

13733

STATE OF SOUTH CAROLINA
In the Court of Appeals

On Appeal from Charleston County
Court of Common Pleas

The Honorable Roger M Young, Circuit Judge
The Honorable Daniel F Pieper, Circuit Judge

Case No 06-CP-10-1578

RECEIVED

NOV 18 2010

SC Court of Appeals

Lawton Limehouse, Jr

RESPONDENT,

v

Paul H Hulsey and The Hulsey
Litigation Group, LLC,

APPELLANTS

RECORD ON APPEAL
VOLUME II

Robert H Hood
Deborah Harrison Sheffield, *Of Counsel*
James B Hood
John K Weedon
HOOD LAW FIRM, LLC
Post Office Box 1508
Charleston, SC 29402
(843) 577-4435

Frank M Cisa
CISA & DODDS
858 Lowcountry Blvd , Suite 101
Mt Pleasant, South Carolina 29464
(843) 881-6530

ATTORNEY FOR RESPONDENT

A Camden Lewis
Ariail E King
LEWIS & BABCOCK, LLP
1513 Hampton Street
Post Office Box 11208
Columbia, South Carolina 29211
(803) 771-8000

ATTORNEYS FOR APPELLANTS

Index

Volume I

<u>Orders</u>	<u>PAGE</u>
Order Reviewing Award of Punitive Damages, dated January 7, 2010	0001
Order Denying Defendant's Post Trial Motions, dated January 7, 2010	0004
Judgment, filed November 17, 2009	0005
Jury Verdict, dated November 13, 2009	0006
Order of Federal Court remanding action (certified), filed in state court March 5, 2009	0007
Order of the Honorable Roger M Young denying Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction, Filed May 22, 2008	0007
Order of the Honorable Daniel F Pieper, denying Motion to Set Aside Entry of Default, filed February 7, 2007	00010
Form 4 regarding entry of default, mailed August 24, 2006	00019
Form 4 regarding remand order, mailed July 27, 2006	00021
Order of Federal Court remanding action (uncertified), filed in state court July 21, 2006	00022
 <u>Pleadings and Motions</u>	
Charleston County Docket Report, for 06-CP-10-1578	00027
S C District Court Docket Report, for 2 06-cv-01380-CWH	00032
Summons & Complaint with cover sheet, filed April 19, 2006	00035

Notice of Removal with exhibits, filed May 5, 2006	00045
A -- Cover sheet & complaint	00051
B -- Notice of removal	00062
C -- Class action complaint, Flores v Limehouse, Fed Ct # 04-1295	00067
Motion to Remand, from 2 06-cv-01380-CWH, filed June 2, 2006,	00103
Memorandum in Support of Plaintiff's motion to remand, 2 06-cv-01380-CWH, filed June 2, 2006	00105
Memorandum in Opposition to Plaintiff's motion to remand, 2 06-cv-01380-CWH, filed June 6, 2006	00116
Affidavit of Service on Paul Hulsey, filed August 21, 2006	00132
Affidavit of Service on The Hulsey Litigation Group, filed August 21, 2006	00133
Request for Entry of Default as to Paul Hulsey, filed August 21, 2006	00134
Request for Entry of Default as to The Hulsey Litigation Group, filed August 21, 2006	00135
Affidavit of Default as to Paul Hulsey, filed August 21, 2006	00136
Affidavit of Default as to The Hulsey Litigation Group, filed August 21, 2006	00137
Entry of Default as to Paul Hulsey, filed August 22, 2006	00138
Entry of Default as to The Hulsey Litigation Group, filed August 22, 2006	00139
Motion to Set Aside Entry of Default with exhibits, filed August 29, 2006	00140
A — Second Amended Complaint Flores v Limehouse, #04-1295	00144
B — RICO case statement, Flores v Limehouse, #04-1295	00182
C — Order (J Houck), filed 5/11/06 Flores v Limehouse #04-1295	00199
D — Motion for class certification, Flores v Limehouse #04-1295	00205
Answer to Complaint, filed August 29, 2006	00234

Notice of Motion and Motion to Compel (with attachments), dated July 20, 2009	00243
Defendant Paul H. Hulsey's Memorandum in Support of Motion to Compel, dated November 3, 2009	00255
Notice of Motion and Plaintiff's Motion in Limine, dated November 4, 2009	00259
Joint Motion to Bifurcate the Compensatory and Punitive Phases of the Damages Hearing, dated November 6, 2009	00297
Motion to Dismiss Claims as to the Business Damages and Pecuniary Losses Suffered by Plaintiff's Business or in the Alternative Motion in Limine to Exclude Damages and Pecuniary Losses to Plaintiff's Business, (The Hulsey Litigation Group) dated November 8, 2009	00306
Motion to Dismiss Claims as to the Business Damages and Pecuniary Losses Suffered by Plaintiff's Business or in the Alternative Motion in Limine to Exclude Damages and Pecuniary Losses to Plaintiff's Business, dated November 8, 2009	00318
Motion in Limine to Exclude Any Negative Comments Regarding Defaults, (The Hulsey Litigation Group) dated November 8, 2009	00330
Motion on Limine to Exclude Any Negative Comments Regarding Default, dated November 8, 2009	00334
Motion in Limine to Exclude Any Evidence of Damage to the Plaintiff's Reputation, (The Hulsey Litigation Group) dated November 8, 2009	00338
Motion in Limine to Preclude Testimony That the Alleged Defamatory Statement Was about Plaintiff, (The Hulsey Litigation Group) dated November 8, 2009	00345
Motion in Limine to Preclude Testimony That the Alleged Defamatory Statement Was about Plaintiff, dated November 8, 2009	00352
Defendants' Joint Response to Plaintiff's Motion in Limine, dated November 8, 2009	00372
Defendants' Post-trial Motion for Relief from Judgment Based on Mistake And/or Excusable Neglect, Rule 60(b)(1), SCRCR, dated November 23, 2009	00381

Defendants' Post-Trial Motion for Judgment Notwithstanding the Verdict
or for New Trial Absolute,
dated November 23, 2009 00387

