE WITNESS: Okay.</p> <p>5 Q. (BY MR. HAGEN) Where do you bank?</p> <p>6 A. I'm not going to give that out.</p> <p>7 Q. Do you have any hobbies?</p> <p>8 A. I like to play computer games.</p> <p>9 Q. Do you play golf?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And how often do you play golf?</p> <p>12 A. I haven't played golf in over a year.</p> <p>13 Q. Where did you play golf last?</p> <p>14 A. At La Cantera.</p> <p>15 Q. And who did you play golf with?</p> <p>16 A. I don't know who the people were with.</p> <p>17 Q. Did you play golf at La Cantera in 2007?</p> <p>18 A. I'm not sure. I might have once. I think I</p> <p>19 might have once, but I'm not sure.</p> <p>20 Q. Where else have you played golf?</p> <p>21 A. That's the only place.</p> <p>22 Q. So you play golf, but you've golfed only one</p> <p>23 time in 2007?</p> <p>24 A. Well, I've got a bum arm.</p> <p>25 Q. Okay. I'm talking about in 2007. You said</p>	41

<p style="text-align: right;">42</p> <p>1 play golf in a tournament at Oak Hills in 2007?  2 A. No. I was at La Cantera.  3 Q. Okay. You played in a tournament there in  4 2007?  5 A. Yeah.  6 Q. Have you played any other tournaments in  7 recent years?  8 A. No.  9 Q. Okay. What was the tournament that you  10 played at La Cantera in 2007?  11 A. Well, it was with a local church group, and I  12 think it was to raise some money for a youth group or  13 something like that.  14 Q. Okay. What church?  15 A. You just said it, Oak Hills.  16 Q. Okay. That was the name of the church?  17 A. Yeah.  18 Q. Okay. And are you a member there, or why  19 were you golfing?  20 A. No. I was just told about the event and  21 decided to show up.  22 Q. Okay.  23 A. I hadn't golfed in a while and wanted to do  24 it. My dad had gotten me some new drivers, but I  25 never had a chance to use them.</p>	<p style="text-align: right;">44</p> <p>1 Q. Okay. So estimate for me --  2 A. I didn't say it, but what I'm saying, though,  3 is, it's -- I don't believe it's been more than 60.  4 Q. Okay. How many do you believe it's been?  5 And, you know, we can check records for this, too.  6 But --  7 A. Really?  8 Q. -- what's your best case estimate of how many  9 that you've filed?  10 A. In my whole life?  11 Q. Yes.  12 A. Even when represented by counsel?  13 Q. Yes.  14 A. And I'm not going to count appeals of cases.  15 Q. No. How many court filings --  16 A. Right.  17 Q. -- lawsuits, have you filed in civil  18 litigation in district court proceedings?  19 A. Just district court?  20 Q. State court level, Bexar County Court at Law  21 and all similar levels of courts?  22 A. I don't know, maybe 25.  23 Q. Okay. And so why did you tell Judge Rios  24 that you filed more than 50?  25 A. I don't know. I don't recollect the</p>
<p style="text-align: right;">43</p> <p>1 Q. Okay. And your testimony is, you haven't  2 golfed since 2007?  3 A. No. I never said that.  4 Q. Okay. When did you last golf in 2008?  5 A. I don't think I have golfed in 2008, but I'm  6 not sure, though.  7 Q. You may have golfed in 2008?  8 A. I may have, but I don't recollect it.  9 Q. Okay.  10 A. I don't think I have, but I don't know.  11 Q. Let me ask you, in terms of your civil  12 litigation history, how many civil lawsuits have you  13 filed?  14 A. I don't know.  15 Q. Estimating?  16 A. I don't know, more than 10.  17 Q. Did I understand from what you told Judge  18 Rios one time, that we had an appearance before her,  19 that it was more than 60?  20 A. I don't think it's been that many, no.  21 Q. We can get the transcript.  22 A. No. I'm just saying I don't think it's that  23 many. In fact, I'm pretty sure it's not --  24 Q. I can go get the transcript.  25 A. No. I'm not saying that.</p>	<p style="text-align: right;">45</p> <p>1 contents -- context of the conversation then.  2 Q. Do you remember that Judge Rios asked you how  3 many lawsuits you filed?  4 A. Not really.  5 Q. Okay. Do you --  6 A. I don't really remember it.  7 Q. Do you remember that you said something well  8 in excess of 50? You gave a range that was more to  9 the tune of --  10 A. What does this have to --  11 Q. -- 60 to 80. These are ordinary questions  12 that are asked --  13 A. Okay. But, see, I don't have all day to sit  14 here, and I'm not going to sit here all day. I've  15 got other things to do with my life.  16 Q. Okay. Let me ask you, then, how many do you  17 believe you've filed over time?  18 A. I told you. I think about maybe 25.  19 Q. Okay. So you believe that you've filed 25  20 lawsuits against -- in civil courts against people or  21 institutions?  22 A. Maybe.  23 Q. Okay. And where are those lawsuits filed?  24 A. Well, here in Bexar County and then in Bell  25 County and then --</p>

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1 Q. Who did you sue in Bell County?  
 2 A. Oh, I don't remember. There were several --  
 3 several things going on.  
 4 Q. Okay.  
 5 A. I don't know. This is 15 years ago. I don't  
 6 really recall offhand.  
 7 Q. Nothing more recent, you're testifying, in  
 8 Bell County?  
 9 A. No. There hasn't been any recent lawsuits in  
 10 Bell County at all.  
 11 Q. Okay. So Bell County, Bexar County. Where  
 12 else?  
 13 A. Well, let me ask my counsel here a question.  
 14 Q. Well, he is not your counsel.  
 15 A. Okay. Well, let me ask --  
 16 Q. He's been --  
 17 A. -- my good friend --  
 18 Q. He's been --  
 19 A. -- a question, then.  
 20 Q. He's been -- if you want legal advice, then  
 21 we're taking the position that he's your counsel in  
 22 this case.  
 23 A. Okay. Do you want accurate answers or not?  
 24 Q. And if he wants to confer this way with you,  
 25 then Mr. Martinez can be your counsel at today's

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1 deposition, and we'll -- we will proceed accordingly.  
 2 A. But who are you to dictate how he runs his  
 3 business in life?  
 4 Q. If he is not -- if you're going to confer  
 5 with him and he is not your counsel and he's taken  
 6 the position that he's not your counsel, then we're  
 7 going to invite Mr. Martinez to leave the deposition.  
 8 A. Well, you can invite whatever you want.  
 9 Okay. And you can dictate whatever you want, but  
 10 that doesn't mean I'm going to play along with it.  
 11 Q. Okay. Mr. Martinez has some decision-making  
 12 to do here, I think.  
 13 MR. HAGEN: If you're going to give him  
 14 legal counsel, Mr. Martinez --  
 15 THE WITNESS: Well, I wasn't asking for  
 16 legal --  
 17 MR. HAGEN: This, first of all, is just  
 18 something that we're having to do for the record.  
 19 THE WITNESS: Okay.  
 20 MR. HAGEN: And it's a position I'm  
 21 taking in light of the direction --  
 22 THE WITNESS: Sure.  
 23 MR. HAGEN: -- you're going here, and  
 24 you're --  
 25 THE WITNESS: Well, it's not a

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1 question --  
 2 MR. HAGEN: -- delaying the discovery  
 3 that the Defendants are doing and that they're  
 4 entitled to. So let me just take this position for  
 5 the record, and then you can --  
 6 THE WITNESS: Sure.  
 7 MR. HAGEN: -- make your mutual or  
 8 separate decisions.  
 9 If you're going to confer and give  
 10 legal counsel on this, Mr. Martinez, then we are  
 11 assuming that you're going to be counsel of record at  
 12 this deposition. If you're not going to give him  
 13 legal counsel at this time but -- or if you are,  
 14 rather, going to give him legal counsel at this time  
 15 but insist that you're not going to serve as his  
 16 counsel for today's deposition, we're going to ask  
 17 that you leave the deposition so there's not anymore  
 18 of this, okay?  
 19 THE WITNESS: Well, do you want correct  
 20 answers from me or not.  
 21 MR. HAGEN: And in light of that, if  
 22 you want to take five minutes to talk between  
 23 yourselves about what you want to do here, that's  
 24 fine. But when we return, you're either going to be  
 25 his counsel and you're going to speak and object and

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1 perform as counsel in the case for him, or if you're  
 2 going to, you know, give him legal advice in the  
 3 course of today's discovery proceedings, we're going  
 4 to invite you to leave because you've taken the  
 5 deposition that you're not his counsel, okay, so we  
 6 don't have continual interruption and things like  
 7 that.  
 8 MR. MARTINEZ: And, Mr. Hagen, I  
 9 appreciate your position, I appreciate your concerns,  
 10 and I'd appreciate that courtesy of a five-minute  
 11 break.  
 12 THE VIDEOGRAPHER: We are off the  
 13 record at 11:15.  
 14 (BRIEF RECESS)  
 15 THE VIDEOGRAPHER: This is the  
 16 beginning of Tape No. 2. We are back on the record  
 17 at 11:24.  
 18 MR. HAGEN: So we took a break so that  
 19 you could chat with Mr. Martinez who I think -- the  
 20 Plaintiff is you, Mr. Retzlaff.  
 21 And you, Mr. Martinez, taking the  
 22 position he's not representing you here today, do you  
 23 want to change the nature of that relationship or  
 24 not? Do you want to declare that you are now  
 25 representing Mr. Retzlaff, Mr. Martinez, for the

<p style="text-align: right;">50</p> <p>1 purpose of today's deposition or not?  2 MR. MARTINEZ: No. To reiterate, I  3 don't have a federal license. So I don't want to  4 violate any rules of the federal bar.  5 MR. HAGEN: Okay.  6 MR. MARTINEZ: I don't want to put  7 myself in a legal bind, and I don't want to -- you  8 know, I don't want to intrude on those concerns.  9 MR. HAGEN: Okay.  10 MR. MARTINEZ: It is my position that  11 once this case was removed that I could not act as  12 counsel in this case because I don't have leave of  13 the court to practice in federal court.  14 Q. (BY MR. HAGEN) Okay. Mr. Retzlaff, were you  15 seeking legal advice during the break from  16 Mr. Martinez?  17 A. I'm not going to talk about what he and I  18 talked about.  19 Q. I'm not asking you to talk about what you  20 talked about. I'm just asking you, did you seek  21 legal advice and communicate legal advice with him?  22 A. I'm not going to answer that question.  23 MR. HAGEN: Okay. Mr. Martinez, if  24 it -- so that there are not other interruptions and  25 in light of the one interruption that you we've had</p>	<p style="text-align: right;">52</p> <p>1 case. He is not your counsel. So we're asking  2 Martinez for the --  3 THE WITNESS: He is my employee.  4 MR. HAGEN: For the sake of making this  5 go faster and so that there are not additional  6 unnecessary interruptions, we are asking Mr. Martinez  7 to leave.  8 THE WITNESS: Well, an employee of the  9 party is certainly allowed to be present. I don't  10 see anything in the rules here that says they're not.  11 MR. HAGEN: Mr. Retzlaff, you have sued  12 the Defendants as a person, not as an employer.  13 Okay. This is a personal suit that stems from your  14 relationship to UTSA as a past student there. You're  15 contriving some interpretation out of somewhere, and  16 it does not make sense. So we're asking Mr. Martinez  17 to make a call.  18 THE WITNESS: Okay.  19 MR. HAGEN: We're asking you to leave.  20 By the way, if you want to retrospectively move to  21 become a member of the Western District for the  22 purpose of representing him, we are not going to  23 stand in your way. We would not oppose that. We  24 would not oppose any retrospective application or pro  25 hac vice. We would not oppose anything to bar your</p>
<p style="text-align: right;">51</p> <p>1 here and in light of the past agreements and  2 understandings that we've had and in light of the  3 fact that, you know, by standards were not brought to  4 our attention as other people who intended to attend  5 this deposition as for parties or for lawyers and the  6 folks who are recording the deposition, we're going  7 to ask that you leave the deposition. And that's the  8 Defendants' request.  9 THE WITNESS: And on what basis are you  10 making that request under the rules.  11 MR. HAGEN: There's been nothing  12 brought to my attention that you intended to have  13 anybody other than the parties at this deposition or  14 your counsel. He's neither one.  15 THE WITNESS: Or employees of the  16 party?  17 MR. HAGEN: He's neither one.  18 THE WITNESS: Or employees of the  19 party?  20 MR. HAGEN: He is not your attorney.  21 We've established that.  22 THE WITNESS: Or employees --  23 MR. HAGEN: And he's not a party in --  24 THE WITNESS: -- of the party?  25 MR. HAGEN: He is not a party to the</p>	<p style="text-align: right;">53</p> <p>1 entry legitimately into this federal -- now-federal  2 case. First, let me make that a hundred percent  3 understood.  4 MR. MARTINEZ: Okay.  5 MR. HAGEN: However, you have never  6 made a declaration that you intend to do that or want  7 to do that, and on the other hand, you have expressed  8 your reservations about participating as his counsel  9 now for the first time in light of its posture in  10 federal court. So because you're not representing  11 him in this federal litigation in light of your  12 licensing status, we're asking you to leave. And in  13 light of past occurrences here at this deposition and  14 the interference and problem it's caused in terms  15 of --  16 THE WITNESS: He's my employee.  17 MR. HAGEN: -- of, you know,  18 unnecessary interruptions and what I anticipate could  19 be many more interruptions of that sort, we're asking  20 you to excuse yourself from the deposition.  21 MR. MARTINEZ: You know, I am hesitant  22 to do that given the fact that I am still receiving  23 correspondence, and the Court in its last order  24 saw -- you know, had the opinion that Mr. Retzlaff is  25 represented by counsel.</p>

<p style="text-align: right;">54</p> <p>1 MR. HAGEN: Do you want to make 2 objections in the case? 3 MR. MARTINEZ: I have no desire to make 4 objections. 5 MR. HAGEN: Okay. Then there cannot be 6 further interruptions for the purpose of Mr. Retzlaff 7 conferring with you as counsel. 8 MR. MARTINEZ: And there will -- I can 9 guarantee that I will not participate in any further 10 interruptions. 11 MR. HAGEN: Okay. 12 MR. MARTINEZ: I will not be making 13 objections. 14 MR. HAGEN: Okay. 15 MR. MARTINEZ: But given -- in light of 16 the order that the Court just promulgated, I think 17 it's out of an abundance and in light of that order 18 that I believe it's in everyone's best interest that 19 I stay here in case there's any problems in the 20 future. 21 MR. HAGEN: Okay. So you will not 22 entertain more questions from -- 23 MR. MARTINEZ: I will -- 24 MR. HAGEN: -- Mr. Retzlaff -- 25 MR. MARTINEZ: I will not.</p>	<p style="text-align: right;">56</p> <p>1 finish your text message so that we can continue in 2 the course of this civil discovery and finish it in a 3 timely way so that you're not distracted and so that 4 you're able to concentrate and give truthful answers. 5 Let's give it five more minutes. 6 A. Just go ahead and ask your question. 7 Q. Mr. Retzlaff, I'm not going to inquire while 8 you're doing something else like sending text 9 messages. So I'm going to give you five minutes to 10 finish what you're doing, and we'll resume. Let's go 11 off the record. 12 THE VIDEOGRAPHER: We are off the 13 record at 11:30. 14 (BRIEF RECESS) 15 THE VIDEOGRAPHER: We are back on the 16 record at 11:35. And just to make clear on the 17 record, phone calls -- cell phones do cause 18 interference with these mikes. So if you're getting 19 a text message, phone calls, I can pick it up. So 20 please try to limit those. Thank you. 21 MR. MARTINEZ: I'll turn my phone off, 22 airplane mode. 23 Q. (BY MR. HAGEN) Okay. Mr. Retzlaff, we just 24 took a break so you could finish your text-messaging. 25 Are you done with that?</p>
<p style="text-align: right;">55</p> <p>1 MR. HAGEN: -- in the case, correct? 2 MR. MARTINEZ: Correct. 3 MR. HAGEN: Okay. So with that 4 understanding and reconfirmation, let's go ahead and 5 proceed with the deposition. 6 Q. (BY MR. HAGEN) We were on the topic of past 7 civil litigation history; is that right, 8 Mr. Retzlaff? 9 A. Yeah. 10 Q. And you now estimate that you've brought some 11 25 civil lawsuits against people over time, correct? 12 A. Approximately. 13 Q. Okay. And let me stop and ask you, is there 14 something that's distracting you that's in your lap? 15 A. Yeah, there is. 16 Q. What is that? 17 A. It's a text message that I got from a female 18 friend of mine, and I'm just writing her back about 19 what we're going to do tonight. 20 Q. Okay. Do you need a couple more minutes to 21 finish up -- 22 A. No. 23 Q. -- your text message? 24 A. No. Go ahead and ask your question. 25 Q. Well, I'll tell you what. I'll let you</p>	<p style="text-align: right;">57</p> <p>1 A. Sure. 2 Q. Okay. Can we have an agreement that if you 3 need to send text messages again that you'd ask to 4 take a break so that we can do that and complete this 5 discovery undistracted by text-messaging and cell 6 phone calls? 7 A. Yes. That's fine. 8 Q. Okay. We were talking about your civil 9 litigation history. Have you received any 10 compensation as a result of that litigation? 11 A. Yes. 12 Q. Okay. And in what forms? 13 A. I can't say. 14 Q. Did you receive settlements? 15 A. Well, there were confidential agreements 16 signed. So I cannot -- 17 Q. That's fine. The question is, did you settle 18 some of these lawsuits that you've brought? 19 A. Yes. 20 Q. Did you receive money as a result? And I'm 21 not talking about any particular lawsuit. 22 A. Sure. 23 Q. I'm just asking, have you -- 24 A. Again, I can't answer. 25 Q. Have you received money as a result of the</p>

<p style="text-align: right;">58</p> <p>1 settlements pursuant to the lawsuits that you've  2 testified you've brought?  3 A. I cannot answer that.  4 Q. Okay. You cannot or will not?  5 A. I can't/will not because of the  6 confidentiality agreements that were made.  7 Q. Okay. So you will not answer when you last  8 received any settlement money under one or more of  9 these lawsuits?  10 A. Yes.  11 Q. Okay. You're refusing to answer that  12 question, too?  13 A. Yes, because there was a confidential  14 settlement agreement.  15 Q. Okay. And I'm not asking about the lawsuit,  16 mind you. I'm just asking --  17 A. Well, it sounds like it.  18 Q. No. I'm asking -- without reference to any  19 particular lawsuit, I'm asking you about settlement  20 money that you received under one or more of these  21 lawsuits that you've brought. Do you understand that  22 generic question?  23 A. Not really. I just better not answer it  24 because I don't want to violate any agreement or a  25 court order.</p>	<p style="text-align: right;">60</p> <p>1 A. Denise Retzlaff.  2 Q. All right. Have you ever sued her?  3 A. Yeah, over some property that turned up  4 missing.  5 Q. Okay. And how long ago did you sue Denise  6 Retzlaff, your ex-wife --  7 A. It was like --  8 Q. -- for missing property?  9 A. It was like 10 years ago, I think. I'm not  10 sure. It was a long time ago.  11 Q. Are you still in touch with Denise Retzlaff?  12 A. Yes.  13 Q. And where does she live?  14 A. Well, I don't really want to answer. See,  15 some of these questions here I don't want to answer,  16 not because of the civil case, but because, you know,  17 the UTSA police has threatened me with investigations  18 about various, nonspecific sort of things. So, you  19 know, I certainly realize that answers here can be  20 used there. So I'm just going to exercise my right  21 to remain silent about that.  22 Q. About where your ex-wife lives?  23 A. Yes.  24 Q. Okay.  25 A. Yes, you know, because right now you're</p>
<p style="text-align: right;">59</p> <p>1 Q. Okay. So you're not going to testify about  2 when it was that you last received money or other  3 proceeds from one or more of these lawsuits that you  4 brought?  5 A. Correct.  6 Q. You will not answer that?  7 A. Correct.  8 Q. In terms of the people that you've sued in  9 the past, I'm familiar with some of them. Respecting  10 the Bell County lawsuits that you brought, who did  11 you sue in those lawsuits?  12 A. I -- this is 15 years ago. I don't really  13 recollect. I mean, it's not like I kept track of  14 names and things like that.  15 Q. You said that you were once married but no  16 longer married. You're divorced --  17 A. Yes.  18 Q. -- correct? And you refused to give the name  19 of your ex-wife, correct?  20 A. Yeah.  21 Q. You want to stick by that?  22 A. No. Her name is Denise.  23 Q. Okay. Now you want to tell me her name?  24 A. Yeah.  25 Q. Okay.</p>	<p style="text-align: right;">61</p> <p>1 basically acting as an agent for the university and  2 for the university police department.  3 Q. Mr. Retzlaff, for clarification, I am the  4 attorney for people you have sued. It's a federal  5 lawsuit. You have claimed a lot of violations of a  6 lot of laws against the people I represent.  7 A. No, I haven't.  8 Q. I get to ask you questions because of your  9 lawsuit. Do you understand that?  10 A. I understand that.  11 Q. Okay.  12 A. But --  13 Q. Fair enough. Let's go on with the  14 deposition.  15 A. Okay.  16 Q. Have you ever seen a psychologist or a  17 psychiatrist?  18 A. Yes.  19 Q. When is the last time?  20 A. I'm supposed to see one today, but because we  21 have this thing --  22 Q. Okay. Who is your psychologist or your  23 psychiatrist?  24 A. It's at the VA.  25 Q. What's the name of the VA psychologist or</p>