Defendants' Post-Trial Motion to Dismiss for Lack of Subject Matter Jurisdiction
pursuant to Rule 12(h)(3) or in the alternative, Motion for Relief from Void Judgment,
pursuant to Rule 60(b)(4), SCRCP,
dated November 23, 2009 00410

Defendants' Post-Trial Motion for New Trial on Punitive Damages,
dated November 23, 2009 00414

Notice of Appeal (Paul Hulsey) 00420

Notice of Appeal (The Hulsey Litigation Group) 00422

Volume II

Transcripts

Transcript of Trial, November 9-13, 2009 00425

Pretrial Motions 00428

Opening Remarks of Judge Young 00482

Opening Statement by Frank Cisa 00495

Opening Statement by A Camden Lewis 00504

Opening Statement by Robert Hood 00511

Proffer by Mr Lewis 00519

Proffer by Mr Hood 00519

Lawton Limehouse, Jr

Direct Examination by Mr Cisa 00520

Cross Examination by Mr Lewis 00582

Cross Examination by Mr Hood 00600

Redirect Examination by Mr Cisa 00621

Michael Frost

Direct Examination by Mr Cisa 00633

Cross Examination by Mr Lewis 00635

Derek Eager	
Direct Examination by Mr Cisa	00639
Cross Examination by Mr Lewis	00645
Cross Examination by Mr Hood	00647
Redirect Examination by Mr Cisa	00651
Richard Holmes	
Direct Examination by Mr Cisa	00653
Cross Examination by Mr Lewis	00663
Cross Examination by Mr J Hood	00665
Appellant's Motion to Strike Testimony	00696
Steve Wagenlander	
Direct Examination by Mr Cisa	00698
Cross Examination by Mr Lewis	00700
Cross Examination by Mr J Hood	00702
Bernadette DeWitt	
Direct Examination by Mr Cisa	00708
Cross Examination by Mr Lewis	00172
Cross Examination by Mr J Hood	00716
Redirect Examination by Mr Cisa	00722
Recross Examination by Mr Lewis	00723
Proffer by Appellants (as to financial statements)	00724
Court ruling on Proffer	00727
Proffer of Witness Barry Gumb	
Direct Examination by Mr J Hood	00732
Robert Anthony Daniel, Jr	
Direct Examination by Mr Cisa	00753
Cross Examination by Mr Lewis	00762
Cross Examination by Mr Hood	00766
Amy Limehouse-Eager	
Direct Examination by Mr Cisa	00774
Jean Limehouse	
Direct Examination by Mr Cisa	00780
Cross Examination by Mr Hood	00787
Proffer of Witnesses Buddy Darby, P O Mead, and Roger Warren by Appellants	00795
Jury Charge Conference	00800

Appellants' Motion to Strike Testimony of Richard Holmes, pursuant to Rule 104, SCRE	00813
Court's ruling on the Motion	00816
Closing Arguments by Mr Cisa	00825
Closing Arguments by Mr Lewis	00843
Closing Arguments by Mr J Hood	00855
Jury Charges	00870
Question from the Jury	00885
Jury Verdict	00888

Volume III

Trial Exhibits

Court Exhibit 1, Web site	00894
Court Exhibit 2, Newspaper Article	00908
Court Exhibit 3, Asset Sheet (redacted)	00910
Court Exhibit 4, Financial Statement (redacted)	00932
Court Exhibit 5, Newspaper Article	00941
Court Exhibit 6, Proffer	00943
Court Exhibit 7, Newspaper Articles	00952
Court Exhibit 8, Class Action Complaint	00987
Court Exhibit 9, Brief re Website and Punitive Damages	01020
Court Exhibit 10, Motion for Directed Verdict	01024
Court Exhibit 11, Proposed Jury Charges	01034
Court Exhibit 12, Note from Jury	01049
Transcript of Motions hearing, December 15, 2006	01050

Other Documents

Electronic Case filing policy and procedures, dated May 12, 2006	01087
Order of Chief Judge Joseph F Anderson, Jr , dated February 18, 2005	01104
Transcript of Hearing before Judge Houck (in Maximino Flores case) January 24, 2005	01106
Email Notice from Clerk of District Court dated February 17, 2008	01154
Certificate of Counsel	01155
Certificate of Service	01156

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF CHARLESTON 2006-CP-1577

LAWTON LIMEHOUSE, JR , et al ,	)	
	)	TRANSCRIPT OF RECORD
Plaintiffs,	)	
	)	November 9-13, 2009
vs	)	
	)	Charleston, SC
PAUL H HULSEY, et al ,	)	
	)	
Defendants	)	

B E F O R E

The Honorable Roger Young, Judge, and a Jury

A P P E A R A N C E S

Frank Cisa, Esq
Attorney for the Plaintiff

Camden Lewis, Esq
Robert H Hood, Esq
James B Hood, Esq
Arial King, Esq
Attorneys for the Defendant

Amanda K Haffenden, RPR, CRR
Circuit Court Reporter

1		I N D E X			
2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	William Lawton				
4	Limehouse, Jr	96	158	--	--
		--	176	--	--
5	Michael Frost	209	212	--	--
6	Derek Eager	215	221	227	--
		--	223	--	--
7	Richard Holmes	229	239	--	--
8		--	241	--	--
9	Steve Wagenlander	274	277	--	--
		--	279	--	--
10	Bernadette DeWitt	284	288	298	299
11		--	293	--	--
12	Barry Gumb	309	--	--	--
13	Robert A Daniel	329	338	--	--
		--	342	--	--
14	Amy Limehouse-Eager	350	--	--	--
15	Jean Limehouse	356	363	--	--
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1	E X H I B I T S			
2	NO	DESCRIPTION	ID	EV
3	Court's 1	Web Site	175	--
4	Court's 2	Newspaper Article	300	--
5	Court's 3	Asset Sheet	302	--
6	Court's 4	Financial Statement	302	--
7	Court's 5	Newspaper Article	349	--
8	Court's 6	Proffer	374	--
9	Court's 7	Newspaper Article	374	--
10	Court's 8	Class Action Complaint	375	--
11	Court's 9	Brief	387	--
12	Court's 10	Motion	400	--
13	Court's 11	Proposed Jury Charges	400	--
14	Court's 12	Note From Jury	463	--

15

16

17

18

19

20

21

22

23

24

25

1 (Monday, November 9, 2009)

2 THE COURT Okay Well, let's go through
3 these motions that we have on Limehouse Junior versus
4 Hulsey First is the motion to bifurcate compensatory
5 and punitive damages phases Mr Hood, who is going to
6 argue this?

7 MR HOOD I'll kick it off

8 THE COURT Okay Go ahead

9 MR HOOD Your Honor, this is a case that
10 should be bifurcated You've been through the case,
11 companion case, and you know why There were so many
12 things that happened in the other case that don't need to
13 happen in the damage phase of a trial of a case that is
14 in default

15 Hotshot, greedy lawyer has nothing to do with
16 the damage side of this case The income of Mr Hulsey,
17 how many cars he has, a lot was used --

18 THE COURT Why wouldn't all that go to
19 punitive damages?

20 MR HOOD Right So let's get them out of
21 this trial, have a clean trial, and deal with what this
22 case is about

23 THE COURT Punitive damages is going to be
24 an issue in this

25 MR HOOD Right, but let's try them

1 separately A lot of times when I make this motion, the
2 other side agrees They don't want a mess They don't
3 want an appeal because of a mess, and I don't know
4 whether when I'm going to sit down we'll see an agreement
5 or not, but is there is no big deal to separate the case
6 from the administrative standpoint and the Court
7 standpoint It's actually easier for everybody

8 It's certainly going to be easier for you,
9 it's certainly going to be fairer for the defendant whose
10 hands are already tied not to get into things that have
11 nothing to do with the claim of damages, which is what
12 we're here to try And if he gets a verdict of some
13 amount of damages, then allow the jury to consider those
14 inflammatory things, if they are pertinent, but last time
15 a banker got on the stand Last time we talked about
16 Mr Hulsey's stream of income from tobacco None of that
17 was true, and it was known not to be true by my
18 adversary

19 Now, he doesn't have that \$81 million in his
20 hands He gets quarterly funds, if they are available,
21 and the companies aren't bankrupt There is no
22 guarantee --

23 THE COURT That is something you bring out
24 on cross-examination

25 MR HOOD Well, yeah, we could, but why get

1 into it? Let's deal with the damages I think we'll
2 shorten the trial several days by doing this Let's go
3 right to this case is about, damages, and then, if we get
4 beyond that -- we got \$5 million in punitive damages and
5 the other side of our motion is how many times is he
6 going to be punished by calling somebody a Tony Soprano?

7 And it wasn't a somebody it was a company,
8 L&L Services He never said Lawton Limehouse Junior or
9 Senior was Tony Soprano That is not in dispute in this
10 case by anyone

11 THE COURT That is something you bring out
12 on cross-examination

13 MR HOOD Yes, sir And of course we will,
14 but how many times is he going to be subjected to
15 punitive damages for one sentence in a newspaper article?
16 And, by the way, there was no press release that is
17 admitted, and for someone to say there was a press
18 release is a known lie to the fact finder, but I want you
19 to really think about -- that is why we sent that to you
20 first

21 You've got a couple of day trial here, if
22 it's bifurcated, and it may well be over You know, I
23 had this issue in a wreck case one time We had six or
24 eight lawyers, and I asked the judge, Bill Howard, I
25 said, Your Honor, why don't we just see if the other side

1 agrees? Let's just try what happened in the wreck, and
2 if we win, it's over, and if we lose we get the
3 individual damages We got a three-week trial that got
4 resolved in two days

5 THE COURT And if liability were an issue,
6 then I probably would consider it, but liability is not
7 an issue here, but, Mr Cisa, do you agree to this
8 motion?

9 MR CISA I do not agree with the motion,
10 Judge

11 THE COURT I just wanted to -- before I went
12 any further than this, I wanted to ask you, typically you
13 bifurcate when there is a question about liability
14 Liability is deemed to be admitted

15 MR HOOD The case that I just tried with
16 Jamie, Jack Early bifurcated the case We had a
17 quadriplegic in the courtroom The jury heard his case,
18 we got through, gave him a huge amount of money We then
19 went to the punitive damage phase of the case, and the
20 jury heard it and made a decision

21 But it took out of the case all of the
22 unnecessary things that go to actual damages, and don't
23 cloud those things with things that go to punitive
24 damages It gives you a much cleaner record as far as an
25 appeal goes It gives the plaintiff a much cleaner

1 record as far as the appeal goes, and it doesn't get the
2 jury confused and off on a tangent with something that
3 has nothing to do with defamation by one sentence in one
4 article

5 It really would be, I think, an aid to Your
6 Honor, I really do, and get this thing tried and over
7 with I'm representing the Hulsey Group Cam Lewis is
8 representing Paul Hulsey individually He's going to
9 have some things to say You've got our briefs

10 THE COURT Okay Mr Lewis?

11 MR LEWIS May it please the Court

12 THE COURT Yes, sir

13 MR LEWIS We keep saying liability is
14 admitted What's admitted are the well pled facts, and
15 then, of course, that gives liability But liability, if
16 you said something that wouldn't be in light of -- the
17 facts didn't have or support liability you wouldn't have
18 liability, so what the case is, well-pled facts, are what
19 we're stuck with

20 Let me point out in punitive damages, and I
21 think it's important because here we go again as to what
22 we can do because we are definitely in a straitjacket
23 that Your Honor has dictated, and let me point out what
24 you have to find --

25 THE COURT All I'm doing is following the

1 law, and the law, as put out by our Court, says you get
2 to participate, limit it to cross-examination, and
3 objection to the plaintiff's evidence