<p style="text-align: right;">62</p> <p>1 psychiatrist?</p> <p>2 A. Dr. Getzsinger.</p> <p>3 Q. And how long have you seen Dr. Getzsinger?</p> <p>4 For how many years or months?</p> <p>5 A. I think it's like seven or eight months, but</p> <p>6 I'm not sure.</p> <p>7 Q. Okay. And did --</p> <p>8 A. There's another one down there, too, I see,</p> <p>9 but I don't remember his name.</p> <p>10 Q. Did your primary care physician recommend</p> <p>11 that you see Dr. Getzsinger?</p> <p>12 A. I asked him for a referral.</p> <p>13 Q. Okay. And why did you ask him for a</p> <p>14 referral?</p> <p>15 A. That's none of your business. That's --</p> <p>16 Q. Has he -- has Dr. Getzsinger or another VA</p> <p>17 psychologist or psychiatrist diagnosed you with any</p> <p>18 mental condition?</p> <p>19 A. I don't know what they write in their pieces</p> <p>20 of paper. I haven't seen them.</p> <p>21 Q. Has your psychologist or psychiatrist ever</p> <p>22 told you a diagnosis of any sort associated with that</p> <p>23 treatment?</p> <p>24 A. Depression.</p> <p>25 Q. Anything else?</p>	<p style="text-align: right;">64</p> <p>1 A. It's to help with depression.</p> <p>2 Q. Any other psychological-psychiatric type</p> <p>3 medication?</p> <p>4 A. No.</p> <p>5 Q. Have you ever had a medical or -- I'm sorry.</p> <p>6 Have you ever had a psychiatric evaluation?</p> <p>7 A. Well, I think every time you see those people</p> <p>8 they're evaluating you.</p> <p>9 Q. Right. Have you ever had a report prepared</p> <p>10 under an evaluation stating some conclusions or</p> <p>11 diagnosis?</p> <p>12 A. I don't think I've ever done one of those at</p> <p>13 the VA.</p> <p>14 Q. Okay. Have you ever had one of those done</p> <p>15 somewhere else?</p> <p>16 A. Not that I can recall.</p> <p>17 Q. Did any -- I thought I noticed that a</p> <p>18 court -- a criminal court had ordered you to undergo</p> <p>19 psychiatric evaluation. Am I mistaken about that?</p> <p>20 A. Well, if it was from a criminal case, I</p> <p>21 wouldn't really -- 15 years ago -- God, 12 years</p> <p>22 ago -- 12 years ago.</p> <p>23 Q. Okay. Did you have a psychiatric --</p> <p>24 A. I'm thinking that during the divorce case I</p> <p>25 think we both -- both of us had evaluations done.</p>
<p style="text-align: right;">63</p> <p>1 A. Not that I can think of.</p> <p>2 Q. Are you taking any psychiatric medication?</p> <p>3 A. Yes.</p> <p>4 Q. What are you taking?</p> <p>5 A. Lorazepam and something. I can't pronounce</p> <p>6 it. It starts with like f-l-o-x, but I can't</p> <p>7 pronounce it.</p> <p>8 Q. Okay. And what does Lorazepam treat?</p> <p>9 A. I don't know. I'm not a medical doctor.</p> <p>10 Q. Okay. Do you have any understanding about</p> <p>11 why you're taking Lorazepam?</p> <p>12 A. Well, it helps with like anxiety and stuff.</p> <p>13 Q. Okay. And this other drug that begins, you</p> <p>14 think, f-l-o-x?</p> <p>15 A. Yeah.</p> <p>16 Q. What do you understand --</p> <p>17 A. Floxinide [sic].</p> <p>18 Q. Okay.</p> <p>19 A. I'm not sure about that.</p> <p>20 Q. Floxinide [sic]?</p> <p>21 A. I don't know. I -- that -- I don't know. I</p> <p>22 just know it starts with the letter F, and it's got</p> <p>23 an l and an x in it. But, you know --</p> <p>24 Q. Okay. What do you understand that is to</p> <p>25 treat?</p>	<p style="text-align: right;">65</p> <p>1 Q. Let me ask you, was a condition of your</p> <p>2 probation or parole ever that you undergo a</p> <p>3 psychiatric evaluation?</p> <p>4 A. Yeah, there was. But I never did it.</p> <p>5 Q. Okay. Did you get excused from that</p> <p>6 condition, or was that just something that you never</p> <p>7 got done?</p> <p>8 A. It's just something I never got done because</p> <p>9 it was their responsibility to make it happen if they</p> <p>10 felt that it needed to happen.</p> <p>11 Q. Okay. Have you ever had any other occasion</p> <p>12 to go and have a psychiatric evaluation? You said</p> <p>13 your divorce?</p> <p>14 A. Yeah. I'm not sure if in prison -- I think</p> <p>15 part of the intake there they do an evaluation and</p> <p>16 stuff.</p> <p>17 Q. Okay. What year was that?</p> <p>18 A. '97 or '98, I think.</p> <p>19 Q. Here's an authorization for release of</p> <p>20 medical records that comes into play in connection</p> <p>21 with claims that you've stated in your lawsuit that's</p> <p>22 now in federal court. I'm going to hand this to you</p> <p>23 and ask that at the conclusion of the deposition we,</p> <p>24 you know, make the authorization. Do you have any</p> <p>25 objection to that?</p>

<p style="text-align: right;">66</p> <p>1 A. I don't know. I haven't read it yet.  2 Q. Okay.  3 A. So I don't know.  4 Q. Here's a copy of what's being presented you.  5 A. Okay.  6 Q. And at some interval, we'll give you a chance  7 to read it and consider it, and you can make a  8 decision about it. Now, with respect to -- and like  9 I said at some interval during the deposition you can  10 review it all you want. I just want to make it clear  11 that it's been presented to you, and I may mark it as  12 an exhibit for the deposition.  13 A. I don't think I can really sign this -- okay.  14 I'm sorry. I didn't mean to cover that -- because it  15 seems overly broad. In addition, I don't think the  16 VA would accept it anyways.  17 Q. Okay. Have you made a decision already that  18 you're not going to --  19 A. No.  20 Q. -- release your records under that  21 authorization?  22 A. No. I haven't made a decision yet.  23 Q. Okay. At some interval in the deposition at  24 a break, you can look at it --  25 A. I don't know if I'll make --</p>	<p style="text-align: right;">68</p> <p>1 A. No. I understand.  2 Q. -- your authorization to gain medical  3 records, okay?  4 A. I understand.  5 Q. That's all --  6 A. I just don't see how mental anguish damages  7 have anything to do with --  8 Q. Your medical records?  9 A. No.  10 Q. It has a lot to do with it, but, again --  11 A. That's not what I was going to say.  12 Q. Again, you can take some time at a break to  13 read it all you want to --  14 A. What it has to do with --  15 Q. -- and come back on the record and tell me  16 your answer?  17 A. -- my cholesterol -- listen.  18 THE REPORTER: I can't take but one at  19 a time.  20 MR. HAGEN: Mr. Retzlaff --  21 THE WITNESS: Yeah.  22 MR. HAGEN: -- we have a court reporter  23 asking us to speak one at a time.  24 THE WITNESS: Sure. I thought I was  25 speaking first.</p>
<p style="text-align: right;">67</p> <p>1 Q. You can look at it, make a decision, and if  2 you don't -- if you're refusing to authorize it, we  3 can mark it as an exhibit for the deposition and go  4 on from there.  5 A. Yeah. I don't know if I'd make a deposition  6 during the deposition because I want to sit and study  7 it and research the law on it and things like that.  8 So -- and I'm just not going to sign a piece of paper  9 just because you throw it in front of me and ask me  10 to sign it.  11 Q. Sure. That's fine. And, Mr. Retzlaff, it is  12 you that have put damages relevant to medical  13 conditions into issue in this lawsuit, and I can  14 identify for you where in your lawsuit you do that.  15 A. No. I just -- I did look and I saw.  16 Q. Okay.  17 A. Yeah.  18 Q. You --  19 A. You asked for mental anguish --  20 Q. Right.  21 A. -- mental anguish --  22 Q. You are making claims for mental anguish --  23 A. Correct.  24 Q. -- and similar. So you put that into issue,  25 and that's why I have to ask you for --</p>	<p style="text-align: right;">69</p> <p>1 MR. HAGEN: It's Defendants'  2 deposition, and I'm telling you what I'm asking you  3 to do with that. That's all I want to do.  4 THE WITNESS: Sure.  5 Q. (BY MR. HAGEN) Okay. So let's move on with  6 the deposition. Can we agree to do that?  7 A. Well, I want to respond with this.  8 Q. You can respond after -- you've said that you  9 needed to take time to read it. So we'll do that  10 during a break. Are you okay with that --  11 A. Well --  12 Q. -- or you want to do that now?  13 A. -- I want to respond now, is that I don't see  14 what mental anguish damages have to do with my  15 cholesterol reports, you know, because basically  16 that's what you're asking about here --  17 Q. Okay. And we can --  18 A. -- with overly broad things like that, you  19 know, or with, you know, X-rays of my broken arm and  20 stuff like that. What does that have to do with  21 mental anguish, the upset that I felt from -- from  22 being defamed and stuff like that? You know, what  23 does that cholesterol level have to do with that, you  24 know? That's what I'm saying. It's overly broad.  25 It asks for everything.</p>

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1 Q. Okay. So after a break, you can tell us  
 2 specifically what part of that you're objecting to  
 3 and if we can find common ground on it. Is that  
 4 acceptable?  
 5 A. Sure.  
 6 Q. Okay. Let's move on. We talked about your  
 7 civil litigation history. I have to ask you about  
 8 your criminal litigation history and in particular,  
 9 you know, actions that the State has brought against  
 10 you to prosecute you. You've served for periods of  
 11 time incarcerated by the Texas Department of Criminal  
 12 Justice. Do I understand that correctly?  
 13 A. Just one period of time.  
 14 Q. What stretch of time? What month of what  
 15 year to what month of what year were you  
 16 incarcerated?  
 17 A. It was like '97 to 2004 when I filed that  
 18 lawsuit against the Parole Board and was released.  
 19 Q. Okay. So do you remember the month of '97  
 20 that you went in?  
 21 A. No.  
 22 Q. Was it Huntsville?  
 23 A. I guess.  
 24 Q. You don't know where you were confined?  
 25 A. Well, that's where you go to first. I don't

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1 know where it was that I went to first.  
 2 Q. Okay. So --  
 3 A. You know, they take you to like a central  
 4 praise, and then from there you get moved to many  
 5 other different places.  
 6 Q. Okay. How -- you said you went in in 1997,  
 7 and then you --  
 8 A. '97 or '98, yeah.  
 9 Q. And you were released in 2004?  
 10 A. Yeah.  
 11 Q. Okay. With respect to that period of  
 12 confinement, why were you in jail during that -- or  
 13 in prison during that time?  
 14 A. For unlawfully carrying a weapon in a  
 15 prohibited place.  
 16 Q. And what were the circumstances of that --  
 17 A. There was a camping knife in the locked glove  
 18 box of my car. It was five and three-quarters of an  
 19 inch long.  
 20 Q. And where were you at with that knife?  
 21 A. The car was parked. I was outside of the car  
 22 fixing to pick up my kids from school. And,  
 23 ridiculously enough, three months after this thing  
 24 the law changed where if you have a knife in the  
 25 glove box of your car you're good to go. It's not an

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1 offense.  
 2 Q. What school were you at?  
 3 A. I don't remember the name of it.  
 4 Q. This was a weapon-in-a-school-zone  
 5 conviction?  
 6 A. I don't think that's what it was called, but,  
 7 in essence, yeah.  
 8 Q. Okay. Where were they in school?  
 9 A. Well, they were -- school was ending, and I  
 10 was picking them up.  
 11 Q. What --  
 12 A. So I don't know where they were at.  
 13 Q. What community were they in school?  
 14 A. Oh this was in Temple.  
 15 Q. Okay.  
 16 A. Temple, Texas.  
 17 Q. So Temple ISD?  
 18 A. I guess.  
 19 Q. What was the name of their school?  
 20 A. I don't remember.  
 21 Q. You don't -- was it elementary school, middle  
 22 school, was it high school?  
 23 A. It was elementary.  
 24 Q. And so you were arrested. Were you on  
 25 probation in 1997?

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1 A. I was on probation because of that.  
 2 Q. Okay. Well, what got you put away from '97  
 3 to 2004 --  
 4 A. Well, they claimed that I --  
 5 Q. -- in addition to the fact that --  
 6 A. Sure.  
 7 Q. -- you were convicted of this weapons charge  
 8 in a school zone?  
 9 A. Well, that's -- the UCW charge is what I was  
 10 on probation for. But then the probation was  
 11 revoked, and that's what I was sent to prison for.  
 12 Q. Okay. So --  
 13 A. So there wasn't like there was a new charge  
 14 or anything like that. It was just a continuation of  
 15 the --  
 16 Q. So what revoked your probation? What  
 17 offense?  
 18 A. Well, there wasn't a new offense.  
 19 Q. Okay. What condition --  
 20 A. There was some technical --  
 21 Q. Why did you go to jail --  
 22 A. There was some -- some --  
 23 Q. -- in '97 or '98?  
 24 A. I don't recall exactly, but I believe it was  
 25 some sort of technical violations. I missed a

<p style="text-align: right;">74</p> <p>1 meeting. There was -- I don't know -- several things  2 that they had down there. I don't recall exactly  3 because it was a long time ago.  4 Q. Did you have in March of 1997 a charge and  5 conviction of tampering with evidence or a government  6 record?  7 A. I'm not sure.  8 Q. Okay.  9 A. I'm not sure of the date.  10 Q. Well, did you in March -- well, in 1997 at  11 any time, did you have that sort of charge and  12 conviction?  13 A. Yeah. I think so.  14 Q. Is that what sent you to --  15 A. No.  16 Q. -- prison?  17 A. No.  18 Q. Okay. What sent you to prison?  19 A. The prison was because of the revocation of  20 the probation. The misdemeanor charge that you  21 mentioned, that was -- that was before or after. I  22 don't know, but it had nothing to do with the  23 probation revocation.  24 Q. Okay. So what revoked your probation that  25 caused you to go to jail from '97 to 2004?</p>	<p style="text-align: right;">76</p> <p>1 Q. Okay. And why specifically was --  2 A. I don't recall what the specifics were.  3 Q. Okay. Did you have -- in 1994 did you have a  4 charge brought against you for fleeing a police  5 officer?  6 A. I think so.  7 Q. Okay. And did you have in 1995 a charge  8 brought against you for harassing communication?  9 A. Yeah. But that was dismissed.  10 Q. Did you -- were you fined \$500 and some court  11 costs and got six months of deferral?  12 A. I don't remember that. I know it was like it  13 dropped to a Class C and it was dismissed.  14 Q. Okay. And who was the harassing  15 communication to?  16 A. Oh, it was an ex-girlfriend.  17 Q. In 1995 were you on a couple of other  18 occasions also charged with harassment?  19 A. No.  20 Q. Okay. In --  21 A. I don't believe so.  22 Q. In 1996 did you get charged with sexual  23 assault?  24 A. No.  25 Q. You've never been charged with sexual</p>
<p style="text-align: right;">75</p> <p>1 A. Asked and answered.  2 Q. Well, what is the answer?  3 A. I believe I told you it's because of some  4 technical violations. I believe one of them dealt  5 with missing a meeting.  6 Q. Okay.  7 A. But I can't say for sure because it was a  8 very long time ago, and it's not something that I've  9 really thought about since then.  10 Q. So your testimony here today under oath is  11 that you were on probation for this  12 weapons-in-a-school-zone conviction and that you  13 missed a probation meeting with a probation parole --  14 or parole officer, and that caused you to go to  15 prison from 1997 to 2004?  16 A. No.  17 Q. Is that your testimony?  18 A. No.  19 Q. Then --  20 A. That's not what I said.  21 Q. -- what is the cause of your --  22 A. I don't recall.  23 Q. Okay. You don't remember what got you in  24 prison from '97 to 2004?  25 A. It was a probation revocation.</p>	<p style="text-align: right;">77</p> <p>1 assault?  2 A. Well, my wife made the claim. This wasn't in  3 '96, though.  4 Q. Okay.  5 A. But my wife made the claim during the  6 divorce, I think, in '98 or something like that. She  7 made the claim, and it was a false claim. And the  8 lawsuit that I had about the missing property was  9 also for defamation for that, and I won a judgment  10 against her. In addition, the matter --  11 Q. Was that a default judgment?  12 A. I don't know what the default judgment is.  13 There was a court hearing on it, and the judge  14 awarded me damages.  15 Q. Did she appear --  16 A. I got a judgment --  17 Q. Did she appear? Did she appear? Did she  18 defend herself in that, case or did she not appear  19 and you took default judgment?  20 A. I don't know if she appeared or not. I was  21 in jail at the time.  22 Q. Okay.  23 A. So I don't know why she did or whether she  24 appeared or not. I was in jail at the time -- in  25 prison at the time.</p>

<p style="text-align: right;">78</p> <p>1 Q. Okay.</p> <p>2 A. But a judgment is a judgment, and it's a</p> <p>3 final judgment.</p> <p>4 Q. All right.</p> <p>5 A. In addition, the matter that you speak of is</p> <p>6 pending expungement.</p> <p>7 Q. Okay. Is that the sexual assault charge that</p> <p>8 was brought against you?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And your contention is that your wife</p> <p>11 brought that against you?</p> <p>12 A. Yeah. She did as leverage in the child</p> <p>13 custody case.</p> <p>14 Q. Okay. Did the State bring that charge</p> <p>15 against you after looking at it?</p> <p>16 A. No. They didn't look at it. They just</p> <p>17 brought the charge.</p> <p>18 Q. Okay. So the State did bring the charge?</p> <p>19 A. Yes, which was dismissed.</p> <p>20 Q. With respect to default judgments, you've</p> <p>21 claimed that you don't know what a default judgment</p> <p>22 is, correct?</p> <p>23 A. I didn't say that.</p> <p>24 Q. Okay.</p> <p>25 A. You asked me about her, whether she was there</p>	<p style="text-align: right;">80</p> <p>1 A. I'm not sure.</p> <p>2 Q. -- do you think it was?</p> <p>3 A. I'm not sure.</p> <p>4 Q. Okay. What were the circumstances of that?</p> <p>5 A. It was not relevant to this case.</p> <p>6 Q. Okay. You're not going to answer the</p> <p>7 question?</p> <p>8 A. Not really --</p> <p>9 Q. Okay.</p> <p>10 A. -- because Rule 609, rule of evidence, I'll</p> <p>11 make my objection based on that.</p> <p>12 Q. In 1997 we talked already about tampering</p> <p>13 with a government record. Do you remember that?</p> <p>14 A. I remember the charge, but that's about it.</p> <p>15 Q. What was that charge for?</p> <p>16 A. I don't know.</p> <p>17 Q. You don't remember?</p> <p>18 A. Not really.</p> <p>19 Q. Well, there's a difference between not</p> <p>20 remembering and not really remembering. Which is it?</p> <p>21 What do you remember about --</p> <p>22 A. Well, I don't think that there's a</p> <p>23 difference. You are putting words in my mouth.</p> <p>24 Okay. I don't recall. This was 12 years ago. I</p> <p>25 don't recall.</p>
<p style="text-align: right;">79</p> <p>1 or not. I don't know. I was in prison.</p> <p>2 Q. Okay. Do you know what a default judgment</p> <p>3 is?</p> <p>4 A. Yes, I did.</p> <p>5 Q. In fact, you've taken default judgments</p> <p>6 against people before, haven't you?</p> <p>7 A. If they don't show up in court, sure.</p> <p>8 Q. Right. Like you took a default judgment, I</p> <p>9 guess, against in a different state court lawsuit</p> <p>10 against Liu -- or Liu Family Foundation, took a</p> <p>11 default judgment against those entities or those</p> <p>12 people, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So you know what a default judgment</p> <p>15 is?</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 A. And I know it's as legitimate as a regular</p> <p>19 judgment.</p> <p>20 Q. In 1997 did you come up on a charge of</p> <p>21 selling or distributing or displaying harmful</p> <p>22 material to a minor? Was that charge brought against</p> <p>23 you?</p> <p>24 A. Yeah. But I don't think it was in '97.</p> <p>25 Q. Okay. What year --</p>	<p style="text-align: right;">81</p> <p>1 Q. Okay. You don't remember anything about why</p> <p>2 the State brought tampering with evidence charges</p> <p>3 against you?</p> <p>4 A. Not really, no. I don't recall, 12 years</p> <p>5 ago. It's not something that I prefer to dwell upon</p> <p>6 in my life, my past mistakes like that, and it's</p> <p>7 something that I've really put out of my mind.</p> <p>8 Q. Okay. I guess we can check, you know, the</p> <p>9 court records and opinions on the topic --</p> <p>10 A. It doesn't matter. It's not admissible</p> <p>11 anyways under Rule 609.</p> <p>12 Q. I'm asking you questions about your --</p> <p>13 A. Sure.</p> <p>14 Q. -- criminal litigation history.</p> <p>15 A. And if I don't recall, I don't recall.</p> <p>16 Q. They are -- again, I'll repeat. They are</p> <p>17 legitimate questions.</p> <p>18 A. No, they're not --</p> <p>19 Q. Okay.</p> <p>20 A. -- because they're not even admissible.</p> <p>21 Q. You can take that position, and that's for</p> <p>22 the Court --</p> <p>23 A. I mean, it says right here in the rule book.</p> <p>24 Q. Mr. Retzlaff, that's for someone other than</p> <p>25 you to decide?</p>

<p style="text-align: right;">82</p> <p>1 A. Why is that?</p> <p>2 Q. And --</p> <p>3 A. Is it for you to decide?</p> <p>4 Q. No.</p> <p>5 A. Sounds like it.</p> <p>6 Q. I'm not deciding it, but I'm not going to</p> <p>7 bicker with you. I'm going to get through this basic</p> <p>8 discovery --</p> <p>9 A. Okay.</p> <p>10 Q. -- sort of deposition questions. So going</p> <p>11 forward with state charges that have been brought</p> <p>12 against you over time, were you charged in the past</p> <p>13 with burglary of a habitation?</p> <p>14 A. Yeah. That's also part of the expungement,</p> <p>15 though.</p> <p>16 Q. And what were the circumstances of that</p> <p>17 burglary?</p> <p>18 A. I don't really know. I was accused of taking</p> <p>19 something from a hospital room.</p> <p>20 Q. Okay.</p> <p>21 A. And the charge was never filed, I don't</p> <p>22 believe. I think there was a report done. Filed --</p> <p>23 yeah, I guess filed, but it was dismissed.</p> <p>24 Q. So --</p> <p>25 A. And it's part of the expungement.</p>	<p style="text-align: right;">84</p> <p>1 Q. Were you charged with bodily injury -- doing</p> <p>2 her bodily injury in this assault?</p> <p>3 A. Yes. I was.</p> <p>4 Q. And how was that dealt with by the State?</p> <p>5 They charged you with it. And then what happened?</p> <p>6 A. Yeah. I think that one got dismissed. I'm</p> <p>7 not sure. There were some that I pled guilty for</p> <p>8 time served on because there wasn't any reason not</p> <p>9 to, and there were some that were dismissed.</p> <p>10 Q. Okay, time served. Do you mean that you were</p> <p>11 in county jail for some of these periods of time?</p> <p>12 A. Yeah.</p> <p>13 Q. Okay. So we established you were in jail</p> <p>14 from '97 through 2004 through the Texas Department of</p> <p>15 Criminal Justice --</p> <p>16 A. Well, no. I'm --</p> <p>17 Q. -- correct?</p> <p>18 A. I'm sorry. I didn't mean to interrupt. I'm</p> <p>19 also including time that I was in the county jail for</p> <p>20 that. As a condition of the probation, I had to do</p> <p>21 like 180 days in the county jail.</p> <p>22 Q. Okay.</p> <p>23 A. So I was including that as well. So --</p> <p>24 Q. Well, what year were you in county jail, and</p> <p>25 what county was it?</p>
<p style="text-align: right;">83</p> <p>1 Q. So the accusation was that you stole</p> <p>2 something from a hospital?</p> <p>3 A. Yeah, hospital room. That's what the</p> <p>4 accusation was.</p> <p>5 Q. Okay.</p> <p>6 A. Yeah.</p> <p>7 Q. And the State brought that charge against</p> <p>8 you. Do I understand that much?</p> <p>9 A. Yeah. And then the State dismissed it.</p> <p>10 Q. What hospital was it?</p> <p>11 A. Scott &amp; White Hospital.</p> <p>12 Q. Okay. In Temple?</p> <p>13 A. Yeah.</p> <p>14 Q. Okay. Were you charged with assaulting a</p> <p>15 family member?</p> <p>16 A. Yeah. I think so.</p> <p>17 Q. Okay. And what were the --</p> <p>18 A. Oh, yeah, yeah -- no. That's -- I remember</p> <p>19 now. That's at -- my wife did that again.</p> <p>20 Q. What were the circumstances of the --</p> <p>21 A. No assault took place.</p> <p>22 Q. -- assault charge? Okay. You were</p> <p>23 charged --</p> <p>24 A. It was just brought up during the divorce.</p> <p>25 I'm sorry.</p>	<p style="text-align: right;">85</p> <p>1 A. 1997, and it was Bell County.</p> <p>2 Q. And then your statement is that you were</p> <p>3 transferred to the TDCJ?</p> <p>4 A. Correct.</p> <p>5 Q. Were you in county jail before 1997?</p> <p>6 A. Just for like a brief arrest or something.</p> <p>7 Q. Okay. And what year was that?</p> <p>8 A. I think that was in '96 -- '95.</p> <p>9 Q. Okay. And for what offense was --</p> <p>10 A. I think that was that harassing communication</p> <p>11 thing that you mentioned.</p> <p>12 Q. Okay. And what county jail were you in?</p> <p>13 A. The same one.</p> <p>14 Q. In Bell County?</p> <p>15 A. Yeah.</p> <p>16 Q. Was -- did the State bring theft charges</p> <p>17 against you in 1997?</p> <p>18 A. Yeah.</p> <p>19 Q. And for what theft was that?</p> <p>20 A. Some library books, they claimed.</p> <p>21 Q. And were you convicted for those thefts?</p> <p>22 A. I pled to time served.</p> <p>23 Q. Okay. You pled guilty and were given time</p> <p>24 served earlier?</p> <p>25 A. Yeah.</p>