4 MR LEWIS That was a case called Howard
5 that has not been looked at since It's been cited twice
6 in dicta, and that was a pre-rule case, and I pass up to
7 Your Honor right now a case -- I just happened to be in
8 my office the other day, and I turned to a young lawyer,
9 and I said, you know, We have a default judgment down
10 there, and they won't even let us have any kind of
11 discovery, they won't let us do any kind of examination,
12 and here is -- and he said, I have it all the time and
13 Judge Barber allows discovery

14 So you can look at the last page -- and this
15 is a 55(c) case, and I know it's Judge Barber and I don't
16 mean to say that he's smarter than you or better than you
17 or anything like that, but I do tell you that this means
18 that there are two very different looks at what is
19 allowed

20 That one allows discovery after holding
21 someone in default under 55(c), and that was only the
22 first lawyer I asked about that, so therefore I'm
23 saying -- I don't know what's right I think that I'm
24 right, but that is an issue that is into the Supreme
25 Court That is not why I'm standing up here, but you

1 brought it up, and I thought it was a good time to bring
2 your attention to that order

3 THE COURT Okay

4 MR LEWIS But what is more important, just
5 for this motion on punitive damages, is the evaluation,
6 or what is to be proven together, and one of them is the
7 defendant's degree of culpability That opens us up to
8 ask them all kinds of things The defendant's awareness,
9 we can ask them a bunch of questions about that, and if
10 this is what is going to happen, this case is going to be
11 a lot broader with punitive damages than it would be just
12 with liability, but we said enough

13 I did get before you the motion by -- or the
14 order in Judge Barber, and your Court is well aware now
15 that there are two thought processes on what's allowed in
16 a default situation There is the one that you followed,
17 and there is the one that Judge Barber has followed, and
18 one of them is wrong, and we've asked -- we need to have
19 that determined in this state, and we have it on appeal,
20 and we, of course, again, think it's silly to have this
21 trial, but we understand your ruling

22 THE COURT All right Mr Cisa?

23 MR CISA Your Honor, just to clarify
24 things, the question of discovery in a damages default
25 hearing is not on appeal of Lawton Limehouse in this

1 case It's not going to be decided in that case, but in
2 any event, Judge, liability is conceded in this case
3 Normally, you would bifurcate if there is a serious
4 question about liability so you could deal with actually
5 punitive damages on a separate basis That's not the
6 case here

7 I'm entitled to at least nominal damages,
8 which gives rise to the imposition of punitive damages
9 I think you're going to charge the jury that You
10 charged the jury that in the last trial There is
11 absolutely no reason at all to bifurcate the trial

12 We're here to try the case for actual and
13 punitive damages It is a damages hearing It is
14 nothing more than that It is a damages hearing I
15 submit to the Court they're not entitled to a bifurcation
16 when liability is admitted, and we're only here about
17 damages That's all we're here about, so I oppose their
18 motion to bifurcate I think that is all we're arguing
19 about right now

20 THE COURT All right Well, I really don't
21 think it would serve any purpose other than to actually
22 lengthen the trial, rather than shorten it, and the times
23 I have allowed it has been when there is an issue of
24 liability and that doesn't apply here, so that motion is
25 denied

1 All right Now, we've got -- they've filed a
2 response to your motion in limine, so tell me exactly
3 what your motion in limine -- what you're trying to
4 accomplish there, Mr Cisa

5 MR CISA Yes, sir What I'm trying to
6 accomplish and what I'm trying to, I guess, point out to
7 the Court, it does get confusing We've had this
8 conversation before, how to apply the law and the
9 procedure in a real life courtroom situation to a damages
10 default hearing

11 You know, it's clear, under the case law,
12 that all of the allegations in the plaintiff's complaint
13 are deemed admitted There is no question about that
14 There is plenty of case law that says that Truth and
15 mitigation are affirmative defenses to a slander case
16 They don't have truth They can't use truth as a
17 defense They cannot get up and said what Lawyer Hulsey
18 said was true

19 They can't imply to this jury what Lawyer
20 Hulsey said was true Liability is established,
21 causation is established, and I had handed up a couple of
22 cases that I think clarify our position in that regard

23 You know, if you look at the Eamon vs Hood
24 Case, case which is a court of appeals decision which
25 cited Howard vs Holiday Inn, it was a situation where

1 the plaintiff slipped and fell on his employer's steps
2 because they had ice on them He sued, they went into
3 default, they had a trial At the trial, defense
4 counsel, he put up evidence of what his lost wages were
5 At trial they sought to cross-examine about his
6 employment The Court said no, that is improper
7 Liability and causation have been established by the
8 default You cannot cross-examine in that regard

9 Another case that that followed in 1996 in
10 the court of appeals, Schenck vs National Health Care
11 which I cited in my motion, a situation where the
12 plaintiff took the position she was wrongly terminated
13 because she filed a workmen's comp claim

14 They sought to cross-examine and tried to
15 show that the plaintiff failed to show a causal
16 connection between her filing the workmen's compensation
17 claim and her termination The Court said, No, you can't
18 get into the causal relationship That is admitted
19 That is part of liability It's admitted in default
20 damages case

21 One of the clearest cases I think is the Doe
22 vs S B M Doe and S B M were having a homosexual
23 relationship S B M broke it off Doe was upset about
24 it Both went to S B M 's employer and told him about
25 the homosexual relationship He also threatened to call

1 Doe's customers, vandalized Doe's cars Ultimately Doe's
2 employer asked him to resign from his insurance company
3 He was an insurance salesman

4 At the default damages hearing, what
5 S B M tried to show was he didn't lose his job because
6 of what he had told his employer, he lost his job because
7 he received a citation from the sheriff's department in
8 Greenville County Judge McCauley said, No, you can't do
9 that Causation and liability have been established and
10 would not let him cross-examine him about another cause
11 perhaps of his losing his employment The Court of
12 Appeals says that is correct, causation and liability are
13 established