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1 Q. Okay. So in that time frame, did you go to  
 2 jail for the theft of -- county jail for the theft of  
 3 library books?  
 4 A. No, no. I was already in the jail for the  
 5 180 days as my probation. Okay. So --  
 6 Q. On what offense?  
 7 A. For the probation for the UCW offense.  
 8 Q. Okay.  
 9 A. Okay. One of the conditions of probation was  
 10 to do 180 days in the county jail, and so when these  
 11 misdemeanors came up, a lot of them I just pled to  
 12 time served on because I was already sitting there  
 13 getting credit. So there wasn't any reason not to.  
 14 And they dismissed a bunch, and I pled guilty to -- I  
 15 don't know -- maybe three or four misdemeanors.  
 16 Q. Okay. Including the theft charge?  
 17 A. Yeah. I think that was one of them.  
 18 Q. And that was for the library books?  
 19 A. Yeah.  
 20 Q. Okay. And then there was -- in relationship  
 21 to the library book charge, there was a tampering  
 22 charge brought against you, correct?  
 23 A. Yeah. I thought we talked about that.  
 24 Q. Yeah. But you couldn't remember anything  
 25 about it, remember? So now does that refresh your

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1 memory about the library books and the tampering  
 2 charge --  
 3 A. Yeah.  
 4 Q. -- in relationship --  
 5 A. Yeah.  
 6 Q. -- to the library books?  
 7 A. Yeah.  
 8 Q. What was the tampering charge?  
 9 A. Yeah, the checkout slips for the library  
 10 books.  
 11 Q. Okay. You doctored those in a way to --  
 12 A. Well, that's what they claimed. But in  
 13 actuality they had already been filled out, and I was  
 14 in jail at the time, so I -- when they found the  
 15 library slips.  
 16 Q. Okay. You were convicted for tampering  
 17 with --  
 18 A. No, I wasn't.  
 19 Q. -- evidence?  
 20 A. No, no.  
 21 Q. Let's see. Was the library that you were  
 22 accused of stealing from in Bell County?  
 23 A. Yes.  
 24 Q. Okay. And what community library were you  
 25 stealing from there?

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1 A. This was in Belton.  
 2 Q. And these offenses occurred in the 1997 time  
 3 frame?  
 4 A. I think so, '97-'98.  
 5 Q. Were --  
 6 A. I'm not sure.  
 7 Q. Did the State charge you with violation of a  
 8 protective order in that time frame, also?  
 9 A. Yeah. But I think that one was dismissed.  
 10 Q. What was the protective order in place  
 11 against you?  
 12 A. It was in the divorce case.  
 13 Q. So your ex-wife had brought a protective  
 14 order against you --  
 15 A. Uh-huh.  
 16 Q. -- and got protection from you, correct?  
 17 A. We were still having sex. So I guess she  
 18 didn't need protection all that much.  
 19 Q. Okay. The State -- then the State accused  
 20 you of violating that protective order, correct?  
 21 A. Yes.  
 22 Q. You had another charge for burglary of a  
 23 habitation, did you not?  
 24 A. No.  
 25 Q. Okay. You're saying there was just one of

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1 those?  
 2 A. Just the one.  
 3 Q. And that was a burglary of the hospital  
 4 habitation?  
 5 A. Well, yeah. That's what they claimed.  
 6 Q. No other burglary, you're saying?  
 7 A. No.  
 8 Q. Okay.  
 9 A. Your information is not correct.  
 10 Q. And later, in fact, in August of 1997, were  
 11 you accused of a sexual assault?  
 12 A. No. We already talked about that one.  
 13 Q. Okay. In nineteen ninety- -- your  
 14 recollection is, in 1997 or 1998 you went into the  
 15 TDCJ prison system, right?  
 16 A. Yeah. It was either late '97 or '98. I  
 17 think it was in '98 maybe.  
 18 Q. Okay. And then you were released in 2004?  
 19 A. Yeah.  
 20 Q. And why -- was that an early release?  
 21 A. Well, that was because of the lawsuit that --  
 22 Q. I'm just asking, first of all --  
 23 A. I think it was a court-ordered release.  
 24 Q. Okay. But was it shorter than the period of  
 25 time the Court originally ordered --

<p style="text-align: right;">90</p> <p>1 A. Yes.</p> <p>2 Q. -- you to go in for?</p> <p>3 A. Yes, yes.</p> <p>4 Q. Was it a 10-year period of time you were to</p> <p>5 serve beginning in 1997 or '98?</p> <p>6 A. No. I think it was -- I think it was eight</p> <p>7 years.</p> <p>8 Q. Okay. You got out early in 1994 from what</p> <p>9 was originally ordered; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. And that is because of a legal argument you</p> <p>12 made about your situation; is that right?</p> <p>13 A. Well, it was because I won a writ of habeas</p> <p>14 corpus --</p> <p>15 Q. Okay.</p> <p>16 A. -- that turned the prison system upside-down</p> <p>17 and resulted in the release of many thousands of</p> <p>18 individuals.</p> <p>19 Q. Okay. Were you represented in that case?</p> <p>20 A. No, I was not.</p> <p>21 Q. You started as a student at UTSA in what</p> <p>22 year?</p> <p>23 A. The fall of 2004.</p> <p>24 Q. Oh, I'm sorry. Before I ask you about your</p> <p>25 student status at UTSA, did TDCJ assign you -- and</p>	<p style="text-align: right;">92</p> <p>1 A. Yes.</p> <p>2 Q. -- that code?</p> <p>3 A. 819427.</p> <p>4 Q. And did you serve time in the U.S. military?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. What was your service branch?</p> <p>7 A. Army.</p> <p>8 Q. And what was your identification code for</p> <p>9 U.S. Army purposes?</p> <p>10 A. I don't think they did serial numbers back</p> <p>11 then. I think it was just your name and date of</p> <p>12 birth.</p> <p>13 Q. Okay. Well, give me the basics, then, in</p> <p>14 terms of identifying information for U.S. Army at</p> <p>15 that time. What is your date of birth, what is your</p> <p>16 full name that you used in the U.S. Army, and what</p> <p>17 was your rank during that time?</p> <p>18 A. Well, my birth date is 3-14-66, which you</p> <p>19 already know, and you also have my name, Thomas</p> <p>20 Retzlaff.</p> <p>21 Q. Okay. I asked you your social security</p> <p>22 number.</p> <p>23 A. Right.</p> <p>24 Q. Earlier you refused to give that. Do you</p> <p>25 want to stand by that? That's an ordinary question.</p>
<p style="text-align: right;">91</p> <p>1 you're yawning right now?</p> <p>2 A. Yes.</p> <p>3 Q. Do you need a short break?</p> <p>4 A. No. I'm just about ready to take a nap for</p> <p>5 the afternoon.</p> <p>6 Q. Let's see here. We're at about noon. What</p> <p>7 we can do is just go through a couple more quick</p> <p>8 questions about some background information, and</p> <p>9 we'll break for a short lunch. And then we'll come</p> <p>10 back and finish up this afternoon. Is that</p> <p>11 agreeable?</p> <p>12 A. Why don't I just go home and go to bed?</p> <p>13 Q. Well, are you --</p> <p>14 A. Let's just keep going.</p> <p>15 Q. Okay. Well, we do have to take a lunch break</p> <p>16 for other people's benefit, the court reporter,</p> <p>17 videographer, counsel, that kind of thing. But I</p> <p>18 will try and bring an end to this because I see that</p> <p>19 you may be getting a little tired and need a break,</p> <p>20 need some food.</p> <p>21 A. No. It's not food. It's just the medicine.</p> <p>22 Q. Okay. Quickly, then, did TDCJ assign you a</p> <p>23 prisoner number --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- or identification? What was --</p>	<p style="text-align: right;">93</p> <p>1 A. Yeah. But this day and age with identity</p> <p>2 theft and all that jazz, it's not really an ordinary</p> <p>3 question.</p> <p>4 Q. Well, look, the federal court system, and</p> <p>5 including the Western District, has in place a</p> <p>6 provision that you redact some of this identifying</p> <p>7 information from anything before it's made public,</p> <p>8 before it's filed. I apply that rule, follow that</p> <p>9 rule and intend to follow that rule in this case to</p> <p>10 the extent that anything that is publicly filed.</p> <p>11 Under that circumstance, would you</p> <p>12 please provide your social security number? That's</p> <p>13 clearly an acceptable request that I'm --</p> <p>14 A. No. If a judge tells me to, then I will give</p> <p>15 it to you.</p> <p>16 Q. So I have to go -- Defendants who are sued in</p> <p>17 this case have to go to Judge Garcia. We have to ask</p> <p>18 them to force you to provide identifying information</p> <p>19 about yourself like your social security number. Is</p> <p>20 that the position you're taking?</p> <p>21 A. You have to ask him if he wants me to divulge</p> <p>22 my social security number.</p> <p>23 Q. Okay. What about your address here in San</p> <p>24 Antonio, where you live, not your P.O. box, your</p> <p>25 address?</p>



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1 A. I understand again that, too. I have -- I  
 2 have concerns for my physical safety reasons.  
 3 Q. You have concerns about your physical safety.  
 4 Do I understand that correct?  
 5 A. Yes.  
 6 Q. Okay. All right. So you're worried about  
 7 what, you know, a drive-by by one of the Defendants  
 8 in this case?  
 9 A. I didn't say that.  
 10 Q. Okay. So we have to go to Judge Garcia to  
 11 get a basic piece of information, i.e., where you  
 12 live. Is that it?  
 13 A. Yes.  
 14 Q. Okay.  
 15 A. Otherwise, I'll ask for a protective order.  
 16 Q. Okay. Let's see. Let's go on, then. And  
 17 you said your contention is U.S. government did not  
 18 give serial numbers out to people who served in the  
 19 U.S. Army --  
 20 A. I don't think they did at --  
 21 Q. -- during the period of your service. Is  
 22 that your --  
 23 A. I don't think they did at the time.  
 24 Q. Is that your contention?  
 25 A. Right. I think the serial number was just

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1 UTSA officials.  
 2 Q. Okay. What statements are those?  
 3 A. Well, statements by Captain Kiley and Chief  
 4 Hernandez that they're still investigating me for  
 5 things that they haven't really specified for and  
 6 that they're looking at me for possible fraud or  
 7 something like that. So I know that you are here as  
 8 an agent for the university and that my answers given  
 9 here will be given to the UTSA Police Department.  
 10 And so it places me in a tricky situation here of why  
 11 I have to answer truthfully there are some questions  
 12 that I just simply cannot answer.  
 13 Q. Okay. So you're taking the Fifth Amendment  
 14 in answer to the question about when you served in  
 15 the U.S. Army?  
 16 A. Yes.  
 17 Q. Okay.  
 18 A. But it was active duty, and I do have an  
 19 honorable discharge.  
 20 Q. Are you sure about that, that it's an  
 21 honorable discharge, or is it a standard discharge?  
 22 A. Yes. I have an honorable discharge.  
 23 Q. Okay. But you will not answer when it was  
 24 that you served; is that correct?  
 25 A. I'm not going to answer anything more on the

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1 the social security number.  
 2 Q. Okay. And you refuse to give that out?  
 3 A. Right.  
 4 Q. And we can search and see if this happens to  
 5 also be in student files or student records. Maybe I  
 6 can find it thataway in the event we need it, but,  
 7 again, these are standard questions that are asked in  
 8 civil discovery matters.  
 9 A. Okay. Well, I've been the victim of identity  
 10 theft before in the past. Just like if I were to ask  
 11 you what your social security number is, I'm sure you  
 12 would be reluctant to divulge that, as anybody would.  
 13 Q. In relation to what you say was your U.S.  
 14 Army service, when was the period that you were on  
 15 active duty, U.S. Army, if you were?  
 16 A. I've been on active duty in the military.  
 17 Anything more than that, I'll take the Fifth. I'm  
 18 remaining silent on that.  
 19 Q. Okay. You're not stating when it was that  
 20 you supposedly served active duty, U.S. Army?  
 21 A. I've already stated my position.  
 22 Q. You're taking the Fifth Amendment in that?  
 23 A. Yes --  
 24 Q. Okay.  
 25 A. -- simply because of statements made to me by

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1 subject.  
 2 Q. Okay. You understand, Mr. Retzlaff, that a  
 3 reason that you were excelled from UTSA was that you  
 4 represented you served in the U.S. Army during the  
 5 time when you were, in fact, in the custody of the  
 6 Texas Department of Criminal Justice, correct?  
 7 A. I understand that is what they say.  
 8 Q. Okay. And do I understand correctly that you  
 9 admit that you misstated or misrepresented the time  
 10 frame during which you were supposedly serving active  
 11 Army, that, in fact, you were in the custody of the  
 12 TDCJ? Do I understand that correctly?  
 13 A. I don't know where you're understanding that  
 14 from, but I'm taking the Fifth on that as well.  
 15 Q. Okay. With the following probably five to  
 16 ten minutes, I think we can kind of take a break and  
 17 have lunch.  
 18 Since you were enrolled at UTSA,  
 19 several complaints were filed against you by students  
 20 or others, correct?  
 21 A. I guess, yes.  
 22 Q. Okay. These were brought to your attention?  
 23 A. Some of them were. Apparently some of them  
 24 were not.  
 25 Q. Okay. Which student complaints are you

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1 familiar with that were brought to your attention  
 2 resulting from your time studying at UTSA?  
 3 A. Well, it's not like I really kept track, and  
 4 I would point out that all of the complaints were  
 5 resolved in my favor and were found to be unfounded.  
 6 MR. HAGEN: Objection, nonresponsive.  
 7 THE WITNESS: Okay.  
 8 Q. (BY MR. HAGEN) What complaints are you  
 9 familiar with brought to your attention that were  
 10 filed by one or more students?  
 11 A. There was one I -- I remember where I was  
 12 accused of cheating on an exam, and I think it was  
 13 like an art history class or something. But --  
 14 Q. Who made the accusation?  
 15 A. Todd Wollenzier. He's the guy at the  
 16 Judicial Affairs Office.  
 17 Q. Okay. He was not a student during the time  
 18 of this class, correct? He's an official at the  
 19 UTSA, right?  
 20 A. Yes.  
 21 Q. Okay. So who was the student who complained  
 22 or the teacher, or what brought this to the attention  
 23 of UTSA?  
 24 A. Oh, I don't have that person's name with me  
 25 right now.

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1 Wollenzier was acting like such a jerk about it and  
 2 acting like, "Aha," you know, "I got you on those  
 3 things" --  
 4 Q. You --  
 5 A. -- when he holds up his test -- test paper in  
 6 his hand.  
 7 Q. You know a student named Zhu Lan, correct,  
 8 Z-h-u L-a-n?  
 9 A. Yeah.  
 10 Q. Okay.  
 11 A. You're not pronouncing it, correct, though.  
 12 Q. How do you pronounce it?  
 13 A. Zhu Lan.  
 14 Q. Okay. And what is her English name?  
 15 A. Well, she goes by Julie.  
 16 Q. Julie. Okay. Did she file a grievance or  
 17 complaint against you?  
 18 A. I don't think so. I think that was -- what's  
 19 her name -- Kyle Snyder.  
 20 Q. Okay. And so your contention is that Kyle  
 21 Snyder and -- only and not this woman that -- whose  
 22 English name is Julie filed a grievance or complaint  
 23 against you?  
 24 A. No, that's not my contention.  
 25 Q. Okay.

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1 Q. Okay. Is the person a student, or is the  
 2 person that you're thinking of --  
 3 A. It was a student.  
 4 Q. -- a professor?  
 5 A. I've got her name somewhere.  
 6 Q. Okay.  
 7 A. But I just don't recollect offhand because  
 8 it's been like, you know, three years ago or  
 9 something, and I've pretty much forgotten about it.  
 10 Q. It's a female student?  
 11 A. Yeah.  
 12 Q. Okay. Have you filed a lawsuit against her?  
 13 A. No.  
 14 Q. Have you taken any legal action or threatened  
 15 to take any legal action against her?  
 16 A. No, because she's an idiot.  
 17 Q. And what was the outcome of that complaint?  
 18 A. That it was found to be bogus, that, in fact,  
 19 no cheating had happened and, in fact, the exam that  
 20 I took was the proper exam, and the teacher said so  
 21 himself.  
 22 Q. What other student complaints have been  
 23 brought against you at UTSA?  
 24 A. That's really the only one that I remember  
 25 offhand because that was a big deal because

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1 A. I don't know. I think Julie might have -- I  
 2 know she had done something with the police  
 3 department, but as far as Judicial Affairs is  
 4 concerned, I don't know --  
 5 Q. Okay.  
 6 A. -- because I'm not privy to their  
 7 information.  
 8 Q. With respect to UTSA police, okay, what  
 9 grievance or what complaint did Julie bring against  
 10 you?  
 11 A. Well, this was Julie with the assistance of  
 12 Kyle Snyder and the rest of the folks in the business  
 13 office, made a harassment complaint.  
 14 Q. Okay. Is -- the student that we're calling  
 15 Julie, is she here in the U.S. now?  
 16 A. No.  
 17 Q. Did she return to her home?  
 18 A. Yes.  
 19 Q. And where is her home?  
 20 A. In Beijing.  
 21 Q. Okay. And you filed a lawsuit against her,  
 22 though, correct?  
 23 A. Yes, before she left.  
 24 Q. And you took a default judgment against her,  
 25 correct?

<p style="text-align: right;">102</p> <p>1 A. Yes.</p> <p>2 Q. And you accomplished that default judgment by</p> <p>3 serving her apartment; is that right?</p> <p>4 A. Well, she was there. And then -- and then</p> <p>5 when the --</p> <p>6 Q. Did you serve service --</p> <p>7 A. I didn't serve --</p> <p>8 Q. -- or who served service?</p> <p>9 A. I didn't have anything to do with it. It was</p> <p>10 a process server. You know, he --</p> <p>11 Q. And who did he serve or she serve?</p> <p>12 A. He went up to the apartment a couple of</p> <p>13 times. He -- he had pictures of her. So he knew</p> <p>14 what she looked like, and he had seen her there.</p> <p>15 Q. Did you provide pictures of her?</p> <p>16 A. I did, and then I got some from the</p> <p>17 university.</p> <p>18 Q. Okay. And --</p> <p>19 A. And --</p> <p>20 Q. -- so you had a private process server</p> <p>21 attempt to serve her. And who did he, in fact,</p> <p>22 served?</p> <p>23 A. Yes. A couple of occasions she refused to</p> <p>24 answer the door. So then we got a court order</p> <p>25 authorizing the placement of the service on the door</p>	<p style="text-align: right;">104</p> <p>1 you permission to serve her roommates in place of</p> <p>2 this Julie, correct, through representations that you</p> <p>3 and you say a process server made and filed in court,</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. That resulted in you taking a default</p> <p>7 judgment against this Julie, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. You don't know if she was in -- back</p> <p>10 in China by the time you got that default judgment --</p> <p>11 A. No. She --</p> <p>12 Q. -- before you attempted to serve her or not,</p> <p>13 do you?</p> <p>14 A. She didn't leave for China -- let's see --</p> <p>15 till the 13th or 14th of December. I forgot what the</p> <p>16 last -- I'll have to look at my calendar. But --</p> <p>17 Q. Okay. In that same -- and how do you know</p> <p>18 that?</p> <p>19 A. She told me.</p> <p>20 Q. Because why? How were you in touch?</p> <p>21 A. I'm taking the Fifth on that.</p> <p>22 Q. Okay. In that same lawsuit, you've also</p> <p>23 taken default judgments against other people or</p> <p>24 entities, correct?</p> <p>25 A. No.</p>
<p style="text-align: right;">103</p> <p>1 or to leave it with one of her roommates.</p> <p>2 Q. In fact, I mean, you went to court, and you</p> <p>3 made those representations to the Court; and they</p> <p>4 granted an order allowing the process server to serve</p> <p>5 the roommates, correct?</p> <p>6 A. Well, the private process server made an</p> <p>7 affidavit outlining what it was -- the attempts that</p> <p>8 he made, the fact that he had seen her there, had</p> <p>9 knocked on the door and stuff like that. You know, I</p> <p>10 don't recall exactly what it was that he said, but he</p> <p>11 did do an affidavit to that effect.</p> <p>12 Q. Was that filed in court?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And on that basis, a default judgment</p> <p>15 was taken against her?</p> <p>16 A. No.</p> <p>17 Q. She did have a default judgment taken against</p> <p>18 her, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 A. But that had nothing to do with it. That was</p> <p>22 just regarding the service of the lawsuit.</p> <p>23 Q. Right. But connecting the dots here,</p> <p>24 Mr. Retzlaff -- and I know you've been down this</p> <p>25 trail dozens of times -- you got the Court to grant</p>	<p style="text-align: right;">105</p> <p>1 Q. In the same lawsuit where you sued Julie?</p> <p>2 A. Yeah.</p> <p>3 Q. Okay. And your contention is, you've taken</p> <p>4 no other default judgments --</p> <p>5 A. I'm not sure.</p> <p>6 Q. -- in relation to that case?</p> <p>7 A. I'm not sure.</p> <p>8 Q. Is that the case where you sued Liu Family</p> <p>9 Foundation or Liu?</p> <p>10 A. Oh, were they in that one, too? Okay. Well,</p> <p>11 then, I guess, yeah.</p> <p>12 Q. Did you take default judgments against those</p> <p>13 entities?</p> <p>14 A. Yeah, yeah. He got served in Hong Kong.</p> <p>15 Q. Okay. So your contention is that those</p> <p>16 entities or people got served in Hong Kong, and --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- on that basis, you got a default judgment</p> <p>19 in that part of the case?</p> <p>20 A. I -- I can't really say offhand because I</p> <p>21 hadn't thought about it, and I don't know what the</p> <p>22 legal reasoning ramifications are. So, you know --</p> <p>23 and it's really not relevant to this case, and I'm</p> <p>24 sort of getting tired of answering questions that</p> <p>25 aren't relevant to this case.</p>