14 So, and, you know, the Supreme Court has
15 revisited Howard vs Holiday Inn They revisited it the
16 Roche s Young Brothers in 1998 where they cited it
17 again, and what they said is well settled By suffering
18 a default, the defaulting party is deemed to have
19 admitted the truth of the plaintiff's allegations and to
20 have conceded liability, and then went on to say A
21 defaulting party is limited to cross-examining and
22 objecting to evidence, and the cases say they're limited
23 to cross-examining as to damages only, nothing more
24 They can't cross-examine as to liability They can't
25 cross-examine as to causation

1 So what I'm asking the Court to do is to
2 limit what they're able to do Mr Hood is going to get
3 up in an opening statement and say these people are
4 living in squalor They can't do that What he trying
5 to do is say what Mr Hulsey said is true He can't do
6 it

7 Liability is conceded He can only
8 cross-examine and talk about damages He's going to try
9 to show that -- he's going to try to bring in other
10 newspaper articles He can't do that He can't admit
11 evidence He can't cross-examine somebody with hearsay
12 evidence, and he can't question the liability and
13 causation that we've alleged in our complaint It's
14 improper

15 He's going to talk about -- you know, like he
16 did in the last trial, he's going to say, We made papers
17 We had workers' comp violations, we violated the wage an
18 hour laws, and we had housing violations

19 He can't do that That goes to the truth
20 what Mr Hulsey said He is stuck with the material
21 allegations of the complaint He can't cross-examine
22 about those matters Liability and causation are
23 established So I'm asking that he be prohibited from
24 doing that

25 The other thing he does is he comments on

1 facts not in evidence He'll get up and say, Well, you
2 know, Lawyer Hulsey gave \$1 million to charity That is
3 not evidence He can't comment upon facts not in
4 evidence He did it throughout the other trial, and what
5 happens is I have to continually object and object and
6 object, and it puts me at a -- it makes me look bad in
7 front of the jury

8 He's not allowed to comment and make up stuff
9 in front of the jury That's not going to go into
10 evidence, and it's not in evidence I think you're
11 already cleared this up about him being able to call
12 witnesses or introduce evidence I think you've
13 indicated that that is not the way we run these trials

14 So I'm asking the Court not to allow them to
15 comment or cross-examine as to any matters concerning
16 liability or causation, not to allow them to try to show
17 to this jury that what Mr Hulsey said was true They're
18 not allowed to do it, under our case law They are stuck
19 with the pleadings that we filed in this case, and it is
20 a well pled complaint, and when I pled in the complaint
21 that Lawyer Hulsey had a press conference, that's deemed
22 admitted

23 It's a well-pled fact That's what the
24 complaint said If he wanted to deny it, he should have
25 filed an answer That is a well-pled fact

1 I'm asking the Court to instruct them not to
2 comment about other newspaper articles, not to comment
3 about housing violations, making papers, wage an hour
4 violations, or workmen's comp violations I'm asking
5 that they be instructed not to comment upon facts not in
6 evidence and making up evidence for this jury, either in
7 questioning or in opening or closing

8 I'm asking that they be limited to
9 cross-examine solely about damages, nothing more, nothing
10 about liability or causation, and that is what I'm
11 requesting under the existing case law, Judge, and I've
12 attached copies of all the cases to my motion I don't
13 know if you've had a chance to read them

14 Mr Hood filed a notice of appearance to
15 represent Paul Hulsey and Hulsey Litigation Group
16 That's what we've got on the record in this court Now
17 what they're doing is they're bringing in another lawyer
18 to help him represent Paul Hulsey, and they're doing two
19 arguments on everything from two different lawyers I
20 suggest it's improper They're not entitled to two
21 people to do openings, two people to do closings

22 Mr Hood filed a notice of appearance
23 representing both of these defendants They're not
24 entitled to two bites at every apple Every time they
25 argue, I got to argue with two people It's just not

1 fair He's the attorney of record for both defendants
2 And it's a master-servant relationship He hasn't been
3 relieved as counsel for anybody There hasn't been any
4 order of substitution They're not entitled -- the
5 defendants are not entitled to have two lawyers speak on
6 every issue, and I object to that, Your Honor, for the
7 record

8 THE COURT Mr Hood?

9 MR HOOD Yes, sir, Your Honor We have a
10 basic disagreement here about what is credible and what
11 is not credible in the courtroom I never told jury in
12 the last jury that Paul Hulseby gave charity \$1 million
13 I wanted to, but I wasn't allowed to It was on his web
14 site, but it couldn't be used, though the web site was
15 used to get \$5 million in punitive damages when it wasn't
16 in the pleading

17 That's the truth \$5 million is a tremendous
18 amount of money against an individual who has decided he
19 wants to have a lawyer for his corporation and a lawyer
20 for himself, and he certainly has that right He's got
21 other partners involved who are here, and the fact is the
22 entire office is going to be here for this trial That
23 is how big a deal it is for them

24 I don't know how many people in this world
25 can absorb a \$7 5 million verdict saying a company

1 conducted themselves like Tony Soprano There is no
2 reference to any human being It's an LLC that is
3 referenced in the statement, and that is the statement
4 that is admitted And in response to everything you've
5 heard, reputation is the answer He's claiming damages
6 to his reputation If that reference to Tony Soprano to
7 the company that is he employed by damaged his
8 reputation, why aren't we, on damages, allowed to prove
9 other things that will have an impact on a jury weighing
10 what his real reputation was?

11 And that is why we want to go there, and that
12 is why it's relevant We've given you a brief

13 THE COURT I'm not quite sure what it is you
14 intend to offer You'll be allowed to talk about things
15 on cross-examination, but it's clear that you can
16 cross-examine their witnesses, you can object to the
17 plaintiff's evidence You're not allowed to offer
18 evidence of your own

19 I didn't make the rules up, and I'm not
20 allowed to say to the Court of Appeals, This is one
21 you've got to overturn You can ask permission to argue
22 against precedent on appeal, but you well know I'm bound
23 by what their rules are

24 MR HOOD I'm focussing in my argument about
25 this whole subject on cross-examination

1 THE COURT The thing -- and I went back and
2 looked at this again this morning in Howard vs Holiday
3 Inn They discussed the fact that there were three
4 avenues that they could take They say we could allow
5 damages to be done ex parte without having any right for
6 the defendant to participate They rejected that, and
7 they also discussed whether or not damages could be
8 ascertained after a full adversary contest, including the
9 right of the defendant to produce evidence in rebuttal or
10 in mitigation, and they rejected that They adopted the
11 procedure of allowing the defense counsel to participate
12 in cross-examination and objection to plaintiff's
13 evidence

14 MR HOOD Okay And this whole subject is
15 cross-examination What am I allowed to do in the State
16 of South Carolina, in your courtroom, on cross-examining
17 a witness?