106	<p>1 MR. HAGEN: I think we'll just take a 2 break and get some food and stretch our legs and 3 resume at -- 4 THE WITNESS: I mean, I'm planning on 5 leaving. I got other stuff to do today. 6 MR. HAGEN: Well, Mr. Retzlaff -- 7 THE WITNESS: You know, if you want to 8 keep going, that's fine. 9 MR. HAGEN: We do intend to keep going, 10 and as a courtesy to everybody at the table, not -- 11 this is not just about you -- we'll break until, say, 12 1:00 o'clock and then resume and hopefully conclude 13 in the afternoon, all right? 14 THE VIDEOGRAPHER: This is the end of 15 Tape No. 2. We are off the record at 12:24. 16 (At this time, a brief recess was 17 taken for lunch, after which time an 18 instrument was marked for 19 identification as Exhibit B.) 20 THE VIDEOGRAPHER: This is the 21 beginning of Tape No. 3. We are back on the record 22 at 1:13. 23 Q. (BY MR. HAGEN) Mr. Retzlaff, we were just 24 having a conversation about the medical release that 25 you've had a chance to further review during lunch;</p>	108
107	<p>1 is that right? 2 A. Actually I didn't look at it at all during 3 lunch. 4 Q. Okay. 5 A. But I did think about it a bit. 6 Q. True or false: We just now were talking 7 about this release of information? 8 A. Yes. 9 Q. Okay. Now, at the tail end of our 10 conversation off the record on this, you made mention 11 of thinking about killing people, did you not? 12 A. Oh, Mr. Hagen, I make mention about many 13 different things, but if we want to talk about this 14 medical release, let's talk about the medical 15 release. 16 Q. Mr. Retzlaff, are you denying now on the 17 record that you just made reference -- 18 A. I'm not even discussing it. 19 Q. -- to thinking about killing people? Did you 20 not do that? 21 A. I'm not even discussing it. 22 Q. So you're not going to answer this question? 23 A. No, I'm not. 24 Q. Okay. Do you want to take a Fifth on that 25 question?</p>	109

1 A. No. I'm just not going to discuss it.  
2 Q. Okay.  
3 A. You know, you throw a few zingers out there,  
4 and maybe I might, too.  
5 Q. Okay. Well, we can go ahead and I can  
6 subpoena Mr. Martinez who is not your counsel on this  
7 lawsuit and have him testify to what was said. We  
8 can take that up if you want to at a different time.  
9 Shall we do that?  
10 A. And that's fine.  
11 Q. Okay.  
12 A. And that's fine --  
13 Q. Okay.  
14 A. -- if that's --  
15 Q. Okay.  
16 A. -- what you want to do.  
17 Q. Okay. I do.  
18 A. Okay.  
19 Q. I think I do, Mr. Retzlaff.  
20 A. Okay.  
21 MR. HAGEN: Are you agreeable to that,  
22 Mr. Martinez?  
23 MR. MARTINEZ: Well, if I'm a fact  
24 witness, I'm a fact witness.  
25 MR. HAGEN: Okay. And did you hear the

1 threat that was made?  
2 MR. MARTINEZ: I heard a statement. I  
3 don't know what the characterization of it was.  
4 MR. HAGEN: Do you want to go ahead and  
5 tell us what the statement was that Mr. Retzlaff  
6 made?  
7 MR. MARTINEZ: I don't know that this  
8 is the proper venue for this, the proper way to do  
9 this, but I'm not under subpoena. I'm not under  
10 oath.  
11 MR. HAGEN: Are you declining to say?  
12 MR. MARTINEZ: I'm declining to say at  
13 this point.  
14 MR. HAGEN: Okay.  
15 THE WITNESS: And it certainly wasn't a  
16 threat. No threats were made.  
17 Q. (BY MR. HAGEN) Okay. Well, what did you  
18 say?  
19 A. I don't know. I'm not going to discuss it.  
20 Q. Okay.  
21 A. Okay.  
22 Q. Okay.  
23 A. But I'm telling you point-blank no threats  
24 were made, Lars.  
25 Q. Okay. So the conclusion that you were

<p style="text-align: right;">110</p> <p>1 talking about in relation to the authorization for  2 release of medical records was what we've now -- what  3 we've talked about and what I've labeled as  4 Exhibit B, and it's just my understanding that you're  5 not wanting to sign this thing as drafted, correct?  6 A. Right. I'm -- I'm willing to work on some  7 other type of language for it, but not as you have it  8 drafted right now. I don't think it's fair.  9 Q. Okay. Let's talk about your time at UTSA as  10 a student. When did you enroll there?  11 A. The fall of 2004.  12 Q. And when did you end up expelled from UTSA?  13 A. This summer.  14 Q. And what program or department were you a  15 part of?  16 A. The MBA program.  17 Q. Was that throughout the entire time, fall  18 2004 to summer 2008?  19 A. No.  20 Q. Okay. What were you doing during part of  21 that time?  22 A. Finishing my undergraduate degree.  23 Q. Okay. So you were enrolled only as an  24 undergraduate student beginning in the fall of 2004?  25 A. Correct.</p>	<p style="text-align: right;">112</p> <p>1 Q. Is this a communication signed by as far as  2 you know Todd Wollenzier?  3 A. It's signed by somebody.  4 Q. Okay.  5 A. But I wasn't there when it was signed or --  6 Q. I'm asking you, as far as you know, is this  7 Todd Wollenzier's communication to you in January of  8 2008?  9 A. I guess.  10 Q. Okay. Did you receive a copy of this?  11 A. I'm not sure.  12 Q. Okay. Let's look at --  13 A. I didn't really spend any time preparing at  14 all for this deposition.  15 (At this time, an instrument was here  16 marked for identification as  17 Exhibit D.)  18 Q. (BY MR. HAGEN) Okay. Let's look at  19 Exhibit D. Would you take a quick look at that.  20 This is dated in March, 2008, and, again, it has Todd  21 Wollenzier's name at the end. Do you see that?  22 A. Yes. I see the signature on the back.  23 Q. Okay. And did you receive a copy of this in  24 January -- I'm sorry -- in March, 2008?  25 A. I guess so.</p>
<p style="text-align: right;">111</p> <p>1 Q. Okay. And that was at UTSA?  2 A. Yes.  3 Q. Okay. And when did you finish your undergrad  4 degree?  5 A. About a year and a half ago.  6 Q. Okay. And when did you begin the MBA  7 program?  8 A. About a year and a half ago.  9 Q. And for what semester of what year was that?  10 A. The summer of 2007, I think, yeah.  11 Q. Okay. And then you were discharged in 2008,  12 correct?  13 A. Correct.  14 Q. So your last semester of enrollment as an MBA  15 student was spring 2008?  16 A. Yes.  17 (At this time, an instrument was here  18 marked for identification as  19 Exhibit C.)  20 Q. (BY MR. HAGEN) Okay. Real quick, I'm just  21 going to hand you what we're marking as Exhibit C.  22 This is a communication signed -- prepared and signed  23 by Todd Wollenzier who you made reference to earlier  24 in your deposition testimony, is it not?  25 A. What is the question?</p>	<p style="text-align: right;">113</p> <p>1 (At this time, an instrument was here  2 marked for identification as  3 Exhibit E.)  4 Q. (BY MR. HAGEN) So this is marked as  5 Exhibit E, and it's a letter with the name Todd  6 Wollenzier on the last page. Do you see that?  7 A. Yes.  8 Q. It's a letter dated March 21, 2008. Do you  9 remember receiving a copy of this one?  10 A. I'm not sure. I think I might have, but I'm  11 not sure.  12 Q. Okay.  13 A. You know, there's been so many hundreds of  14 papers exchanged back and forth. It's hard to recall  15 any individual one.  16 Q. And that's an association with the  17 discharge -- the disciplinary discharge that happened  18 in 2008?  19 A. Yes.  20 Q. You elected under the university rules to  21 receive a hearing, correct, in association with your  22 discharge?  23 A. Yes, I did.  24 Q. Okay. Do I understand correctly there was a  25 hearing officer identified and appointed and you</p>

114	<p>1 moved to refuse that first hearing officer?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Who was that hearing officer? Do you</p> <p>4 know his name?</p> <p>5 A. El-Kikhia Mansour. I think that's pronounced</p> <p>6 correctly. He's a Muslim guy that works over in the</p> <p>7 Political Science.</p> <p>8 Q. Okay. Did you -- and he was recused as</p> <p>9 hearing officer to consider your discharge, correct?</p> <p>10 A. Well, actually he removed himself.</p> <p>11 Q. I think also you retained counsel for the</p> <p>12 purpose of that academic discharge process, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Was your counsel for that purpose Louis</p> <p>15 Martinez?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. One or the other or both of you at</p> <p>18 various times moved to continue the hearing or delay</p> <p>19 the hearing; is that right?</p> <p>20 A. I guess, yes.</p> <p>21 Q. And you did have delays in the hearings to a</p> <p>22 point, correct?</p> <p>23 A. Yeah, I think so. There was at least one</p> <p>24 that I know of, maybe two. And then there was one</p> <p>25 that was, I think, asked for by the school, but I'm</p>	116
115	<p>1 not sure.</p> <p>2 Q. Okay. At some point, do you remember the day</p> <p>3 you went to see a judge at the court to attempt to</p> <p>4 get a temporary restraining order to stop what</p> <p>5 eventually became the hearing that happened in April</p> <p>6 of 2008? Do you remember that?</p> <p>7 A. I don't think it was in April. I think it</p> <p>8 might have been March.</p> <p>9 Q. Okay. You went and you appeared before --</p> <p>10 initially appeared before Judge Rios ex parte,</p> <p>11 correct?</p> <p>12 A. No.</p> <p>13 Q. Okay. You didn't --</p> <p>14 A. No. It wasn't Judge Rios.</p> <p>15 Q. Okay. You didn't appear before Judge Rios</p> <p>16 and Judge Rios got on the phone and contacted your</p> <p>17 attorney and -- Mr. Martinez, and he appeared?</p> <p>18 A. When I got the TRO? No.</p> <p>19 Q. No. I'm talking about when you sought a TRO</p> <p>20 ex parte.</p> <p>21 A. Yeah, I did. I got one.</p> <p>22 Q. Okay. I'm talking about when you sought a</p> <p>23 TRO ex parte.</p> <p>24 A. Right.</p> <p>25 Q. Okay. Do you remember that day you went to</p>	117
	<p>1 the court?</p> <p>2 A. Yes.</p> <p>3 Q. It was in the lead-up to the April, 2008</p> <p>4 hearing, right?</p> <p>5 A. No. I think this was in March.</p> <p>6 Q. Okay. So it was in March in the lead-up to</p> <p>7 what would have been a hearing --</p> <p>8 A. Yeah, in March.</p> <p>9 Q. You went to Judge Rios?</p> <p>10 A. No.</p> <p>11 Q. You went to a judge and sought an ex parte</p> <p>12 hearing with that judge. Do you remember that?</p> <p>13 A. Yeah. It was a district court judge. I</p> <p>14 don't remember what the guy's name was, though.</p> <p>15 Q. Do you remember seeing Gail Jensen when you</p> <p>16 approached a judge to get a TRO?</p> <p>17 A. No.</p> <p>18 Q. No?</p> <p>19 A. No. I was -- this was a district court. She</p> <p>20 wasn't there at all.</p> <p>21 Q. Okay. Mr. Retzlaff, do you have a memory of</p> <p>22 a hearing that occurred where I was contacted and</p> <p>23 appeared by telephone when you were seeking a TRO to</p> <p>24 bar the university for having the disciplinary</p> <p>25 hearing?</p>	

<p style="text-align: right;">118</p> <p>1 that ultimately happened at some time --</p> <p>2 A. At some point.</p> <p>3 Q. -- correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 A. Yes.</p> <p>7 Q. So I'm talking about that hearing.</p> <p>8 A. Okay.</p> <p>9 Q. You approached Judge Rios in an attempt to</p> <p>10 get a TRO -- that second TRO put in place ex parte</p> <p>11 initially, correct?</p> <p>12 A. I'm not sure if it was Judge Rios or Judge</p> <p>13 Rodriguez.</p> <p>14 Q. Okay.</p> <p>15 A. I'm not sure.</p> <p>16 Q. Okay. Judge -- do you remember a hearing</p> <p>17 where --</p> <p>18 A. Yeah.</p> <p>19 Q. -- where you appeared, Gail Jensen saw you at</p> <p>20 the courthouse --</p> <p>21 A. Yes.</p> <p>22 Q. -- and, therefore, stepped up and talked to a</p> <p>23 judge? It was Judge Rios. Do you remember that now?</p> <p>24 A. Well, I don't remember who it was assigned</p> <p>25 to, but I remember that you appeared by telephone --</p>	<p style="text-align: right;">120</p> <p>1 Q. -- at that hearing?</p> <p>2 A. Okay.</p> <p>3 Q. Do you remember that?</p> <p>4 A. Yeah, yeah.</p> <p>5 Q. Okay. So he was there, I was there by</p> <p>6 telephone, rob Johnson was there by telephone?</p> <p>7 A. I guess.</p> <p>8 Q. Gail Jensen was there in person?</p> <p>9 A. I guess. What does that have to do with --</p> <p>10 Q. Do you remember that? I'm just</p> <p>11 chronologically --</p> <p>12 A. There's been like millions of different</p> <p>13 hearings and stuff, okay?</p> <p>14 Q. Yeah, that you have sought. So you might be</p> <p>15 expected to have some familiarity with it, and</p> <p>16 because you don't remember, I'm trying to help --</p> <p>17 A. Well, no. But I --</p> <p>18 Q. -- right?</p> <p>19 A. Yeah. I mean, I remember now about the</p> <p>20 telephone hearing and stuff. I don't -- I thought it</p> <p>21 was Rodriguez, but I guess it was Judge Rios.</p> <p>22 Q. Okay. So ultimately the judge --</p> <p>23 A. Denied the TRO.</p> <p>24 Q. -- denied what you originally sought out to</p> <p>25 get as an ex parte TRO --</p>
<p style="text-align: right;">119</p> <p>1 Q. Okay.</p> <p>2 A. -- and stuff. I don't remember who exactly</p> <p>3 was -- the judge was --</p> <p>4 Q. Then I --</p> <p>5 A. -- because there's been several hearings in</p> <p>6 this case.</p> <p>7 Q. Right. So that then I was called and</p> <p>8 contacted. And it wasn't the case that we're</p> <p>9 actually here on deposition about, but it's the chain</p> <p>10 of events leading to what you're partly complaining</p> <p>11 about here in your petition. I was contacted -- do</p> <p>12 you remember that -- and appeared by telephone?</p> <p>13 A. Yes.</p> <p>14 Q. Rob Johnson in my office, Assistant Attorney</p> <p>15 General, was contacted and appeared by telephone. Do</p> <p>16 you remember that?</p> <p>17 A. Yes.</p> <p>18 Q. The judge, Judge Rios, put out word to summon</p> <p>19 Mr. Martinez to that hearing, your counsel. Do you</p> <p>20 remember that?</p> <p>21 A. I think so. I think that might have been the</p> <p>22 time when he was in probate court or something.</p> <p>23 Q. He got called, he came and did not appear on</p> <p>24 your behalf, but was present --</p> <p>25 A. Right, right.</p>	<p style="text-align: right;">121</p> <p>1 A. Yes.</p> <p>2 Q. -- correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So consequently you had in April of</p> <p>5 2008 a disciplinary hearing, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Can you tell me who was present at the</p> <p>8 disciplinary hearing? There were actually two days</p> <p>9 of disciplinary hearing, correct?</p> <p>10 A. Yeah.</p> <p>11 Q. A Friday and a Monday?</p> <p>12 A. Yeah. Of course, myself and Mr. Martinez.</p> <p>13 Q. And he was your attorney --</p> <p>14 A. Yes.</p> <p>15 Q. -- at that disciplinary hearing?</p> <p>16 A. Yes. And then there was the hearing officer.</p> <p>17 I forgot what his name is.</p> <p>18 Q. Was that guy's name Daniel Escobar?</p> <p>19 A. Yeah. There you go. All right. That's who</p> <p>20 it was. And then Todd Wollenzier from Judicial</p> <p>21 Affairs and then this girl from Austin. I think her</p> <p>22 name -- it was -- I think it might have been</p> <p>23 Priscilla Lozano.</p> <p>24 Q. Okay. And she's actually counsel at UT</p> <p>25 System, correct, or you don't know her name -- her</p>

<p style="text-align: right;">122</p> <p>1 exact --</p> <p>2 A. Well, I know she works for UT or something</p> <p>3 like that, but I don't know exactly --</p> <p>4 Q. Okay.</p> <p>5 A. -- what she does.</p> <p>6 Q. You said girl. I mean, she's not a college</p> <p>7 student or high school student. She's, you know,</p> <p>8 a --</p> <p>9 A. A female.</p> <p>10 Q. -- woman attorney, correct?</p> <p>11 A. Yeah. She's a female.</p> <p>12 Q. Okay. Were those all the people that were</p> <p>13 present at this two days of disciplinary hearing?</p> <p>14 A. Well, there had been some witnesses, but they</p> <p>15 were in and out.</p> <p>16 Q. Okay.</p> <p>17 A. But as far as who was there when the whole</p> <p>18 thing took place, that's the one, two, three, four --</p> <p>19 five people that were there.</p> <p>20 Q. Okay. Now, in relation to -- you mentioned</p> <p>21 Todd Wollenzier?</p> <p>22 A. Correct.</p> <p>23 Q. Do you have any reason to believe Todd</p> <p>24 Wollenzier wanted to violate any of your</p> <p>25 constitutional rights in this process?</p>	<p style="text-align: right;">124</p> <p>1 your constitutional rights?</p> <p>2 A. Why? I do not know why. I would have to</p> <p>3 question him under oath in order to make that</p> <p>4 determination.</p> <p>5 Q. No. I'm asking you, do you have any</p> <p>6 reason -- any other reason to believe that he wanted</p> <p>7 to violate any of your constitutional rights?</p> <p>8 A. Well, the fact that he hid relevant evidence</p> <p>9 from me that I needed during the Judicial Affairs</p> <p>10 hearing, the fact that he didn't allow me to call</p> <p>11 certain witnesses that I needed that would have</p> <p>12 helped in my defense, yeah, because I have a due</p> <p>13 process right to have a full and fair disciplinary</p> <p>14 hearing, and he took steps to violate that.</p> <p>15 Q. Okay. Real quick, what evidence are you</p> <p>16 alleging that Todd Wollenzier hid from you?</p> <p>17 A. Well, first off, when I wanted to come in</p> <p>18 and -- and see my file and see my complaints, he</p> <p>19 wouldn't let me see them at all. He claimed some</p> <p>20 kind of a FERPA thing, federal educational student</p> <p>21 privacy rights act or something like that. And then</p> <p>22 I filed a complaint with his supervisor and saying</p> <p>23 that even according to UTSA's regulations I had a</p> <p>24 right to copies of this stuff.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">123</p> <p>1 A. Yeah.</p> <p>2 Q. Okay. What?</p> <p>3 A. Well, he wouldn't allow me to call witnesses</p> <p>4 that I wanted to have. He wouldn't let me have</p> <p>5 access to evidence that I wanted to have.</p> <p>6 Q. Okay. He was the person that -- whose name</p> <p>7 appears on these three letters and that we've marked</p> <p>8 as exhibits and who was bringing charges, correct?</p> <p>9 A. Yes.</p> <p>10 Q. The code of conduct charges?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So he was not the hearing officer,</p> <p>13 right?</p> <p>14 A. No.</p> <p>15 Q. Okay. Any other reason to believe that he</p> <p>16 wanted to violate any of your constitutional rights?</p> <p>17 A. Well, he -- why? I don't know why. He kept</p> <p>18 bringing all these bogus disciplinary charges against</p> <p>19 me with Judicial Affairs, probably eight or ten of</p> <p>20 them, I think, altogether. None of them were ever</p> <p>21 found to be true until this very last one here where</p> <p>22 he could jump up and do "Aha!" And, you know, this</p> <p>23 guy has been chasing me like Captain Ahab has been</p> <p>24 chasing his white whale.</p> <p>25 Q. Any other reason why he would want to violate</p>	<p style="text-align: right;">125</p> <p>1 A. And --</p> <p>2 Q. So what evidence do you believe he hid from</p> <p>3 you?</p> <p>4 A. Well, he only showed me evidence that was</p> <p>5 favorable to their side, not evidence that was</p> <p>6 favorable to my side.</p> <p>7 Q. Are you talking about exculpatory evidence?</p> <p>8 A. Yes.</p> <p>9 Q. You know the lingo of criminal law?</p> <p>10 A. I guess, for lack of a better term.</p> <p>11 Q. So you're -- is it your position or</p> <p>12 contention that you are somehow entitled to what</p> <p>13 you're characterizing as exculpatory evidence in the</p> <p>14 process of the student disciplinary hearing?</p> <p>15 A. Well, I believe that I'm entitled to access</p> <p>16 to all of the files, not just part of it, because I</p> <p>17 had made several requests for certain specific</p> <p>18 documents that were denied to me.</p> <p>19 Q. Okay. Well, which documents?</p> <p>20 A. Listen, I haven't prepared at all for this</p> <p>21 deposition. All right. I rolled out of bed this</p> <p>22 morning, and I came here. And that's it.</p> <p>23 Q. Okay. What witnesses do you believe you were</p> <p>24 not able to call that you wanted to?</p> <p>25 A. There was a list of about 30 of them.</p>