18 THE COURT Ask them questions

19 MR HOOD Sir?

20 THE COURT Ask them questions

21 MR HOOD Right

22 THE COURT You don't get to introduce
23 evidence

24 MR HOOD I'm not trying to put anything in
25 evidence, but it's true, it's unequivocally true, that

1 this man, who is claiming his reputation was destroyed
2 and his life and his business is destroyed because his
3 company is called a company that has business like Tony
4 Soprano, that is what they're claiming, now, on
5 cross-examination, we're talking about his claimed
6 damages Why are we not allowed to go into his
7 reputation and the truth of what he just said? Because
8 the truth is there were a lot of things in the community
9 that were known about his reputation of how he treated
10 workers, how he housed them, what he did with them, what
11 he didn't do for them

12 All of those go to his reputation and what
13 was known in the community I've called lots of their
14 customers Not one has mentioned Soprano Not one, Your
15 Honor, not one

16 THE COURT And, you know what? If this was
17 a contested hearing, you would be able to fill the
18 courtroom with every one of them to say that But you
19 don't get to do that in a damages hearing, because that
20 would be introducing evidence

21 MR HOOD We do have a search here for the
22 truth

23 THE COURT But it is very limited because he
24 didn't answer his complaint in time

25 MR HOOD Okay But the search for the

1 truth on being limited allows us to cross-examine him,
2 and we have full cross-examination in this state And
3 that is all I want to do

4 THE COURT And a lot of times in full
5 cross-examination you get to introduce evidence

6 MR HOOD I don't need to introduce a piece
7 of paper, but I think it's important to introduce the
8 truth of his reputation, because he's been claiming it's
9 been damaged He put it at issue Once he does that, we
10 have a right to respond to it, with questions And if
11 we're not, then we can't -- we may as well just say give
12 them a verdict, whatever they ask for

13 THE COURT Well, I don't know what questions
14 you're going to ask I've got a feeling there is going
15 to be a lot of objections, and I got to rule on them when
16 you ask the particular questions, but, again, you won't
17 be allowed to introduce evidence, and that is always a
18 trial strategy thing because I think it becomes something
19 that works against you

20 When you ask a bunch of questions that draws
21 a bunch of objections, the jury might look at that one
22 way, on the other hand, they might go against the side
23 that does all the objecting I don't know, but that is
24 something that -- all of you are a bunch of good lawyers,
25 and I'm sure you weighed that in, but there comes a point

1 when if everything you say draws an objection, maybe that
2 will work for you, maybe that will work against you, but
3 that is something that you have to weigh in on I'm sure
4 you have thought about it

5 MR HOOD I have a lot, and on
6 cross-examination on the issue of damages it becomes
7 important because what we're dealing with directly
8 impacts the amount of damages he's claiming that relate
9 directly to his claim of damages and loss of business

10 Now, the plaintiff is not L&L Services The
11 only reference in the statement is to L&L Services and
12 we're going to get to a motion about what this man's
13 claims are really about, okay? He's an individual, an
14 employee What damages is he even entitled to?

15 The injury to his reputation is a necessary
16 element of the damages in a libel/slander case that we're
17 trying The reputation of this individual was previously
18 damaged or nonexistent or no damage was suffered by him
19 as a result of the statement, the admitted statement,
20 because it doesn't refer to Lawton Limehouse Junior
21 There is nothing in the statement that has his name in
22 it

23 Three months prior to the article at issue,
24 April 24, '04, there were a series of articles in the
25 Post & Courier that involved housing violations, fines,

1 condemnation of previous boarding houses, trafficking and
2 employment of illegal immigrants, manufacturing of false
3 papers, credentials being falsified, wage and hour
4 violations by the federal government, failure to maintain
5 workmen's comp

6 It turns out, just so you know, he had a
7 detailed contract with each of these customers
8 Paragraph 13 says, I will comply with the law All of
9 those things he didn't comply with That is why they
10 were terminated That is why every customer quit with
11 him It has nothing to do with Tony Soprano All of
12 this happened before April 24, and it all goes to damages
13 and what his reputation really was and what people
14 thought about him in the community

15 You allowed this last time on 608 It goes
16 directly to his credibility It goes directly to his
17 bias as a witness and his truthfulness as a witness, how
18 well they, in fact, know his reputation, what it was in
19 the community before this article, and any reliance they
20 may have had on the article as a sole cause of any damage
21 they've shown, the injury to his reputation as a
22 necessary element of his damages, and we should be
23 allowed to cross-examine him fully on that claim to
24 reputation and to go through his credibility and bias,
25 and that is all we really want to do And that is really

1 the answer to we don't get to ask him any questions

2 And you agreed with us on 608 before We are
3 talking about what are the rules for cross-examination in
4 the state court in South Carolina It's wide open
5 There is no limitation We're not limited to direct, and
6 he has pled I have been damaged in my reputation I want
7 a lot of money, and we have a right to prove what his
8 reputation was and whether or not, in fact, he was
9 damaged, and that is all we want to do through questions
10 of him, not through documents, but through questions of
11 him

12 However, on the subject of documents, even
13 though we can't put documents in, I think it's a tragedy
14 to allow a case to go to a jury where an issue in the
15 case is one sentence and the jury doesn't get that
16 sentence in the jury room And it seems to me like the
17 Court on its own -- because Mr Cisa is not going to put
18 it in, he wouldn't put it in last time -- ought to let
19 the jury see the one sentence that we're here talking
20 about