<p style="text-align: right;">126</p> <p>1 Q. Now, did the university tell witnesses not to 2 appear for you? 3 A. Yes. 4 Q. Who? Who told witnesses? 5 A. Well, Lynda De La Vina was told not to 6 appear. 7 Q. No. I'm asking -- okay. Who told Lynda De 8 La Vina not to appear? 9 A. I think that was said by Priscilla Lozano. I 10 remember during the hearing -- 11 Q. How do you know that? 12 A. Because during the hearing I -- I had asked 13 that these people be called and they said that "We're 14 telling them not to appear." 15 Q. Oh, that's what -- who told you that they 16 were told they're not to appear? 17 A. I believe it was Priscilla Lozano or Escobar. 18 I'm not sure which. 19 Q. Okay. So this is a dispute where you want 20 people to come to a hearing, and your declaration is 21 that one or more of these UT officials directed one 22 or more of those witnesses not to come? 23 A. None of them came. 24 Q. I'm asking you -- 25 A. Yes. That's my position.</p>	<p style="text-align: right;">128</p> <p>1 A. And, in fact, you told me as well not to be 2 contacting them because they were all your clients. 3 MR. HAGEN: Objection, nonresponsive, 4 and not true. But in any case -- 5 THE WITNESS: You didn't tell me not to 6 talk to these UTSA people. 7 Q. (BY MR. HAGEN) If you're filing a lawsuit 8 again my clients that I'm representing and entered 9 into a relationship with them where I'm representing 10 them, my ordinary -- the ordinary practice is that 11 the opposing counsel, or in your case if you're pro 12 se, is not to contact those people? 13 A. Sure. 14 Q. Now, did you send me some communication 15 inviting their participation? 16 A. I think I remember asking you if I could sit 17 down and meet with Kyle Snyder. 18 Q. No. I'm talking about in this disciplinary 19 hearing process. 20 A. Oh, no, not with the disciplinary hearing. 21 Q. What can you direct me to? Nothing, right? 22 You never did ask that anybody that I represent in 23 any of these lawsuits participate in your 24 disciplinary hearing process, did you? 25 A. Well, I did make the request to the</p>
<p style="text-align: right;">127</p> <p>1 Q. -- if the position you're taking is that they 2 were given the direction not to come? 3 A. Exactly. 4 Q. That their presence is requested by Tom 5 Retzlaff, but you are not to come? 6 A. Yes. That's -- 7 Q. Okay. That's what -- 8 A. Because there was a list of about 30 people 9 that I gave them that I wanted to have come. 10 Q. So you wanted the university to pull these 11 people before this hearing, was what your request 12 was? 13 A. Not pull these people. They are already 14 there on staff at the university themselves. 15 Q. To invite or to compel them to come to 16 your -- 17 A. Exactly. 18 Q. 30 people that you think should come? 19 A. Well, I don't know if there was 30, but there 20 was a list. 21 Q. Okay. What steps did you take to contact 22 these people to ask them to come? 23 A. Actually I was told that I couldn't contact 24 them by the chief of police. 25 Q. Okay.</p>	<p style="text-align: right;">129</p> <p>1 university, yes. 2 Q. Okay. So you're saying you went through 3 other people to ask that people who you were suing 4 come to your hearing -- your disciplinary hearing; is 5 that -- 6 A. Well, I wanted to be able to develop my 7 theory of the case, that this was nothing but B.S. 8 retaliation against me. 9 Q. Okay. 10 A. And that, in fact, no harassment took place 11 at all with this Chinese student. 12 Q. Okay. Anything else in regard to why you 13 think Tom -- Todd Wollenzier violated your 14 constitutional rights? Anything else? 15 A. Yeah. I think he improperly -- well, 16 constitutional rights I'm not sure, but I believe he 17 also improperly accessed police records regarding 18 myself. 19 Q. Okay. Let me ask you about Daniel Escobar, 20 the hearing officer. Any reason why you think he 21 wanted to violate your rights in this student 22 disciplinary process? 23 A. Yes. 24 Q. What? 25 A. Well, first off, he's a university employee.</p>

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1 He's beholden to the university. So he's hardly fair  
 2 or impartial. In addition, he wouldn't allow me to  
 3 have testify the people that I wanted to have  
 4 testify.  
 5 Q. Okay. And you're referring to the same body  
 6 of 30 people who you asked the university to make  
 7 available for you to ask questions of in this  
 8 disciplinary process?  
 9 A. I'm not sure if it was 30, but there was a  
 10 group, at least 10.  
 11 Q. Okay. Any other reason that you believed  
 12 Daniel Escobar wanted to -- or did violate your  
 13 rights?  
 14 A. I don't know. I haven't thought about Daniel  
 15 Escobar in a while. So my answer is not complete.  
 16 Q. Okay. As far as you know as you sit here  
 17 today, that's the sum total of your complaints  
 18 against Daniel Escobar?  
 19 A. Well, my right -- he denied my right to due  
 20 process.  
 21 Q. Okay. How did he do that?  
 22 A. By not allowing me to have evidence and  
 23 witnesses that I needed to appear on my behalf.  
 24 Q. Are you referring again to exculpatory  
 25 evidence?

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1 A. Not just exculpatory evidence but certain  
 2 records that I wanted to have as well that I believed  
 3 would also help my case.  
 4 Q. Okay. Now, earlier in your testimony you  
 5 said that hundreds of pages of material were  
 6 exchanged in the process of this disciplinary hearing  
 7 process and its preparation. Do you remember that?  
 8 A. Yeah, a lot of legal papers.  
 9 Q. Okay. And a lot of papers concerning the  
 10 charges against you, correct?  
 11 A. Well, not really so much that as the legal  
 12 pleadings, that kind of stuff.  
 13 Q. Okay. So what in particular was missing from  
 14 this body of information that you were provided about  
 15 the charges against you --  
 16 A. Well --  
 17 Q. -- from the university point of view?  
 18 A. -- with regards to the complaints, you know,  
 19 I wanted -- like police reports were redacted.  
 20 Witness statements were redacted. You know, a bunch  
 21 of stuff like that was redacted. Things that were in  
 22 my student file that Judicial Affairs had that I  
 23 needed, first they refused to give me any copies of  
 24 at all. And then when I showed them the rule -- the  
 25 UTSA rule that says that they're supposed to give me

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1 copies, they did, but then they redacted a bunch of  
 2 stuff from it.  
 3 Q. Okay. So the redactions and you disagree  
 4 with that. Anything else?  
 5 A. Anything else about what?  
 6 Q. In terms of what you believe that you should  
 7 have received but did not in this disciplinary  
 8 process.  
 9 A. Again, I'd have to think about it.  
 10 Q. Okay. Now, in terms of the basic charges  
 11 that were brought against you in the disciplinary  
 12 process, you misrepresented your -- a personal  
 13 statement in your application for the MBA program.  
 14 That was one of them, correct?  
 15 A. Yes. That was --  
 16 Q. And you ended up --  
 17 A. -- what they had accused.  
 18 Q. -- admitting that, that that  
 19 misrepresentation occurred?  
 20 A. Yeah, I guess.  
 21 Q. With respect to another one of the concerns  
 22 from the university's point of view, you had a  
 23 charge -- a grievance filed to the UT Police  
 24 Department -- UTSA Police Department by the Chinese  
 25 student who by her English name we're calling Julie,

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1 correct?  
 2 A. Correct.  
 3 Q. And that was the complaint that I believe you  
 4 testified that Kyle Snyder also joined in filing; is  
 5 that right?  
 6 A. Yes.  
 7 Q. Okay. And you contend that the harassment  
 8 that Julie alleged in that complaint was false?  
 9 A. Bogus.  
 10 Q. Okay.  
 11 A. Not just false, but bogus.  
 12 Q. Okay. Julie is the student that we also  
 13 talked about you filed a lawsuit against; is that  
 14 right?  
 15 A. Yes.  
 16 Q. Okay. And she's the student who earlier in  
 17 your deposition you testified had returned to China,  
 18 correct?  
 19 A. Yes.  
 20 Q. And you took a default judgment against her?  
 21 A. Yes.  
 22 Q. Okay. I was looking at your complaint here  
 23 that's pending in federal court under Paragraph 18.  
 24 It says -- and, again, I'm going to mispronounce  
 25 this. But Zhu Lan, that's Julie, correct, Z-h-u

<p style="text-align: right;">134</p> <p>1 L-a-n?</p> <p>2 A. Yes, Zhu Lan.</p> <p>3 Q. Okay. That there is resulting a</p> <p>4 53,750-dollar judgment in plaintiff's favor, do you</p> <p>5 see that?</p> <p>6 A. Yes.</p> <p>7 Q. That's the default judgment, correct?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay. Going back to the hearing that you had</p> <p>10 with the university, the hearing officer,</p> <p>11 Mr. Escobar, took some time after the hearing</p> <p>12 concluded April 21 to render a decision, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you remember sometime later getting a copy</p> <p>15 of the decision?</p> <p>16 A. Yeah. I think at the end of May something</p> <p>17 was emailed to me.</p> <p>18 (At this time, an instrument was here</p> <p>19 marked for identification as</p> <p>20 Exhibit F.)</p> <p>21 Q. (BY MR. HAGEN) This I'm marking as</p> <p>22 Exhibit F, and it's a decision -- it's called</p> <p>23 "Decision." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Did you get a copy of this?</p>	<p style="text-align: right;">136</p> <p>1 for defamation?</p> <p>2 A. Well, it's not true. I never had a gun,</p> <p>3 never brought it on campus.</p> <p>4 Q. Okay. Is there any other defaming</p> <p>5 declaration or thing that Dean De La Vina did in your</p> <p>6 opinion?</p> <p>7 A. In this lawsuit, no.</p> <p>8 Q. Okay.</p> <p>9 A. This lawsuit strictly deals with her saying</p> <p>10 that I had committed the criminal offense of</p> <p>11 unlawfully carrying a weapon on school grounds.</p> <p>12 Q. Okay. So if I have you right, you're</p> <p>13 referencing one email, and you're referencing what</p> <p>14 you said are statements that she made?</p> <p>15 A. Oh, it's -- yeah. It's not just one email.</p> <p>16 Q. Okay. Well, I need to know. You --</p> <p>17 A. This --</p> <p>18 Q. Just a second here. You tell me what you're</p> <p>19 talking about was defamation --</p> <p>20 A. Yes.</p> <p>21 Q. -- in particular.</p> <p>22 A. Yes. This email was disseminated through</p> <p>23 hundreds of people.</p> <p>24 Q. Okay. So if I understand your contention,</p> <p>25 Dean De La Vina prepared an email, she sent it, and</p>
<p style="text-align: right;">135</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And this is the decision that had the</p> <p>3 effect of expelling you from the UT -- from UTSA,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So with that history behind us, let me</p> <p>7 ask you some questions about the Defendants who</p> <p>8 you're suing in this lawsuit now pending in federal</p> <p>9 court. You can set that aside with the other</p> <p>10 exhibits. You're suing all of these Defendants who</p> <p>11 are named here, Dean De La Vina, Diane Baker Walz,</p> <p>12 Kyle Snyder, and Katherine Pope. You're suing each</p> <p>13 one of them for defamation. Do I have that right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you took a minute to, I guess,</p> <p>16 look at, what, Page 3 of the complaint before</p> <p>17 answering that question?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And that's where you set out</p> <p>20 defamation. Can you help me understand why you're</p> <p>21 suing Dean De La Vina for defamation?</p> <p>22 A. She wrote an email saying I had a gun on</p> <p>23 campus or brought a gun on campus. In addition, she</p> <p>24 had said that to other people as well.</p> <p>25 Q. Any other reason you're suing Dean De La Vina</p>	<p style="text-align: right;">137</p> <p>1 it got sent from others onward in your opinion?</p> <p>2 A. Yeah.</p> <p>3 Q. Okay.</p> <p>4 A. And I was called down to the police</p> <p>5 department about it as well.</p> <p>6 Q. Okay. How do you know that in the first</p> <p>7 place that this one email that Dean De La Vina sent</p> <p>8 was disseminated to other people other than the</p> <p>9 people she sent it to?</p> <p>10 A. Because I was told by the chief of police.</p> <p>11 Q. Okay.</p> <p>12 A. He said he's been getting calls from people</p> <p>13 all over the university. And that's when he told me</p> <p>14 not to be going into any of the administrative</p> <p>15 offices or anything without checking with him first</p> <p>16 because people are locking themselves into their</p> <p>17 office afraid of Tom Retzlaff.</p> <p>18 Q. Who is the chief of police that you're</p> <p>19 talking about?</p> <p>20 A. I forgot what the heck his name is.</p> <p>21 Q. You're sure he's not a captain or something?</p> <p>22 He is the chief?</p> <p>23 A. No. I'm not talking about Captain Kiley.</p> <p>24 I'm talking about the police chief.</p> <p>25 Q. Any other reason --</p>

<p style="text-align: right;">138</p> <p>1 A. I just forgot --</p> <p>2 Q. Sure.</p> <p>3 A. -- his name for some reason.</p> <p>4 Q. Any other reason you have to believe that --</p> <p>5 is there any other email that you're talking about</p> <p>6 Dean De La Vina sent that defamed you in your</p> <p>7 opinion?</p> <p>8 A. Well, I'm talking about defamation in just</p> <p>9 this case. Now, there are perhaps others where she</p> <p>10 defamed me, but it's not a part of this case. So I</p> <p>11 can't answer to that. All I can talk is -- and I did</p> <p>12 see the email where she talks about me with a gun on</p> <p>13 campus.</p> <p>14 Q. Okay. So --</p> <p>15 A. And I did see that email.</p> <p>16 Q. So there's that email. And I'm asking you,</p> <p>17 is there any other email?</p> <p>18 A. I can't say for sure at this time.</p> <p>19 Q. Okay. Are there any other statements or</p> <p>20 declarations that you're saying defamed you that were</p> <p>21 uttered by Dean De La Vina? And if there were, what</p> <p>22 are they?</p> <p>23 A. Well, I'm only talking about just this one</p> <p>24 action of defamation in this one lawsuit.</p> <p>25 Q. And that's what I'm asking you about. So is</p>	<p style="text-align: right;">140</p> <p>1 A. Well, I'm only talking about the one email or</p> <p>2 two --</p> <p>3 Q. Is that a yes or a no? Is that it?</p> <p>4 A. No, no.</p> <p>5 Q. Okay. So there's that email. What else?</p> <p>6 A. Well, there were a couple of emails that I</p> <p>7 saw, but there were more that I heard about.</p> <p>8 Q. Okay. Well, tell me with precision what</p> <p>9 other emails you're talking about and what you heard</p> <p>10 about.</p> <p>11 A. I can't say with precision because I haven't</p> <p>12 been given access to those emails --</p> <p>13 Q. Okay.</p> <p>14 A. -- despite my requests. And I believe your</p> <p>15 office has been challenging some of my open records</p> <p>16 requests.</p> <p>17 Q. With respect to any other statements you</p> <p>18 attribute to Dean De La Vina that you say are</p> <p>19 defaming, what are they?</p> <p>20 A. Again, I haven't fully researched the issue.</p> <p>21 This lawsuit is just with regards to her saying --</p> <p>22 oh, yeah. That I'm a dangerous person, you know</p> <p>23 that --</p> <p>24 Q. You --</p> <p>25 A. -- was also repeated.</p>
<p style="text-align: right;">139</p> <p>1 it --</p> <p>2 A. I'm not talking about other lawsuits --</p> <p>3 Q. Is it --</p> <p>4 A. -- and other defamations.</p> <p>5 Q. Is it the -- well, the way you plead your</p> <p>6 case is a little bit broad. So I need to understand</p> <p>7 from you if there are any other emails that you</p> <p>8 attribute to Dean De La Vina that you say are</p> <p>9 defaming apart from the one we just talked about?</p> <p>10 A. Well, I don't see where it's pleaded broad.</p> <p>11 It says that she stated in the -- that I had</p> <p>12 committed the unlawfully carrying a weapon.</p> <p>13 Q. Okay. And that's the one?</p> <p>14 A. That's the defamation.</p> <p>15 Q. Anything else?</p> <p>16 A. If she made other kinds of defamations, it's</p> <p>17 not a part of this lawsuit and I'm not prepared to</p> <p>18 talk about them.</p> <p>19 Q. Well, tell me what they are.</p> <p>20 A. I haven't fully researched the issue yet.</p> <p>21 Q. Okay. So as for this lawsuit and why you're</p> <p>22 suing Dean De La Vina for defamation, do I understand</p> <p>23 correctly that it has to do with the one email that</p> <p>24 you say she sent where she in your opinion comments</p> <p>25 that you have a gun in your car?</p>	<p style="text-align: right;">141</p> <p>1 Q. In answering that question, you just turned a</p> <p>2 page of your lawsuit and see a paragraph and comment</p> <p>3 on it -- read it, right?</p> <p>4 A. And like I told you earlier, I did absolutely</p> <p>5 nothing to prepare for this --</p> <p>6 Q. Okay.</p> <p>7 A. -- deposition.</p> <p>8 Q. And that's fine. So --</p> <p>9 A. I rolled out of bed this morning, and -- and</p> <p>10 this stuff, I haven't looked at it in several months.</p> <p>11 Q. Okay. We can come back and continue the</p> <p>12 deposition --</p> <p>13 A. Okay.</p> <p>14 Q. -- another time, too, but since I have you</p> <p>15 here and we're talking for now --</p> <p>16 A. Yes.</p> <p>17 Q. -- I'm asking you, is there -- okay. So</p> <p>18 you're attributing to her the comment that you're a</p> <p>19 dangerous person?</p> <p>20 A. Yes. That's what I --</p> <p>21 Q. Where did you -- where did she say that?</p> <p>22 A. Not in an email, at least none that I've</p> <p>23 seen.</p> <p>24 Q. Where did she supposedly say that?</p> <p>25 A. From my conversations with the chief and the</p>

<p style="text-align: right;">142</p> <p>1 police in the UTSA Police Department.  2 Q. Okay. So is it your allegation that the  3 chief or another police officer at UTSA Police  4 Department said that Dean De La Vina called you to  5 other people a dangerous person?  6 A. He didn't say Dean De La Vina specifically,  7 but when I saw the email, though, from her -- and I  8 don't have the email here in front of me.  9 Q. Okay. Is there anyone that you can think of  10 else who at this time you remember saying -- from  11 your opinion called you a dangerous person?  12 A. Yeah. I know Kyle Snyder did.  13 Q. Okay.  14 A. She told that to some of the other Chinese  15 students.  16 Q. Okay. And how do you -- who did she say that  17 to?  18 A. The other Chinese students in that Liu  19 program.  20 Q. Who did she say that to, Mr. Retzlaff?  21 A. She told that to Julie's roommates.  22 Q. Okay. Who -- what were their, and are they  23 still in the country?  24 A. No. They're gone.  25 Q. Okay.</p>	<p style="text-align: right;">144</p> <p>1 attribute this comment to that you're a dangerous  2 person, having said that. Who else?  3 A. Also -- well, she's not even listed on here,  4 but the girl that works with Kyle Snyder, I cannot  5 recall what her name was.  6 Q. Okay. Anyone else? Kyle Snyder is the  7 person that you're saying called you a dangerous  8 person?  9 A. Yes. That's what I was told.  10 Q. And you said she said that to Chinese  11 students who lived with your friend, Julie, and who  12 have since left the country?  13 A. Yeah.  14 Q. Okay.  15 A. And others who were in the program after the  16 fact as well. And Don Lien also did, too, and, in  17 fact, I believe he -- he gave them like a briefing or  18 something about staying away from me, something along  19 those lines.  20 Q. Okay. Anyone else in this lawsuit who you've  21 sued do you attribute the comment "Tom Retzlaff is a  22 dangerous person" to?  23 A. In this lawsuit here, no.  24 Q. Okay. Now, going back to any other  25 communications by any of the Defendants that you've</p>
<p style="text-align: right;">143</p> <p>1 A. They're gone.  2 Q. These are all Chinese exchange students?  3 A. Yeah.  4 Q. Okay.  5 A. Yeah, because one of the girls was saying  6 that -- she said that she wasn't allowed to talk with  7 me because that's what Kyle Snyder told her, that I  8 was a dangerous person and that she should stay away  9 from me.  10 Q. Okay. Any other -- do you attribute the  11 comment that you're a dangerous person to any other  12 person in this lawsuit other than Kyle Snyder?  13 A. Well, discovery hasn't even started in this  14 case. So --  15 Q. Well, you had to have --  16 A. Well, I'm attributing --  17 Q. Mr. Retzlaff, you had to have a good faith  18 basis for making all these claims. I'm asking you  19 what the basis of your claims are. So you don't make  20 your claims and then go try to find evidence to  21 support it. You have evidence and then you file your  22 lawsuit. Do you understand that that's the way it  23 works?  24 A. Right.  25 Q. Okay. So you tell me now who else you</p>	<p style="text-align: right;">145</p> <p>1 sued in this lawsuit, is there anything else that  2 you're saying was defaming against you that gives  3 rise to your lawsuit for defamation? And I'm going  4 to ask you, you know, in particular what it was and  5 who supposedly said it or wrote it to who.  6 A. Yeah, I know. I wish I would have probably  7 prepared for this because there were some emails and  8 stuff from -- I think I even sent you copies of those  9 emails that I was bitching about from Lynda De La  10 Vina that she was saying. But that's the only  11 defamation that I'm concerned about here in this  12 lawsuit with regards to that.  13 Q. So it's the email that Dean De La Vina wrote,  14 number one?  15 A. And the statements that she had made to  16 others about me.  17 Q. What statements to who and what were those --  18 A. That she told other people that I had a gun.  19 Q. Okay. So you're saying she --  20 A. And that I had brought a gun on campus and  21 that I was a dangerous person. This is as was told  22 to me from the police department --  23 Q. Okay. So you would --  24 A. -- when they were telling me not to be going  25 over there to the offices anymore.</p>