21 So thank you for listening --

22 THE COURT You're asking me to introduce
23 evidence That's not happening

24 MR HOOD Well, I'm asking you to let us
25 have a fair level playing field here

1 THE COURT It's not a fair level playing
2 field It's a default damages, and y'all have lost on
3 the ability to challenge liability, and I understand
4 you're going to do your best to claim that it's all true,
5 that whatever he said was true, but, you know, my hands
6 are tied behind my back

7 MR HOOD I'm not trying to prove truth
8 I'm trying to prove what his real reputation was on his
9 damage That's all I'm after

10 THE COURT And I can only rule on things as
11 they come up I don't know exactly what you're trying to
12 show I don't know -- it's months ago, I don't remember
13 how 608 came in --

14 MR HOOD Credibility of the witness You
15 let it in on the credibility of the witness

16 THE COURT Let what in?

17 MR HOOD The questions we asked and the
18 answers

19 THE COURT Again, I don't remember what
20 questions it was we're talking about, but I guess I'll
21 deal with it again as it comes up I'll look at 608,
22 but, again, you don't get to call a witness and say, Do
23 you know this about the other witness's character and
24 what was his reputation?

25 MR HOOD I know we can't call witnesses,

1 but we certainly can talk about his damages, his bias,
2 his credibility because that is proper cross-examination,
3 and we've got ten or fifteen cases, if you want to see
4 them, about the scope of cross-examination allowed by
5 appellate courts, because we are allowed
6 cross-examination and that is all we're asking for

7 THE COURT I'll be glad to look at whatever
8 you want to give me

9 MR HOOD Okay

10 THE COURT All right Well, I don't really
11 know how to rule on this motion other than to say, I've
12 said a bunch of times before at the first trial and a
13 bunch of times before this one, I'm following what the
14 Court says that it is a default damages hearing, that I
15 am limiting their participation to cross-examination and
16 objection to your evidence, and to make a particular
17 ruling, I'll just have to wait until the question gets
18 asked

19 MR CISA Judge, may I make one point? Not
20 to argue with the Court, I understand you're going to
21 weigh it, but they're in a different posture than I am in
22 in this case I'm entitled to introduce evidence They
23 are limited to cross-examining only as to damages, not
24 the cause of the damages Just like Doe wanted to
25 cross-examine S B M as to why he lost his job He lost

1 his job because he got a citation It's improper They
2 want to cross-examine Lawton Limehouse about housing
3 violations and things like that Causation and liability
4 is conceded He cannot do it

5 This is not open cross-examination, Judge
6 He is limited by a procedure set down by a common law
7 He can only cross-examine as to damages, not causation,
8 not liability, and he said six times that L&L Services is
9 one that has been damaged He needs to read the
10 complaint What I say in the complaint is the plaintiff
11 He said these things about the plaintiff, and the
12 plaintiff happens to own a company that he lost

13 And I also allege that as a result of these
14 statements, he lost his business, so it's a question of
15 how much is the damage associated with that loss? That
16 is the question, not why he lost his business or what
17 caused the loss of his business That the same proper
18 cross-examination under the case law The question, how
19 has he been damaged as a result of that? And I'll sit
20 down, Judge

21 THE COURT All right

22 MR LEWIS Your Honor, we're getting all
23 confused here

24 THE COURT Yes, it's going to get worse
25 I've been through this once

1 MR LEWIS But as I understand it, you're
2 going to rule as we ask the questions That would be the
3 most logical way to do this, because we are talking in a
4 vacuum We don't have anything before you, and I think
5 that you should listen to the questions

6 THE COURT That is typically how we do it

7 MR LEWIS And when you cross, you read that
8 case that says doesn't say limited It only says limited
9 as to damages, anything to do with damages Also, we get
10 bias, credibility, and the main thing that they have to
11 prove is amount That is what this case -- it's about
12 amount, and the witness's bias and credibility is always
13 up when you put them up, and that is what we're going to
14 attack

15 THE COURT Okay I guess we'll have to deal
16 with that -- that is a correct position of the law, so I
17 guess I'll try to do what I always do, and that is rule
18 on that in the context of a particular question and an
19 objection to that question

20 All right What else do I need to deal with?

21 MR HOOD We have several motions for Your
22 Honor's consideration First one I'm looking at is the
23 motion to dismiss the claims of Lawton Limehouse Junior
24 concerning business damage and pecuniary losses suffered
25 by the plaintiff's business or, in the alternative, a

1 motion to limit or exclude the damages or pecuniary loss
2 to plaintiff's business

3 Mr Lawton Limehouse Junior does not have
4 standing to seek damages for any loss to L&L Services
5 That case has been tried and is on appeal He's not a
6 real party in interest, and therefore this Court has no
7 subject matter jurisdiction over that subject And I do
8 want to make sure I've said on the record, I don't think
9 it's necessary, but in the post-trial motions of the
10 other case, we learned that the case, the entire case,
11 went to federal court, came back on remand, and the
12 remand from Judge Houck was not certified

13 The federal statutes say it shall be
14 certified, and it's our position that subject matter
15 jurisdiction never vested back into the Court of Common
16 Pleas You denied that I just want that on this record
17 so that is part of what we're doing going forward

18 But any cause of action based on an injury to
19 an LLC would belong to the LLC The LLC is not the
20 plaintiff here The only plaintiff is Junior The
21 plaintiff does not have the right of action to recover
22 for the damages to the LLC Law Lawton Limehouse Junior
23 lacks standing to bring any claim to recover business
24 loss suffered by LLC How many times is LLC going to say
25 how many people subscribe to the Post & Courier? How

1 many customers did you lose, and now you're out of
2 business? How many millions of dollars do you want?