146	<p>1 Q. Just to clarify, you attribute that to Dean 2 De La Vina. That's why you're suing her in this 3 lawsuit, right? 4 A. Yes. 5 Q. You're also saying Kyle Snyder told Chinese 6 students -- 7 A. Yes. 8 Q. -- who have left for China that you're a 9 dangerous person? 10 A. Yes. 11 Q. Okay. 12 A. In addition, the girl in the other lawsuit, 13 Daniel, said the same words as well. 14 Q. Okay. And since you're on the topic of 15 defamation and you've raised the -- another student 16 whose name is Li-Dan Xu -- 17 A. Yi-Dan, Yi-Dan Xu. 18 Q. Y-i-D-a-n? 19 A. Yeah. It's Yi-Dan. Yi-Dan -- Yi-Dan Xu -- 20 Q. Right. 21 A. -- is the Chinese pronunciation. 22 Q. Last name Z-u [sic]. You call her Danielle, 23 right? 24 A. Yeah. 25 Q. You attribute to her what as for suing her</p>	148	<p>1 Q. Did she say -- 2 A. About 20, 30 feet away from me. 3 Q. Did she say it in English? 4 A. Yes. 5 Q. Oh, she spoke English in your presence to 6 Chinese students who she shares a common language 7 with that defamed you? 8 A. I'm only telling you -- 9 Q. Is that your contention? 10 A. I'm only telling you what I heard. 11 Q. Okay. So when Danielle chose to defame you 12 in your opinion, she did it in English in your 13 presence to Chinese students who share with her a 14 common language other than English, right? Is that 15 your story? 16 A. I just told you what I saw and heard. 17 Q. Okay. 18 A. And she could have been doing it that way to 19 make a point to me. 20 Q. Okay. Any -- in regard to Danielle, any 21 other disparate -- any other defaming words she said 22 that you are suing her for? 23 A. I don't know. I'd have to look at the 24 petition that I have. 25 Q. Okay. With respect to Dean De La Vina, any</p>
147	<p>1 for defamation? 2 A. Yes. 3 Q. What do you attribute to her in terms of -- 4 A. That she told all the other Chinese students 5 to stay away from me, that I was a dangerous person. 6 Q. Okay. And who is available among these 7 Chinese students that she supposedly said this to? 8 A. Like who's available now? 9 Q. Yes. 10 A. I can't say because I've tried to get records 11 of -- of where these people are and -- and whether or 12 not they've left, and my open records requests have 13 been denied. 14 Q. Okay. Who is it that supposedly heard this 15 statement from, for example, Danielle? 16 A. Oh, I saw her make it myself -- 17 Q. Okay. 18 A. -- in front of me. 19 Q. Who did she say it to? 20 A. She said it to two Chinese girls -- 21 Q. Okay. And your -- 22 A. -- that were a part of the Liu program. 23 Q. Your contention now is that she said that 24 standing in front of you? 25 A. Yeah.</p>	149	<p>1 other defaming words or writings that you're 2 attributing to her and the reason you're suing her 3 for defamation other than what we've already talked 4 about? Anything else? 5 A. I can't say that because I'm only dealing 6 with just this one issue. 7 Q. Yes, exactly. 8 A. Right. 9 Q. I'm asking if you give me one -- 10 A. And you want to -- 11 Q. Stop. 12 MR. HAGEN: Objection, nonresponsive. 13 Q. (BY MR. HAGEN) I want to know is there any 14 other reason you're suing her for defamation other 15 than what we've just talked about. Go. 16 A. The only defamation that I'm suing about her 17 in this case is with regards to -- about the gun at 18 school in Paragraph 11. 19 Q. Okay. Is there any reason why -- and we've 20 talked about what you boil Paragraph 11 down to. Is 21 there any reason why you're suing Diane Walz for 22 defamation, or is she not intended to be included in 23 that claim? 24 A. No. She was included, too. She was also 25 copied on that email.</p>

150	<p>1 Q. So she received the email from Dean De La 2 Vina. So you're suing her for defamation? 3 A. Yes. 4 Q. Okay. Then we have Katherine Pope. We 5 talked about Kyle Snyder. Katherine Pope is being 6 sued by you for defamation. Any reason why she's 7 being sued -- 8 A. Yes. 9 Q. -- for defamation? 10 A. Yes. 11 Q. What is it? 12 A. For spreading the same lies around as well. 13 Q. Okay. So your contention is that she said 14 and did exactly what? 15 A. The same thing, spread the email around. 16 Q. And you're talking about the email that came 17 from Dean De La Vina? 18 A. As well as others -- 19 Q. Okay. 20 A. -- that I haven't discovered yet but I do 21 believe exist. 22 Q. Okay. And any other reason apart from that? 23 A. Well, also for trying to obtain copies of my 24 confidential criminal history information. 25 Q. No. I'm talking about defamation.</p>	152	<p>1 touched on the Chinese student, Yi, Y-i-Dan, D-a-n, 2 "Danielle" Xu, who you're suing for defamation, also? 3 A. Yes. 4 Q. Is there apart from what you've already 5 testified to any other reason you're suing her for 6 defamation? 7 A. I'd have to think about it. 8 Q. Well, I'll give you a second to think about 9 it, and let me know if you need a minute so that we 10 don't do this multiple times. We can just get 11 through it now. 12 A. Okay. You want to know why else she was 13 sued? 14 Q. Why you're suing her other than what you've 15 already testified to for defamation. 16 A. Sure. 17 Q. And we're talking about Yi-Dan Xu who you've 18 sued in Bexar County Court of Law, Cause No. 336876. 19 You're looking at that petition now, correct? 20 A. Yeah. 21 Q. Okay. Any other reason why you're suing 22 Danielle for defamation? 23 A. Well, she was involved in that making of the 24 false police report, too, claiming harassment for 25 Julie. And then --</p>
151	<p>1 A. Okay. All right. 2 Q. Any other reason you're suing Katherine Pope 3 for defamation? 4 A. No. 5 Q. Okay. Any other reason apart from what we've 6 already talked about that you're suing Kyle Snyder 7 for defamation? 8 A. Well, only alleged acts in this suit. I 9 don't know if there'll be other actions that I will 10 discover or will sue about later on. 11 Q. Okay. So apart from what we've already 12 talked about, is there any other reason as you sit 13 here today testifying that you've sued Kyle Snyder 14 for defamation? Anything else? 15 A. I'm not sure I understood what you said. 16 Q. Sure. We talked about why you're suing Kyle 17 Snyder for defamation? 18 A. Right. 19 Q. Do you remember that? Apart from that 20 testimony -- 21 A. Apart from that, no. 22 Q. -- and your answers, is there any other 23 reason you're suing her for defamation? 24 A. No. 25 Q. I have questions about -- by the way, you've</p>	153	<p>1 Q. Are you referring to the UTSA police 2 complaint that the Chinese student who has an English 3 name, Julie, filed along with Kyle Snyder whose name, 4 I think, appears on that complaint? Is that your 5 reference? 6 A. I don't know. There's been -- there's 7 several police documents, some of which I have, some 8 of which I don't. So -- 9 Q. Well, I'm trying about the one you're talking 10 about. I'm trying to identify the one you're -- 11 A. Well, I'm just talking about -- 12 Q. -- putting into issue. 13 A. -- the incident itself -- 14 Q. So are you testifying that you're suing the 15 Chinese student with the English name, Danielle, 16 because of somehow your -- you're suing her for 17 defamation because she's somehow involved in the 18 complaint that Kyle Snyder and that Julie filed at 19 the UT Police Department, UTSA? 20 A. Yes. 21 Q. Okay. Any other reason you're suing Danielle 22 for defamation? 23 A. Just things that she said to other students 24 about me. 25 Q. What in particular? Apart from what you've</p>

<p style="text-align: right;">154</p> <p>1 already testified to and claimed earlier in your 2 deposition, anything else? 3 A. That's all as far as I know right now. 4 Q. Okay. 5 A. But it was enough. 6 MR. HAGEN: Let's go ahead and mark 7 this as Exhibit -- 8 MS. JENSEN: G. 9 MR. HAGEN: -- G. Thanks. 10 (At this time, an instrument was here 11 marked for identification as 12 Exhibit G.) 13 Q. (BY MR. HAGEN) Would you please look at 14 this, Mr. Retzlaff? It's -- 15 A. Okay. 16 Q. So I'm showing you here what's marked as 17 Exhibit G, and if you could direct your attention to 18 it rather than the petition that you filed against 19 Danielle in state court, I would appreciate it. Do 20 you see it? 21 A. Yes, I see it. 22 Q. Okay. And is this the email that you're 23 referring to that Lynda De La Vina sent out that 24 you're complaining on? 25 A. No. There was other emails.</p>	<p style="text-align: right;">156</p> <p>1 Q. Okay. What is the other one now that there 2 are two? 3 A. I don't recall exactly what it was she said 4 on it. Like I said, I didn't come prepared for this 5 deposition or anything like that. 6 Q. Okay. 7 A. You know, but I know that there was a 8 different email as well, too, not just this one. 9 Q. Okay. How did it differ? 10 A. I think she was writing it actually to either 11 the chief of police or somebody else asking if 12 there's something that could be done about it and why 13 haven't the police done something about him having a 14 gun in his car or something along those lines, I 15 believe. 16 Q. Okay. 17 A. I can't recall exactly. 18 Q. Was anybody else a recipient of that email 19 you say exists? 20 A. I -- I can't recall off the top of my head. 21 I don't recollect exactly. 22 Q. Okay. Since we do have -- 23 A. But I remember, though, that in that 24 discipline case -- UTSA disciplinary case I tried to 25 bring that issue up and show those emails.</p>
<p style="text-align: right;">155</p> <p>1 Q. This is not it? 2 A. I said there were other emails. 3 Q. No. You said there was an email that she -- 4 A. No. I saw a couple -- 5 Q. Excuse me. 6 A. -- of emails. 7 Q. Mr. Retzlaff, let me interrupt and interject. 8 Did I misunderstand when you said that there was an 9 email that De La Vina sent out, but that was then 10 later disseminated further? Did I misunderstand that 11 testimony? 12 A. I don't know, but there was at least two 13 emails. 14 Q. Okay. So now there were two. First there 15 was -- 16 A. No. 17 Q. -- an email. Now, there are two. Do I 18 understand that correctly? 19 A. Well, whatever. 20 Q. Okay, whatever. So in light of, quote, 21 "whatever," let's look at what's been marked as 22 Exhibit No. G. And let me ask you, is this one of 23 the emails or the email that you considered to be 24 defamation committed by Lynda De La Vina against you? 25 A. I believe this is one of them, yes.</p>	<p style="text-align: right;">157</p> <p>1 Q. Okay. Respecting the one that we have here, 2 which is G, it says, "Julie reported to Beth that 3 Mr. Retzlaff carried a gun in his glove box which she 4 had seen. I do not know if this is accurate but 5 thought I should report to you all." Do you see 6 that? Did I read that right? 7 A. Yes. That's what it says. 8 Q. Okay. Julie is this person who is a Chinese 9 student who you had a relationship with who later 10 complained to you -- or complained about you to the 11 UTSA Police Department; is that right? 12 A. I don't know if that's the same Julie that's 13 being referred to in this email or not. 14 Q. Okay. But she does go by Julie, that person, 15 correct? 16 A. Yes. 17 Q. Okay. 18 A. But there are a lot of Julies. 19 Q. Now, Beth, do you know who Beth is? 20 A. No. It doesn't say. 21 Q. Okay. Do you have any suspicions? 22 A. Well, it might be Beth Guajardo, but I'm not 23 sure. 24 Q. Okay. Was there any Chinese student who went 25 under the English name Beth?</p>



158	<p>1 A. I don't know.</p> <p>2 Q. Okay. Respecting the people who received</p> <p>3 this email from Lynda De La Vina on November 20,</p> <p>4 2007, at least the people under the "To:" line, do</p> <p>5 you see Diane Walz?</p> <p>6 A. Yeah.</p> <p>7 Q. Do you see that name?</p> <p>8 A. Yeah.</p> <p>9 Q. She's a UTSA official; is that right?</p> <p>10 A. Yeah.</p> <p>11 Q. You're suing her in this lawsuit, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Todd Wollenzier, he's a UTSA official,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. Daniel Kiley, he's a captain in the UTSA</p> <p>17 Police Department, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Dave Hernandez, he --</p> <p>20 A. That's that chief of police.</p> <p>21 Q. He's the UTSA police chief, right?</p> <p>22 A. Yes.</p> <p>23 Q. It's copied to four people, Daniel Hollas, do</p> <p>24 you know that person?</p> <p>25 A. I think he works in the Business building.</p>	160	
159	<p>1 Q. UTSA official, correct?</p> <p>2 A. I think so, yes.</p> <p>3 Q. Katherine Pope, UTSA official, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Caron Kiley?</p> <p>6 A. Don't know who she is.</p> <p>7 Q. Kyle Snyder?</p> <p>8 A. Yeah. I know who she is.</p> <p>9 Q. UTSA official, also, correct?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Now, are you -- is it your</p> <p>12 contention that it's not true that you had a gun in</p> <p>13 your glove box of your car in 2007?</p> <p>14 A. Absolutely not true.</p> <p>15 Q. Okay. Do you own firearms?</p> <p>16 A. No.</p> <p>17 Q. Is that a condition of any kind of --</p> <p>18 A. I'm not on patrol or probation.</p> <p>19 Q. Okay.</p> <p>20 A. But, no, I just don't own any.</p> <p>21 Q. Okay. So this is erroneous in your opinion?</p> <p>22 A. It's an absolute lie.</p> <p>23 Q. Okay.</p> <p>24 A. And for it to be spread around with reckless</p> <p>25 disregard as to the truth especially in this day and</p>	<p>1 age with Columbine and all that other nonsense.</p> <p>2 Q. Okay. And you see here the sentence, "I do</p> <p>3 not know if this is accurate but thought I should</p> <p>4 report to you all"? Do you see that?</p> <p>5 A. Well, yeah. And that's a completely</p> <p>6 disingenuous statement in my position, you know. Why</p> <p>7 make such a -- well, I don't really -- somebody</p> <p>8 reported that a space alien landed on the quad, but I</p> <p>9 don't really know if it's accurate or not, but I</p> <p>10 thought I'd report it to you-all.</p> <p>11 Q. Do you know -- if Dean De La Vina received</p> <p>12 this report, do you think it was a reasonable thing</p> <p>13 for her to do to share it with these officials in the</p> <p>14 way she did here on this email, G?</p> <p>15 A. I don't know how she received the report or</p> <p>16 exactly how she disseminated. All I know is, the</p> <p>17 effects of that report hurt me greatly.</p> <p>18 Q. Okay. Well, let me ask you, backing up,</p> <p>19 assuming the truth of what she reports in this email,</p> <p>20 do you think it was reasonable for her to share her</p> <p>21 communication that she did with the people listed</p> <p>22 under the "To:" in the copy line?</p> <p>23 A. No, I do not think it was reasonable.</p> <p>24 Q. You don't?</p> <p>25 A. No --</p>	161

<p style="text-align: right;">162</p> <p>1 Q. (BY MR. HAGEN) Are you referring to the case 2 now pending in federal court? 3 A. Yes. 4 Q. Okay. 5 A. The federal case as well as the case on 6 Danielle Xu. You know, when I'm not working on 7 something in front of me, I put it in a drawer 8 somewhere, and I leave it there until it's time to 9 pull it out. So, you know, I -- I haven't really 10 thought about this case at all, and, you know, that's 11 why my answers aren't specific on a lot of the 12 details. And sometimes when my memory gets jogged, 13 of course, then I'll remember like what we were 14 talking about earlier with the telephone court 15 hearing in front of Judge Rios. But this case, you 16 know, I hadn't thought about it in -- in months. 17 Q. Okay. Anything else? 18 A. No. 19 Q. Okay. Respecting -- before we leave off of 20 Danielle Xu and her case where you sued her for 21 defamation and that's pending in the Bexar County 22 Court at Law, did you pay a visit to her apartment 23 earlier this week? 24 A. No. 25 Q. Okay. You didn't go there on Monday night?</p>	<p style="text-align: right;">164</p> <p>1 is." And that's how she got served. So, no, I don't 2 know where she lives at. 3 Q. So you knew where she used to live? 4 A. Where she used to live at, yeah. She -- I 5 don't even remember the name of the apartments, but 6 they're off Huebner Road because that's where I'd 7 sent the sheriff deputy out there to try to serve her 8 with the paper work. 9 (At this time, an instrument was here 10 marked for identification as 11 Exhibit H.) 12 MR. HAGEN: Okay. Let me show you 13 Exhibit G. 14 MS. JENSEN: H. 15 MR. HAGEN: H. I'm sorry. 16 THE WITNESS: Is she complaining that 17 I -- saying that somebody came to her door on Monday 18 and was knocking at the door? 19 MR. HAGEN: I'm asking the questions 20 here, Mr. Retzlaff. 21 THE WITNESS: Well, I mean, if -- 22 MR. HAGEN: It's -- 23 THE WITNESS: -- things of defamation 24 are being made, I guess it's -- 25 MR. HAGEN: It's Defendants -- it's --</p>
<p style="text-align: right;">163</p> <p>1 A. No. 2 Q. Okay. You didn't knock on her door for 15 3 minutes -- 4 A. No. 5 Q. -- and want her to answer the door? 6 A. No. 7 Q. Okay. 8 A. Monday night, I'm trying to figure out what I 9 was doing. I was watching the football game. 10 Q. You do know where she lives, though? 11 A. Wait. No. I was watching Heroes. I wasn't 12 watching the football game. I was watching Heroes. 13 Q. Okay. You do know where she lives, though? 14 A. Well, I think, but she -- well, actually, no, 15 I don't, because I remember at the place where I 16 thought that she lived at the sheriff's deputy -- I 17 had the sheriff deputy go over there and -- and try 18 to serve her with the lawsuit. Okay. And the 19 sheriff deputy came back saying that she didn't live 20 there anymore, that that's what he was told by them, 21 that he didn't -- that she didn't live there anymore. 22 So the only way I could get her served was when I saw 23 her at school. And I brought a private process 24 server with me, and then when I -- when I saw her at 25 the school, I pointed to her and said, "There she</p>	<p style="text-align: right;">165</p> <p>1 I'm sorry. I didn't want to interrupt your school of 2 thought. 3 Q. (BY MR. HAGEN) What gives rise to another 4 defamation claim in your opinion? 5 A. Well, if she is claiming that I was out there 6 knocking on her door for 15 minutes, as you said, on 7 this Monday night -- 8 Q. That gets her sued by you? 9 A. Well, yeah, because that would constitute, I 10 guess, harassment maybe or something like that and 11 plus the fact that she's your client. And if you'll 12 recall, we did have a client where you asked me not 13 to speak with her, and I haven't. 14 Q. Okay. 15 A. And so I don't even know where she lives now. 16 I know where she used to live at, and I mentioned to 17 you the problems I had getting her served because 18 she's not living where she's at now. 19 Q. Okay. 20 A. So -- 21 Q. So let's -- turn our -- 22 A. But if somebody is making accusations saying 23 I'm doing something when I didn't, then, you know, 24 obviously that's a problem. 25 Q. That gets them sued, right?</p>

<p style="text-align: right;">166</p> <p>1 A. It certainly could.</p> <p>2 Q. Okay. Let's turn to Exhibit H which is an</p> <p>3 email exchange. Do you recognize this as an email</p> <p>4 that you sent to her and that she responded to you</p> <p>5 about?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. A few questions about this email.</p> <p>8 Looking at the second paragraph of it, do you see</p> <p>9 that, "I know that the Chinese students are very</p> <p>10 poor..."? Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So it would not -- and this is -- I'm</p> <p>13 sorry. Strike this. It reads like this: "I know</p> <p>14 that the Chinese students are very poor, so it was</p> <p>15 not difficult for me to find someone who would agree</p> <p>16 to give me information in exchange for money." Do</p> <p>17 you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Then you say, "The girl shared with me</p> <p>20 information that leads me to believe that you have</p> <p>21 engaged in misconduct against me." Do you see that</p> <p>22 sentence?</p> <p>23 A. Yes, I see that.</p> <p>24 Q. Who is the girl?</p> <p>25 A. I'm sorry. I can't talk about that.</p>	<p style="text-align: right;">168</p> <p>1 particular location. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And you say that would be most convenient for</p> <p>4 her in your opinion; is that --</p> <p>5 A. Yes.</p> <p>6 Q. -- right? That's because you knew where she</p> <p>7 was living, right?</p> <p>8 A. No. Because it's close to UTSA.</p> <p>9 Q. And --</p> <p>10 A. That's the closest Starbucks to UTSA that I</p> <p>11 know of, is the one down there at De Zavala right off</p> <p>12 I-10.</p> <p>13 Q. Okay.</p> <p>14 A. There's a Barnes &amp; Noble or there's the</p> <p>15 McDonald's that's across UTSA. But I just offered</p> <p>16 those as areas that I knew that were close by --</p> <p>17 Q. Okay.</p> <p>18 A. -- to school that were public locations.</p> <p>19 Q. In your lawsuit against her filed in Bexar</p> <p>20 County Court at Law, Cause No. 336876, in Paragraph 3</p> <p>21 of it, you actually provide her apartment number,</p> <p>22 don't you?</p> <p>23 A. Well --</p> <p>24 Q. And the apartment is on Huebner Road, right?</p> <p>25 A. On Huebner Road.</p>
<p style="text-align: right;">167</p> <p>1 Q. You won't divulge who the girl was who shared</p> <p>2 with you information that led you to believe that</p> <p>3 you -- that she engaged in misconduct against you.</p> <p>4 You won't tell me that?</p> <p>5 A. I am not going to answer anything about that.</p> <p>6 Q. Okay.</p> <p>7 A. I'm going to rely on privilege.</p> <p>8 Q. Okay. What privilege?</p> <p>9 A. Well, I don't know. It could certainly be</p> <p>10 work product privilege.</p> <p>11 Q. Okay. So you're refusing to answer the</p> <p>12 question about the girl that is mentioned here. What</p> <p>13 about the information? What information was it?</p> <p>14 A. Again, I'm not going to answer any questions</p> <p>15 about that.</p> <p>16 Q. Okay. Then you say that led you to believe</p> <p>17 that you, meaning Danielle, having engaged in</p> <p>18 misconduct. What misconduct?</p> <p>19 A. I think that was more of a general statement</p> <p>20 of misconduct as opposed to a specific claim of</p> <p>21 misconduct. I can't recall exactly what my thoughts</p> <p>22 were behind this because this was seven months ago.</p> <p>23 Q. Okay. So here in February of 2008, a couple</p> <p>24 of paragraphs later, you say that you want to meet</p> <p>25 her at a Starbucks or McDonald's, and you give a</p>	<p style="text-align: right;">169</p> <p>1 Q. Huebner?</p> <p>2 A. That's what I thought it was, but apparently</p> <p>3 it's not.</p> <p>4 Q. Okay. So here you are also setting out a</p> <p>5 location that's between De Zavala and Huebner, right?</p> <p>6 A. Well, I gave where the location was at. And,</p> <p>7 again, whether it was convenient to the school or</p> <p>8 convenient where I thought that she lived at, it</p> <p>9 seemed like a fair spot. I certainly wasn't going to</p> <p>10 pick someplace on the east side of town or, you know,</p> <p>11 New Braunfels or someplace ridiculous like that.</p> <p>12 Q. But you wanted to get her to meet you off</p> <p>13 campus someplace?</p> <p>14 A. Well, I didn't want this to be on campus just</p> <p>15 because of all the different problems that had been</p> <p>16 going on on campus, but I felt that it was a neutral</p> <p>17 location, a public location.</p> <p>18 Q. Okay. In the next paragraph, you say -- you</p> <p>19 make reference to Zhu Lan and that -- do you see</p> <p>20 that?</p> <p>21 A. Yes.</p> <p>22 Q. She is Julie, correct?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And the final -- or next to last</p> <p>25 sentence of that paragraph, you say, "How could I</p>

<p style="text-align: right;">170</p> <p>1 know this stuff about you but for her and what she  2 said?" Do you see that?  3 A. Yeah, I see it.  4 Q. Okay. What stuff are you referring to?  5 A. Well, that goes into the area that I can't  6 talk about.  7 Q. Okay. Refuse to --  8 A. Well, it's because of a national security  9 nondisclosure agreement.  10 Q. Okay. In the next paragraph, you make  11 reference to Julie getting in -- you characterize it  12 as getting into trouble with the university in  13 November --  14 A. Uh-huh.  15 Q. -- correct?  16 A. Yes, correct.  17 Q. Is that in relationship to the complaint she  18 filed at the UTSA Police Department against you?  19 A. That is in reference to the fact that it's my  20 position that the university cares more about its  21 programs than it does about its students. And when  22 two students cause problems for that program,  23 especially two little people, they're likely to get  24 squashed so the university can keep its cash cow  25 coming in. That's basically what I meant about that.</p>	<p style="text-align: right;">172</p> <p>1 A. -- just like I gave the same thing with your  2 client, Kyle Snyder, an opportunity to explain.  3 Q. Okay. Then in the --  4 A. I felt that it was only fair.  5 Q. -- last really big paragraph of your email,  6 you say, "Danielle, I hope that you understand that I  7 cannot allow this kind of thing to go unchecked." Do  8 you see that?  9 A. Yes.  10 Q. What kind of thing are you talking about?  11 A. People making false statements about me.  12 Q. Okay. And are you talking about Danielle  13 making a false statement against you?  14 A. I think it was just more of my belief in  15 general.  16 Q. Okay. That you're going to what?  17 A. I don't know. This was, again, seven months  18 ago. I don't really recall. And sometimes I'll just  19 type stuff on emails just to type without really  20 paying attention or caring what it is I'm typing  21 about.  22 Q. Okay. So you wanted to meet with Danielle,  23 and you believed that she was a poor girl from China.  24 Is that the way that you characterize her?  25 A. I don't believe I characterize her that way.</p>
<p style="text-align: right;">171</p> <p>1 This Liu program is the biggest deal at UTSA, the  2 biggest donor, and, you know, when it comes to choose  3 between a student and a donor, of course, the money  4 is always going to win.  5 Q. Okay. On Page 2 of this Exhibit H on the  6 first full paragraph that's just two sentences, you  7 tell Danielle, quote, "You should know that a lawsuit  8 has already been prepared with your name on it. It  9 is ready to be immediately filed with the court this  10 week." Do you see that?  11 A. Yes, I see that.  12 Q. Is that the lawsuit that is now removed to  13 federal court that we're here in connection with, or  14 is that, I guess, the state court lawsuit that we've  15 made reference to and that is numbered Cause No.  16 336876?  17 A. Yeah. That would be the state court lawsuit.  18 Q. Okay. The one against Danielle --  19 A. Yes.  20 Q. -- right? Okay. So here you tell her you're  21 going to sue her, but she can do certain things to  22 prevent getting sued; is that right?  23 A. Well, I said that "If I'm making a mistake,  24 I'd like to give you an opportunity to explain" --  25 Q. Okay.</p>	<p style="text-align: right;">173</p> <p>1 And truly it's not relevant whether she's rich or  2 poor.  3 Q. Okay.  4 A. You know, I know that the Chinese exchange  5 students in general are poor.  6 Q. You tell Danielle that you have a lawsuit  7 here pending against her that you're prepared to  8 file, correct?  9 A. Yeah. I think so.  10 Q. You want her to do certain things, to meet  11 you and so forth, in order to avoid getting sued?  12 A. Well, I'd like to give her an opportunity to  13 explain her side of it.  14 Q. Okay. You -- in reference to this other  15 Chinese student, Julie, who you've sued, you had a  16 sexual relationship with Julie, correct?  17 A. Yes, we did.  18 Q. Okay. Let's go on and actually return to the  19 subject of the lawsuit that's removed to federal  20 court against Dean De La Vina and other UTSA  21 officials. We've talked about defamation. Do you  22 remember all that?  23 A. I don't know. We've talked about a lot of  24 stuff.  25 Q. Okay. But we've kind of covered defamation</p>

<p style="text-align: right;">174</p> <p>1 in relationship to this federal lawsuit, right?  2 A. Yeah, I guess.  3 Q. Okay. So I need to ask you about another set  4 of allegations you're making. Those are about  5 privacy. Why have you sued Dean De La Vina for  6 violation of privacy?  7 A. Well, those guys got the UTSA Police  8 Department to give them access to my criminal history  9 information.  10 Q. Okay. And you're making that allegation  11 against all four of them? I'm referring to all four  12 of the Defendants.  13 A. Yeah.  14 Q. Actually -- yeah, four. And what is your  15 particular knowledge that that occurred, that they  16 got the UTSA Police Department to give them access to  17 your history?  18 A. Well, there's email exchange between De La  19 Vina and Walz and a bunch of other people in which  20 the matter is discussed. I think the first email  21 that I saw was -- I remember because it was Veterans  22 Day.  23 Q. Let me ask you how -- you saw before today's  24 deposition Exhibit G, correct, or not? That's the  25 email that Dean De La Vina sent to a handful of UTSA</p>	<p style="text-align: right;">176</p> <p>1 can find, you know, criminal court opinions where  2 your name is a party to it?  3 A. Yeah.  4 Q. And it discusses your criminal history.  5 You're aware of that, right?  6 A. No, it doesn't discuss my criminal history.  7 It discusses the writ of habeas corpus that I won in  8 the unlawfully carrying a weapons case, and it does  9 make reference to the fact that there was the charge  10 for unlawfully carrying a weapon.  11 Q. And then you --  12 A. But that is it.  13 Q. And there's a publicly available opinion  14 where it documents your tampering with evidence.  15 Were you aware of that?  16 A. I don't think so, but it wouldn't surprise  17 me.  18 Q. Okay. So lots of this stuff is available in  19 the public domain, isn't it?  20 A. But you're not allowed to have the police  21 department run criminal record checks for you.  22 Q. And that's your position as a matter of law,  23 that you can't do --  24 A. Well, I even quoted the state law, the  25 Government Code.</p>
<p style="text-align: right;">175</p> <p>1 officials about what she heard?  2 A. I'm not sure if I have or not.  3 Q. Okay. You may have not ever saw that one?  4 A. I'm not sure.  5 Q. Okay. So in relationship to what you say is  6 your basis for filing the violation of privacy  7 lawsuit, you refer to other emails, right?  8 A. Yeah.  9 Q. What are you referring to?  10 A. I don't know what you mean by that.  11 Q. Well, I'm trying to find out what gives rise  12 to your belief that the Defendants in this case  13 unlawfully got access to your criminal record  14 history?  15 A. Yeah.  16 Q. What -- I mean, what is --  17 A. Oh.  18 Q. -- the basis for that belief that they  19 unlawfully got access to your criminal record  20 history?  21 A. Because I know they did. They made specific  22 references about things. I just remember looking  23 through that pile of emails stuff from Todd  24 Wollenzier that there was some stuff in there.  25 Q. You were aware that in the public domain you</p>	<p style="text-align: right;">177</p> <p>1 Q. Okay. Under any circumstance as a matter of  2 law and you think that that prohibition was violated,  3 and you --  4 A. Yes, I do.  5 Q. -- further believe you can sue all four of  6 these women for that?  7 A. Yes.  8 Q. And what is your basis for believing that  9 each one of them did that?  10 A. Because all their names were on the emails.  11 Q. Okay.  12 A. And if your name is on an email, then -- then  13 you're going to get sued because you're all a part of  14 it either as an illegal recipient or as the legal  15 obtainer.  16 Q. Okay. That may bring us to Subparagraph 8 of  17 your petition that's removed to federal court. It's  18 an allegation of civil conspiracy. Do you see that?  19 A. Yes.  20 Q. What is your theory for why these people are  21 being sued for civil conspiracy?  22 A. Well, it's a little bit early yet to -- to  23 really go into these. Discovery is just starting in  24 this case, and my ideas might change as -- as I learn  25 more about what happened.</p>

178	<p>1 Q. Okay. So I'm asking you for what your ideas                  2 are --                  3 A. So it's too premature.                  4 Q. I'm asking you what your ideas are as we sit                  5 here today for why you're alleging civil conspiracy.                  6 Do you have anything to say?                  7 A. Well, with regards to them attempting to gain                  8 access to my criminal history information.                  9 Q. Okay. Anything else?                  10 A. I'm not sure.                  11 Q. Anything else as we sit here today?                  12 A. I said I'm not sure.                  13 Q. I mean, you can say -- if there's nothing                  14 else that you know of as we sit here today, just tell                  15 me so.                  16 A. I could if there was nothing else, but right                  17 now I'm saying I'm not sure.                  18 Q. Okay.                  19 A. If you want, I can make something up.                  20 Q. No. I just want to here exhaustively why                  21 you've set out this --                  22 A. Well, I can't give it --                  23 Q. -- claim and --                  24 A. -- to you exhaustively. This case has just                  25 started.</p>	180
179	<p>1 Q. I'm asking you exhaustively why it is that                  2 you've created this paragraph that runs over Pages 3                  3 and 4 of this case that's now in federal court.                  4 A. Well, the paragraph is only eight sentences                  5 long.                  6 Q. Right. So --                  7 A. In any event, I can't list it to you                  8 exhaustively.                  9 Q. So have we discussed all the reasons so far                  10 as we sit here today that you created this allegation                  11 against these four people?                  12 A. No, we haven't, you know.                  13 Q. So what else is it? What else is it that                  14 gave rise to you writing these words on Pages 3 and 4                  15 of your complaint?                  16 A. Well --                  17 Q. What else?                  18 A. What else is it? This case has just started,                  19 and discovery hasn't even been going on yet.                  20 MR. HAGEN: Okay. Objection,                  21 nonresponsive.                  22 Q. (BY MR. HAGEN) Under Count 4, you allegation                  23 violation of civil rights, and you make reference to                  24 the First, Fifth and Fourteenth Amendments, and those                  25 are grounds for suing each of the four Defendants.</p>	181

<p style="text-align: right;">182</p> <p>1 Q. Okay. So that relationship went sour. You 2 created an opinion that she was a spy for Red China? 3 A. I didn't create the opinion. 4 Q. I'm just saying, what was going on in your 5 brain? Did you create the opinion -- did you form 6 the opinion that she was spying for the Republic of 7 China? 8 A. No. It was the FBI who came to me. 9 Q. Okay. So let's connect this. You were 10 approached by the FBI after, what, you complained to 11 the FBI? 12 A. No. I didn't even talk to anybody from the 13 FBI until they showed up on my doorstep one evening. 14 Q. Okay. 15 A. It was like on a Thursday or something, and 16 that's when they I called Mr. Martinez up saying, you 17 know, "The FBI is knocking on my door" -- 18 Q. Okay. So tell -- 19 A. -- "What should I do?" 20 Q. Tell me when that happened. 21 A. Well, it was in the early part of November -- 22 Q. Okay. 23 A. -- of last year. 24 Q. November of 2007? 25 A. Yes.</p>	<p style="text-align: right;">184</p> <p>1 Q. So you're claiming that the FBI visited you 2 at your home and you visited them at their offices 3 where, in San Antonio? 4 A. I'm not -- 5 Q. You can tell me where the FBI office was? 6 A. Well, San Antonio, yes. 7 Q. Okay. 8 A. Yes. 9 Q. Great. 10 A. Yes. 11 Q. Thank you. 12 A. That was where one of the visits took place. 13 Q. So you're saying that in response to your 14 visiting with the FBI, Dean De La Vina took action 15 against you? 16 A. I'm saying that as a result of the FBI's 17 inquiry into this Chinese exchange program and all 18 this stuff that's been going on about it that that's 19 the only reason why I got kicked out of school. 20 Q. Okay. So my question is, as a result of your 21 visiting with the FBI, is that what caused in your 22 theory Dean De La Vina to start a ball rolling from 23 your point of view to result in your -- 24 A. Yes. 25 Q. -- discharge from the MBA program?</p>
<p style="text-align: right;">183</p> <p>1 Q. Okay. So you're saying that you never 2 contacted the FBI, that FBI contacted you only? 3 A. Yes. They came to me first. 4 Q. Okay. Who contacted you? 5 A. I cannot say. 6 Q. You can't tell me the name of the FBI agent? 7 A. I signed a nondisclosure agreement. I can't 8 talk about it. 9 Q. Okay. Did the person give you a, you know, 10 field operation office -- 11 A. There were two persons. 12 Q. Okay. Did the people tell you from which 13 office they were operating? 14 A. A guy came from Washington, D.C., and he met 15 with -- 16 Q. And a San Antonio, also, FBI agent? 17 A. It was from Washington, D.C., came out -- 18 Q. Okay. Did you meet with any -- or did -- 19 at -- in November of 2007 when they came, you said, 20 to your apartment or where? 21 A. Well, there was several instances. The first 22 time -- when I had the very first contact with them 23 was at my apartment. 24 Q. Okay. 25 A. And then later on it was at their offices.</p>	<p style="text-align: right;">185</p> <p>1 A. Yes. 2 Q. Okay. And what is the basis for that belief? 3 A. My education based on experience and what I 4 feel of the situation. 5 Q. Anything else? 6 A. I'm not sure what else I can say at this 7 time. Like I said, I wasn't prepared for this 8 deposition. 9 Q. Okay. Any other retaliatory action by Dean 10 De La Vina other than what you've already said? 11 A. Well, I do know that they tried -- initially 12 Kathy Pope tried to stop my registration for the 13 spring semester in the program, but then when I 14 complained about that, I was allowed to go ahead and 15 register. She did that on your own. 16 Q. Okay. You're talking about Kathy Pope. I'm 17 talking about Dean De La Vina. 18 A. Yeah. 19 Q. We'll get to Kathy Pope. 20 A. Yeah. Dean De La Vina, the former United 21 States government official for the Clinton 22 administration, yes. 23 Q. Okay. 24 A. Okay. 25 Q. She sounds like, by the way, a perfect</p>

<p style="text-align: right;">186</p> <p>1 candidate for someone who would want to retaliate  2 against you for talking to the FBI.  3 A. Well --  4 Q. That theory is just marvelous.  5 A. And --  6 Q. You know that --  7 A. Really.  8 Q. -- Mr. Retzlaff?  9 A. Well, I do remember a wife of a certain  10 president who retaliated against the White House  11 travel office because of certain people speaking to  12 certain FBI people. And then if we want to --  13 Q. Okay.  14 A. -- talk about --  15 Q. Okay.  16 A. -- somebody else who supposedly committed  17 suicide in a -- in a state park, but really didn't  18 perhaps. We can --  19 Q. You're talking about Vince Foster now?  20 A. Sure, of course.  21 Q. Okay.  22 A. If we want to throw out all kinds of  23 conspiracies involving Whitewater.  24 Q. Staged moon landings --  25 A. Well, no.</p>	<p style="text-align: right;">188</p> <p>1 the Chinese girl, and then we've got the Liu program  2 involved and the embarrassment that this is the first  3 time in the history of Liu program that anything like  4 this has ever happened, you know. And, of course,  5 Richard Liu is their big benefactor, and when all of  6 this was taking place is when they were up for review  7 for their grant to determine whether or not there  8 would be future grants from Mr. Liu to continue on  9 with this program. So any kind of embarrassment, you  10 know, obviously they're going to want to squash, and  11 they're obviously going to want to get rid of the  12 people that caused it. That's why Julie got kicked  13 out of school, and that's why I got kicked out of  14 school.  15 Q. So let's go back to why you're suing Dean De  16 La Vina. Is there any other reason under the First  17 Amendment that you're suing Dean De La Vina?  18 A. I believe I mentioned it all, my freedom of  19 association --  20 Q. Actually you didn't detail that.  21 A. Oh, I thought --  22 Q. We started with speech.  23 A. Yeah, speech.  24 Q. And I think I understand your theory for  25 speech.</p>
<p style="text-align: right;">187</p> <p>1 Q. -- and Hollywood?  2 A. I'm just saying if we're going to throw out  3 conspiracies, we might as well throw them all out.  4 Q. Black helicopters?  5 A. Yeah. Actually there are Black helicopters.  6 Q. Going back to this, though, and this theory  7 that you have against Dean De La Vina, seriously I  8 want to understand.  9 A. Sure.  10 Q. Your point of view is, she got the ball  11 rolling on your disciplinary discharge, and she did  12 that in retaliation for your visiting with the FBI.  13 Is that kind of what it comes down to?  14 A. Yeah, basically. But for, you know, my  15 goings-on with this Chinese girl and the fallout as a  16 result of that, I would not have been expelled from  17 UTSA.  18 Q. Okay.  19 A. And that's -- and that's the thing that's  20 just got me steamed the most --  21 Q. Okay.  22 A. -- you know, is before this happened, before  23 this relationship, I was just a normal student just  24 going about UTSA, you know, and -- and stuff like  25 that, you know. And then this thing comes up with</p>	<p style="text-align: right;">189</p> <p>1 A. Yeah.  2 Q. For association, what is the association?  3 A. Well, for associating with the Chinese girl.  4 Q. Okay. So --  5 A. I just thought I'd throw that in there, too.  6 Q. -- Dean De La Vina got the ball rolling on --  7 from your point of view on your disciplinary  8 discharge because you associated with Julie, the  9 Chinese student?  10 A. Well --  11 Q. Is that what it boils down to?  12 A. You know, in addition, too, I --  13 Q. I just --  14 MR. HAGEN: Objection, nonresponsive.  15 Q. (BY MR. HAGEN) I just have to hear from you,  16 is that the association that you're talking about,  17 and is that the retaliation that you're talking  18 about?  19 A. Well, no. I was going to say in addition to  20 that.  21 Q. Yeah. But is that one thing?  22 A. That's one thing, yes.  23 Q. Okay. What else?  24 A. All right. They also wanted to chill my  25 speech. You know, there was some talk at the time</p>



190	<p>1 that I was going to go to the press about this.</p> <p>2 Q. So you're saying that Dean De La Vina,</p> <p>3 therefore, wanted to get you discharged on</p> <p>4 disciplinary grounds because of that?</p> <p>5 A. To discredit me, yes.</p> <p>6 Q. That motivation?</p> <p>7 A. Yes.</p> <p>8 Q. Anything else under the First Amendment for</p> <p>9 why you're suing Dean De La Vina?</p> <p>10 A. Well -- and because of the lawsuits that I</p> <p>11 filed against Ms. Snyder and the Chinese girl, Julie.</p> <p>12 Q. Okay.</p> <p>13 A. She --</p> <p>14 Q. So you're saying that --</p> <p>15 A. Dean De La Vina was the one who was</p> <p>16 responsible for initiating the disciplinary</p> <p>17 proceedings against me --</p> <p>18 Q. Okay.</p> <p>19 A. -- at UTSA.</p> <p>20 Q. But just as far as what your theory is for</p> <p>21 her motive and whatever role she played in the</p> <p>22 disciplinary discharge, you're also saying that she</p> <p>23 was motivated by the fact that you filed a lawsuit</p> <p>24 against Julie?</p> <p>25 A. Yes.</p>	192
191	<p>1 Q. Okay.</p> <p>2 A. And the Liu foundation.</p> <p>3 Q. Any other reason? I mean, we're talking</p> <p>4 about the First Amendment now --</p> <p>5 A. Yeah.</p> <p>6 Q. -- in theory, not about, you know --</p> <p>7 A. I know. And it's tough for me to break it</p> <p>8 down like that because they're all part of the</p> <p>9 constitution. So --</p> <p>10 Q. Well -- but we have to break it down.</p> <p>11 A. I know that. And I'm --</p> <p>12 Q. So let me exhaust and finish understanding</p> <p>13 from your point of view why you're suing Dean De La</p> <p>14 Vina under the First Amendment. Anything else?</p> <p>15 A. Yeah. I mean, you know, the First Amendment</p> <p>16 just isn't the right to free speech. It's the right</p> <p>17 to petition the courts and the right to have access</p> <p>18 to courts.</p> <p>19 Q. So that's where this --</p> <p>20 A. And so --</p> <p>21 Q. -- theory comes in --</p> <p>22 A. Yes.</p> <p>23 Q. -- from your point of view that --</p> <p>24 A. Yes.</p> <p>25 Q. -- she -- you sued someone and you're</p>	193
	<p>1 retaliated against because -- in particular by Dean</p> <p>2 De La Vina because she started the ball rolling from</p> <p>3 your point of view at least for the disciplinary</p> <p>4 discharge?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Anything else under the First</p> <p>7 Amendment against Dean De La Vina?</p> <p>8 A. That's all I can think of at this time.</p> <p>9 Q. Okay. There's Ms. Walz -- Diane Baker Walz.</p> <p>10 Why have you sued her under the First Amendment?</p> <p>11 A. Same things.</p> <p>12 Q. Okay. You --</p> <p>13 A. I mean, I look at them as being one and the</p> <p>14 same individuals because they're all -- they all work</p> <p>15 out of the same office. They all do the same things.</p> <p>16 Q. Okay. Any other reason for suing Kyle</p> <p>17 Snyder --</p> <p>18 A. And I --</p> <p>19 Q. -- under the First Amendment?</p> <p>20 A. Okay. I was also going to mention Dr. Walz</p> <p>21 also did say that she did attempt to gain copies of</p> <p>22 my criminal history from the UTSA Police Department</p> <p>23 during my student disciplinary hearing. She did</p> <p>24 admit to doing that.</p> <p>25 Q. Okay. So here we're skipping back to the</p>	

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1 A. De La Vina and Walz and Snyder.  
2 Q. Okay. Now, respecting Katherine Pope, why  
3 are you suing her under the First Amendment?  
4 A. She was the one who tried to stop me from  
5 being able to register for the spring semester. She  
6 just unilaterally on her own and -- you know, and  
7 tried to stop me from registering --  
8 Q. Okay. Let me ask you --  
9 A. -- without any kind of due process from the  
10 university regulations or anything.  
11 Q. And now you're talking about due process.  
12 What I'm talking about is First Amendment. So I  
13 understand that you complained against Katherine Pope  
14 for in your opinion trying to obstruct you from  
15 registering for classes in the spring semester of  
16 2008, correct?  
17 A. 2008, yes.  
18 Q. Okay. What do you believe was her motivation  
19 for doing that under the First Amendment, anything,  
20 or is that more of a due process you're claiming?  
21 A. Well, again, because of this thing going on  
22 with the Chinese exchange students.  
23 Q. So her motivation was the same motivation  
24 that you've attributed in your testimony to Dean De  
25 La Vina?

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1 A. Yeah. They wanted me kicked out of school.  
2 Q. Okay. And in particular do I understand  
3 under the First Amendment the body of reasons why you  
4 believe they wanted that done?  
5 A. No, I don't think you do, because I'm  
6 probably doing a really lousy job of explaining it  
7 because I'm really tired and I really haven't thought  
8 about this stuff.  
9 Q. Okay. Well, if you have nothing else to add  
10 at this time to the First Amendment issues that you  
11 raise, then I'd like to ask you about the Fifth  
12 Amendment and your theories for suing each one of the  
13 four Defendants under the Fifth Amendment.  
14 A. Yes.  
15 Q. Can I ask you about that now?  
16 A. Sure.  
17 Q. Okay. Why are you suing the Defendants under  
18 the Fifth Amendment?  
19 A. Well, the Fifth Amendment, of course, ties in  
20 with the Fourteenth Amendment and the right to due  
21 process. And, you know, by trying to summarily get  
22 me kicked out of school, you know, with this decision  
23 not to allow me to enroll in the spring semester,  
24 that was a violation of my rights. In addition, by  
25 De La Vina trying to exert her influence to direct

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1 and suggest that this particular punishment be  
2 imposed upon me, you know, in the Army we call that  
3 undue command influence, and that's what she was  
4 involved in. This complaint is mainly directed at  
5 Dean De La Vina -- Lynda De La Vina, you know, by not  
6 allowing me to have access to the witnesses I need,  
7 to the documents that I need and as well as setting  
8 up this hearing in such a fashion that I -- it was  
9 designed for failure, that I could not win. You  
10 know, she couldn't have picked a worse hearing  
11 officer for me to have than that first hearing  
12 officer, that Mansour El-Kikhia guy.  
13 Q. That guy got recused, correct?  
14 A. Well, he did it on his own because I pointed  
15 out to him some things, that, you know, saying maybe  
16 you don't want to become a part of this because  
17 you'll end up getting sued.  
18 Q. So you moved to recuse him; he refused,  
19 correct?  
20 A. Yeah.  
21 Q. And then you got Daniel Escobar as your  
22 hearing officer?  
23 A. Yeah, which again, though, how can I have a  
24 fair hearing and it's the university that's punishing  
25 me and the university that's acting in judge, jury

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1 and executioner and when I can't call witnesses on my  
2 half that I want to call and when I can't have access  
3 to documents that I need on my behalf.  
4 Q. And --  
5 A. That's simply not fair.  
6 Q. And let's -- let me go back to this  
7 Paragraph 14 of your petition where you raise the  
8 Fifth Amendment, and you also in concert with the  
9 Fifth Amendment invoke the Fourteenth Amendment which  
10 is after the Fifth Amendment in that paragraph. Do  
11 you see that?  
12 A. Yes.  
13 Q. Are -- is the basis for your theory for suing  
14 under the Fifth and Fourteenth Amendments the same?  
15 It's due process?  
16 A. Due process, equal protection, you know, that  
17 similarly situated students weren't treated the same  
18 way.  
19 Q. Okay. So let me ask you first about due  
20 process. What other reasons do you have for suing  
21 the Defendants in this case for due process  
22 violations?  
23 A. I'm sorry. Could you repeat your question?  
24 Q. Sure. What other reasons are you suing the  
25 Defendants in this case for due process violations?

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1 A. You mean other than about this disciplinary  
2 hearing.  
3 Q. Sure, or things --  
4 A. Right.  
5 Q. -- associated with it that --  
6 A. Right.  
7 Q. -- you already testified to.  
8 A. Right, things associated with the  
9 disciplinary hearing.  
10 Q. Okay. And apart from what you've detailed  
11 about that process, is there any other complaint that  
12 you have against these Defendants that gives rise to  
13 your due process claims?  
14 A. Not that I can think of right now. I may  
15 wish to supplement that.  
16 Q. There is the equal protection claim that you  
17 just made reference to --  
18 A. Yes.  
19 Q. -- correct?  
20 A. Yes.  
21 Q. What is your basis for suing the Defendants  
22 in this lawsuit under the equal protection claim?  
23 A. Well, interestingly enough as I've been able  
24 to do a little bit of discovery in some of these  
25 lawsuits, I obtained a record of past UTSA

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1 disciplinary hearings going back for like three,  
2 four, five years or something like that. And it's  
3 interesting where I find that people committed much  
4 worse acts of misconduct than I was accused of, yet  
5 were allowed to continue with their education at the  
6 school. People involved in drug dealing and burglary  
7 of dorm rooms and things like that, you know, were  
8 allowed to continue their education at UTSA that  
9 weren't expelled like I was.  
10 Q. What other instances are you claiming  
11 exists --  
12 A. Well, I can't give you specifics -- I'm  
13 sorry.  
14 Q. Sure. What other instances are you claiming  
15 existed that were treated differently and that gave  
16 rise to your equal protection claim?  
17 A. I can't give you that right now because I  
18 don't have my notes from that. I've only started to  
19 review the CD. I looked at it about a month ago, and  
20 then I went on to something else. But I don't have  
21 my notes that I have from reviewing the CD with me  
22 now.  
23 Q. Okay.  
24 A. And I haven't finished the review --  
25 Q. You --

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1 A. -- either.  
2 Q. Okay. You've sued, you know, people in  
3 different situations over years in civil lawsuits,  
4 including constitutional lawsuits. Do I have that  
5 right?  
6 A. Yes.  
7 Q. You're not claiming that you're a member of  
8 any protected class, correct?  
9 A. Well, sure, I am.  
10 Q. Okay. What is your protected class under the  
11 equal protection clause?  
12 A. That protected class could be a protected  
13 class of one.  
14 Q. Okay. So your claim under the equal  
15 protection clause is the class of one theory?  
16 A. No. That's not what I'm saying. I --  
17 Q. Well, I'm asking you.  
18 A. I know that. I'm not prepared to make a  
19 legal conclusion at this time.  
20 Q. Are you any of -- you're a White male,  
21 correct?  
22 A. Yes.  
23 Q. Okay. You're how old?  
24 A. 42.  
25 Q. When was your birth date?

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1 A. '66.  
2 Q. You were born in the United States?  
3 A. Yeah.  
4 Q. You were --  
5 A. U.S. citizen.  
6 Q. You were born -- you're a U.S. citizen.  
7 English is your first language?  
8 A. Yeah.  
9 Q. You were born in Minnesota --  
10 A. Yeah.  
11 Q. -- where you're from? Where were you born in  
12 Minnesota?  
13 A. In Rochester.  
14 Q. Okay. So --  
15 A. The class that --  
16 Q. -- alert me at this time if you have any  
17 theory that you're a member of a protected class  
18 because I'd like to know that.  
19 A. Well, the protected class, I think, and  
20 without really researching this a whole lot would be  
21 the class of students at UTSA. Okay. And then you  
22 have the class of students that are disciplined by  
23 UTSA. All right. And discipline at UTSA is not  
24 handled on an evenhanded basis. Some students  
25 receive very lenient discipline. Some students

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1 receive very harsh discipline. And --  
 2 Q. So when you're alleging a class under the  
 3 equal protection, what it boils down to a class of  
 4 one claim?  
 5 A. No. I'm not making that claim.  
 6 Q. Okay. Well --  
 7 A. I just throw that out as an example.  
 8 Q. Right.  
 9 A. Okay. I don't know what class I'm alleging  
 10 right now because I just haven't spent a lot of time  
 11 thinking about it.  
 12 Q. Okay.  
 13 A. And so, you know, don't try to pin me in a  
 14 corner on it because I can't.  
 15 Q. Is there any other theories that you're  
 16 asserting under the Fifth or Fourteenth Amendments  
 17 apart from what we've talked about, due process and  
 18 equal protection?  
 19 A. I'll have to think about that.  
 20 Q. Is there any other theory for due process  
 21 wrongdoing apart from that associated with what you  
 22 think the Defendants' role in your disciplinary  
 23 hearing process was?  
 24 A. I'll have to think about that.  
 25 Q. And nothing occurs to you at this time --

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1 A. I don't know.  
 2 Q. -- for why you're suing under these theories?  
 3 A. Nothing I can think about right now.  
 4 Q. Okay.  
 5 A. You know, I'm pretty tired and with the  
 6 medication and stuff like that.  
 7 Q. Okay. That is the end of -- and bear in  
 8 mind, Mr. Retzlaff, I asked you to tell me if you  
 9 ever needed a break or if you couldn't be deposed  
 10 today because of your medication or for any other  
 11 reason. Do you remember me asking you that?  
 12 A. Yes.  
 13 Q. Okay. And you haven't asked to interrupt for  
 14 that purpose during the course of today's deposition,  
 15 have you?  
 16 A. Let's just get this done.  
 17 Q. Okay. You haven't asked me to interrupt for  
 18 that purpose --  
 19 A. No.  
 20 Q. -- have you? No?  
 21 A. No. I mean, if I could go home and take a  
 22 nap for a few hours, that would be cool. But --  
 23 Q. Well -- and we're near the end. What I'd  
 24 like you to do right now is tell me, is there  
 25 anything that occurs to you that you would testify to

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1 differently as you sit here today in reflection --  
 2 A. I'm sure there would be.  
 3 Q. -- as you sit here and reflect back on your  
 4 answers and given answers to questions that I've  
 5 asked you?  
 6 A. I'm sure there would be.  
 7 Q. Let me take --  
 8 A. I just can't really think of anything right  
 9 now, and it probably won't come to me for a few days.  
 10 Q. Let me take a break for a few minutes. I'll  
 11 talk with my client about this, and we'll finish up,  
 12 you know, within an hour or so for sure.  
 13 THE VIDEOGRAPHER: We are off the  
 14 record at 2:59.  
 15 (BRIEF RECESS)  
 16 THE VIDEOGRAPHER: We are back on the  
 17 record at 3:19.  
 18 Q. (BY MR. HAGEN) A couple of follow-up things  
 19 I wanted to ask you. You made reference to some  
 20 confidentiality agreement you entered with the U.S.  
 21 government or the FBI in particular. Did you invoke  
 22 that repeatedly as reasons not to answer questions  
 23 about certain things I asked you? Do you remember  
 24 that?  
 25 A. What about it?

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1 Q. Do you have a confidentiality agreement that  
 2 prohibits you in your opinion from answering some  
 3 questions about things I've asked you?  
 4 A. Yeah.  
 5 Q. Is it with the FBI?  
 6 A. Yeah.  
 7 Q. Okay. When -- I'm not going to ask you what  
 8 the terms of this confidential agreement are. But  
 9 how long has it been in place?  
 10 A. About 10 months.  
 11 Q. Okay. So that's November of 2007?  
 12 A. Yes.  
 13 Q. That was put to you, I guess, by the San  
 14 Antonio based agent -- D.C. based agent that you  
 15 mentioned, or who gave you this?  
 16 A. I'm not going to talk about it.  
 17 Q. Okay. And you won't tell me the names of  
 18 these agents that you say presented you with a  
 19 confidentiality agreement?  
 20 A. I'm not sure if I can. I don't know. I  
 21 would -- if I were to ask to stop to ask somebody,  
 22 you'd probably throw a fit just like this morning  
 23 when I wanted to stop and --  
 24 Q. No.  
 25 A. -- ask a question of somebody.

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1 Q. No. What we can do is, you can supplement  
 2 your answer with information about, you know, if you  
 3 want -- maybe we'll make a request for the  
 4 confidentiality agreement and --  
 5 A. Well, I think --  
 6 THE WITNESS: Did they get a copy of  
 7 it? Okay.  
 8 Q. (BY MR. HAGEN) I mean, if you're saying UTSA  
 9 has been provided a copy of this thing --  
 10 A. I'm not sure. So one of the guys -- well,  
 11 the guy who signed it, his name is Konkle -- Paul  
 12 Konkle. I'm just seeing if I got a copy of it here.  
 13 I thought I had a copy of it here, but maybe now.  
 14 Q. Tell me what -- I mean, can you tell me what  
 15 it's your understanding it prohibits you from doing?  
 16 A. Basically talking -- let's see.  
 17 Q. And as you review it if you have it in front  
 18 of you -- and you seem to have it right in front of  
 19 you now -- you know, alert me if it says that it  
 20 can't be disclosed to anybody else, that this  
 21 agreement that the United States government and Tom  
 22 Retzlaff have entered into restricts it and makes it  
 23 somehow super secret and private as just an  
 24 agreement.  
 25 A. It -- the first paragraph says, "Intending to

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1 be legally bound, I hereby accept the obligations  
 2 contained in this agreement in consideration of my  
 3 being granted access to sensitive information from  
 4 FBI investigations as required to perform my duties."  
 5 Q. And it's in reference to your duties?  
 6 A. That's -- I just read to you what the  
 7 language says, okay?  
 8 Q. Yeah. And I don't know who the author of  
 9 that is or, you know, how it's being constructed  
 10 since I haven't reviewed it myself, but in any case,  
 11 go ahead and tell me. I mean, in other words, is  
 12 there any place in that thing that says you cannot  
 13 even show that to other people, the agreement such as  
 14 it is?  
 15 A. "Unless and until I am released in writing by  
 16 an authorized representative by the FBI, I understand  
 17 that all conditions and obligations imposed upon me  
 18 by this agreement apply during the time I am granted  
 19 access to the sensitive information and at all times  
 20 thereafter," and that the United States government  
 21 may seek remedy -- any remedy available to enforce  
 22 it, including putting me in jail.  
 23 Q. Okay. So there's nothing that says that the  
 24 agreement itself is somehow secret, right, or  
 25 confidential?

208

1 A. I don't know.  
 2 Q. Okay.  
 3 A. I'm not an attorney.  
 4 Q. Well, I'm asking because you raise it  
 5 repeatedly for the basis of why you would answer or  
 6 not answer something --  
 7 A. Well, I can't answer certain questions, yes.  
 8 Q. Yes. That's why I'm asking, well, is the  
 9 agreement that you say you're reading from right  
 10 there itself something that must be kept  
 11 confidential. I haven't heard anything from you so  
 12 far that says the agreement itself must be kept that  
 13 way, but it's a bridge we don't have to cross right  
 14 now. We can cross it later.  
 15 A. Yeah.  
 16 Q. If you want to read it and re-read it, we may  
 17 make a discovery request for this thing, and we can  
 18 cross that bridge at that time.  
 19 A. I think by the language of the agreement --  
 20 well, I'm not sure. Again, I'm not an attorney, and  
 21 I'm not a federal judge. So I can't -- just better  
 22 safe than sorry. I guess.  
 23 Q. Okay. So we can take that up with the Court,  
 24 also?  
 25 A. Yes. One thing I'd like to mention is, it

209

1 kind of makes me a little bit upset that it seems  
 2 like every time something goes bump in the night you  
 3 people automatically want to come running to me  
 4 thinking that, you know, somebody has a knock on  
 5 their door that it's Tom Retzlaff doing it, and  
 6 that's sort of upsetting to me. And if that kind of  
 7 stuff is going on, that's exactly what this lawsuit  
 8 is about, is about that kind of nonsense --  
 9 Q. Okay.  
 10 A. -- you know. And I'm just really -- I'm not  
 11 mad at you about it. I'm just mad at them for  
 12 creating this culture of fear, for lack of a better  
 13 term, within their staff or students that I'm some  
 14 sort of bogeyman when I'm not, you know, and, you  
 15 know, thinking that I got -- I got better things to  
 16 do than knock on somebody's door for 15 minutes. For  
 17 what purpose, you know? It just -- anytime that  
 18 something goes bump in the night, they're  
 19 automatically going to, you know, come to Tom  
 20 Retzlaff. That's just pretty upsetting, and I'm not  
 21 going to be a scapegoat.  
 22 Q. Are you done with your declaration?  
 23 A. More of a soliloquy, but go ahead.  
 24 Q. Okay. With regard to social security number  
 25 or numbers, you refused to provide that to me?

210

1 A. Yes.  
 2 Q. You have more than one social security  
 3 number, correct?  
 4 A. No.  
 5 Q. You only have one?  
 6 A. Well, yeah.  
 7 Q. You haven't provided the UTSA police with a  
 8 different number --  
 9 A. I don't think --  
 10 Q. -- from the one they had on file?  
 11 A. I don't think I provided them with anything.  
 12 Q. Okay.  
 13 A. Not that I recall.  
 14 Q. Your position is, you've always just had one  
 15 social security number?  
 16 A. I don't know what I recall saying to the UTSA  
 17 Police Department about anything.  
 18 Q. Do you have any other names that you've gone  
 19 by in your history?  
 20 A. Tom.  
 21 Q. Other than Tom, Thomas Retzlaff?  
 22 A. Hey, you.  
 23 Q. Any names, aliases that you've used?  
 24 A. Dickhead.  
 25 Q. Any other aliases that you've used?

211

1 A. No.  
 2 Q. You mention that your dad keeps track of how  
 3 much money you owe him because of money he gives you.  
 4 Do you remember that?  
 5 A. Yeah.  
 6 Q. How much has he reported you owe him?  
 7 A. I'm not sure. I remember signing a  
 8 promissory note 10, 15 years ago for.  
 9 MR. HAGEN: Objection, nonresponsive.  
 10 THE WITNESS: Okay. Well, then I'm  
 11 just going to say I don't know. I don't know.  
 12 Q. (BY MR. HAGEN) So -- but are you relating  
 13 the promissory note to which you owe him? Is that  
 14 responsive?  
 15 A. I'm just going to say I don't know.  
 16 Q. Okay. You earlier in your testimony said  
 17 that you signed a promissory note, right?  
 18 A. Yeah.  
 19 Q. Was that in connection with money that he  
 20 tried to secure basically against you so that you'd  
 21 give it back to him?  
 22 A. I'm not sure what you mean.  
 23 Q. Okay. Has he ever told you, "Hey, this is  
 24 how much you're up to. You owe me this much money"?  
 25 Has he done that?

212

1 A. Yeah.  
 2 Q. When did he last do that, and how much was  
 3 it?  
 4 A. I'm not sure. It's been a while.  
 5 Q. Okay. Well, what do you estimate?  
 6 A. I don't have a clue. I don't know.  
 7 Q. Well --  
 8 A. I'm not going to speculate.  
 9 Q. -- you said it's been a while?  
 10 A. Yes.  
 11 Q. Okay.  
 12 A. It's been a while.  
 13 Q. So a while, do you mean '07, '06, '05?  
 14 A. Maybe '04 --  
 15 Q. So --  
 16 A. -- I think, or thereabouts. I'm not sure.  
 17 Q. And he's given you money since 2004?  
 18 A. Occasionally, yes --  
 19 Q. Okay.  
 20 A. -- especially when I first got out of prison.  
 21 He had to help me out.  
 22 Q. So back in '04 what did he say you owed him?  
 23 A. I don't know.  
 24 Q. No clue? How much have you gotten from him  
 25 since '04?

213

1 A. I don't know.  
 2 Q. Can't estimate, \$100?  
 3 A. No.  
 4 Q. \$10,000, \$100,000?  
 5 A. No; can't speculate.  
 6 Q. You have no idea?  
 7 A. I haven't really been keeping all that track.  
 8 Q. Well, if you tally it in your head right  
 9 now --  
 10 A. You know, and stuff that I get for birthdays  
 11 or Christmases, you know, I don't know.  
 12 Q. How much on average do you get for an  
 13 occasion like a birthday or Christmas?  
 14 A. I think last birthday I think he gave me a  
 15 couple hundred bucks, but I can't recollect. I'm not  
 16 sure.  
 17 Q. Okay. That sounds like you will not make a  
 18 statement about how much money you've --  
 19 A. I'm not sure.  
 20 Q. -- been given by family since '04?  
 21 A. I'm not sure.  
 22 Q. And you will not estimate that amount either?  
 23 A. No.  
 24 Q. Okay.  
 25 A. And it certainly doesn't have anything to do

214

1 with these lawsuits.  
 2 MR. HAGEN: Okay. I think at this time  
 3 we'll end the lawsuit, but leave the -- in light of  
 4 the -- some of the statements that the Plaintiff has  
 5 said in this, we will not pass the witness. We'll,  
 6 you know, conclude this portion of this lawsuit at  
 7 this time.  
 8 MS. JENSEN: The deposition.  
 9 THE WITNESS: What do you mean by that?  
 10 MR. HAGEN: Or this deposition at this  
 11 time. And that's all.  
 12 THE WITNESS: Well, what do you mean by  
 13 that?  
 14 MR. HAGEN: We're off the record.  
 15 THE WITNESS: Well, I thought --  
 16 THE VIDEOGRAPHER: This is the end of  
 17 Tape No. 4. We are off the record at 3:30.  
 18 (Whereupon the deposition concluded at  
 19 3:30 p.m., Wednesday, September 24,  
 20 2008.)  
 21  
 22  
 23  
 24  
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1 UNITED STATES DISTRICT COURT  
 2 WESTERN DISTRICT OF TEXAS  
 3 SAN ANTONIO DIVISION  
 4 TOM RETZLAFF )  
 Plaintiff, )  
 5 )  
 v. ) NO. 5:08-CV-00170-OLG  
 6 )  
 LYNDA YVONNE DE LA VINA, )  
 7 DIANE BAKER WALZ, KYLE )  
 MERLETTE SNYDER, )  
 8 KATHERINE ANNE POPE, )  
 Defendants. )  
 9  
 \* \* \* \* \*  
 10 REPORTER'S CERTIFICATION  
 11 VIDEOTAPED DEPOSITION OF TOM RETZLAFF  
 12 TAKEN ON SEPTEMBER 24, 2008  
 13 \* \* \* \* \*  
 14 I, LYDIA L. EDWARDS, CERTIFIED SHORTHAND  
 15 REPORTER in and for the State of Texas, do hereby  
 16 certify to the following:  
 17 That the witness, TOM RETZLAFF, was duly  
 18 sworn by me and that this deposition transcript is a  
 19 true record of the testimony given by said witness;  
 20 That the amount of charges for my  
 21 preparation of the completed deposition transcript  
 22 and any copies of exhibits is \$ \_\_\_\_\_, charged to  
 23 Lars Hagen;  
 24 That the original deposition transcript was  
 25 submitted on \_\_\_\_\_ to the Witness for  
 examination, signature and return to the custodial

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1 WITNESS' SIGNATURE  
 2  
 3 STATE OF TEXAS )  
 4 COUNTY OF TRAVIS )  
 5  
 6 I, Tom Retzlaff, have  
 7 read the foregoing deposition and hereby affix my  
 8 signature that same is true and correct, except as  
 9 noted on Pages 215-218.  
 10  
 11 \_\_\_\_\_  
 12 TOM RETZLAFF  
 13  
 14 THE STATE OF TEXAS )  
 15 COUNTY OF TRAVIS )  
 16 Before me, \_\_\_\_\_, on this  
 17 day personally appeared Tom Retzlaff, known to me (or  
 18 proved to me under oath or through  
 19 \_\_\_\_\_) to be the person whose  
 20 name is subscribed to the foregoing instrument and  
 21 acknowledged to me that they executed the same for  
 22 the purposes and consideration therein expressed.  
 23 GIVEN UNDER MY HAND AND SEAL OF OFFICE this  
 24 the \_\_\_\_\_ day of \_\_\_\_\_, 2008.  
 25 \_\_\_\_\_  
 Notary Public in and for  
 The State of \_\_\_\_\_

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1 attorney by \_\_\_\_\_;  
 2 That the amount of time used by each party  
 3 at the deposition is as follows:  
 4 Lars Hagen - 3 hours, 44 minutes  
 5 That pursuant to information made a part of  
 6 the record at the time said testimony was taken, the  
 7 following includes all parties of record:  
 8 TOM RETZLAFF  
 9 PRO SE  
 10 LARS HAGEN  
 11 Attorney for DEFENDANTS  
 12  
 13 That I am neither counsel for, related to  
 14 nor employed by any of the parties or attorneys in  
 15 the action in which this proceeding was taken and,  
 16 further, that I am not financially or otherwise  
 17 interested in the outcome of the action;  
 18 CERTIFIED TO BY ME this \_\_\_\_\_ day of  
 19 October, 2008.  
 20  
 21 \_\_\_\_\_  
 22 LYDIA L. EDWARDS, CSR  
 23 Certified Shorthand Reporter  
 24 For the State of Texas  
 25 Certification No. 2567  
 Commission Expires: 12/31/08