3 That's happened, and we're now dealing with
4 Junior who is an employee of this company It's a
5 corporation He's not the owner of it, his father is,
6 and they've had their day in court and they've gotten
7 their verdict And that is why they bifurcated the case,
8 so they could try Senior's and get a second bite at the
9 apple for Junior That is not right

10 Senior and L&L have had their day in court
11 It's res judicata and collateral estoppel They brought
12 identical claims and recovered for the losses suffered by
13 L&L Services and the other company they've got, which is
14 WLL, which is also a corporation They had an
15 opportunity to bring this claim for business loss in that
16 suit, but instead opposed to consolidate the two cases,
17 so they are the ones that selected to try these cases
18 separately, not us

19 Remember, we wanted to try them and get them
20 all over with They made that choice and have to live
21 with it We're dealing with an employee's claim to
22 injury to his reputation only, I guess his claim of lost
23 wages, and that's it We're not dealing with profits of
24 L&L or WLL, whatever company it is, WLL LLC Collateral
25 estoppel is issue preclusion, and that's what we have

1 here It's clearly precluded by the prior verdict, the
2 amount of business damages suffered by the two
3 corporations, they presented expert testimony, as you
4 remember, about the value of that business and the loss
5 of that business, and they pumped it up to like \$96,000
6 when, in fact, they had a negative income every year

7 So this is a serious issue on the subject of
8 damages We're dealing with this man's wages and that is
9 it, and by the way, the company is still in business, so
10 he doesn't have a lost wage claim, and we'll see what he
11 says about his wages, but in any event, collateral
12 estoppel, judicial estoppel, precludes this from being
13 tried twice

14 THE COURT Mr Lewis?

15 MR LEWIS We have that same motion, and I
16 just want to add one thing to it Even if he was an
17 owner, it doesn't matter As you know, a company, if a
18 company's injured, the shareholders and the employees
19 don't get to sue The company sues, or there is a
20 derivative suit In this case, there is nothing

21 They didn't sue, the company did not sue,
22 there is not a derivative action Standing is never
23 waived It is a jurisdictional issue In this case,
24 Junior has no right to present any evidence as to damages
25 to the company There is no standing to do so, because

1 under our law, they're in good standing, which they are
2 Even the owner couldn't bring it The company must bring
3 it It owns the causes of action for it, and we object
4 to any evidence whatsoever about the company and how it
5 was hurt at all Thank you, Your Honor

6 THE COURT Mr Cisa?

7 MR CISA Your Honor, at the first trial,
8 what we did was Lawton Senior owned a one half interest
9 in the business L&L Services Lawton Junior owns a one
10 half interest in the business of L&L Services What I
11 asked the jury to return a verdict for was one half of
12 the value of the business because the business was owned
13 by Lawton Junior and Lawton Senior What I alleged in
14 the complaint is that in 1999, Lawton Junior and his
15 father incorporated a staffing agency known as L&L
16 Services LLC and also a company called WLL LLC

17 What I alleged in the complaint, and more
18 particularly paragraph 19, is that the statements made by
19 the defendant caused the plaintiff to suffer great mental
20 anguish and depression caused by the injury to his
21 reputation and, further, the plaintiff has suffered
22 special damages in that he has lost income and has lost
23 those businesses I've alleged that they lost those
24 businesses as a result of the defamatory statements

25 That liability is conceded The liability is

1 conceded on that issue I've got to prove what the value
2 of what he lost was, which I intend to do, but the
3 liability is conceded pursuant to paragraph 19 of my
4 complaint

5 That is what I allege He owned a half
6 interest I'm going to prove what the business was
7 worth, and there is no question that Paul Hulsey caused
8 my client to lose the business because it's alleged in
9 paragraph 19 Causation is not an issue, liability is
10 not an issue It's been conceded by the default

11 All right

12 THE COURT All right Motion is denied
13 What is the next one?

14 MR HOOD Yes, sir There is no pleading
15 about Mr Limehouse Junior owning anything It's
16 conceded It's not in the complaint that he owns half of
17 L&L Services So the next one is a motion in limine to
18 preclude testimony that the alleged defamatory statement
19 was about him Judicial estoppel should apply from the
20 plaintiff suggesting that the alleged statements were
21 about Junior or could have damaged his reputation Seven
22 witnesses testified in the first trial that the statement
23 affected Senior and Senior only, including Senior

24 And for any of those seven witnesses to get
25 on the stand and say something different will be

1 committing perjury It would not be true, and we've
2 given you the exact quotes of Senior, for example

3 THE COURT Which one of these motions is
4 this?

5 MR HOOD This is a motion in limine,
6 testimony regarding alleged statement It's to preclude
7 testimony that the alleged defamatory statement was
8 about --

9 THE COURT Where is the quotation that it's
10 about Senior only?

11 MR HOOD Okay Second page, we quote, Not
12 just Senior, but all seven witnesses, all of whom say
13 it's about Senior only

14 THE COURT Where?

15 MR HOOD It's on the second page of our
16 memorandum You must not have it -- this is the right
17 one

18 THE COURT All right You're talking about
19 this page?

20 MR HOOD Yes, sir

21 THE COURT Direct me to where it says only

22 MR HOOD The question is you engaged in
23 Second question You engaged in

24 THE COURT Okay Well, that is you It
25 doesn't say you only

1 MR HOOD It's all about Mr Limehouse

2 THE COURT That's because he was the only
3 one -- it was his trial

4 MR HOOD Fred Smith concerning
5 Mr Limehouse

6 THE COURT All right

7 MR HOOD Are you familiar, Mr Limehouse,
8 with the article? Manos, Mr Limehouse, Jean Limehouse,
9 Amy Limehouse, they all are talking about Senior only and
10 their quotes, so for them to get on the stand and say
11 something differently wouldn't be correct

12 THE COURT Well, it does not say only, it's
13 just the question was about him But it does not -- I
14 don't read those questions the same way you want me to
15 read those Okay?

16 MR HOOD Yes, sir

17 THE COURT All right Motion is denied as
18 to those as well

19 What next?

20 MR HOOD So we are asking for judicial
21 estoppel to prevent them from inconsistent positions to
22 gain an advantage in a judicial proceeding, which is what
23 they're trying to do, which is why they bifurcated the
24 two cases

25 THE COURT All right I've denied those

1 motions What is the next one?

2 MR HOOD The defendant's motion in limine
3 concerning plaintiff's reputation

4 THE COURT Evidence -- all right

5 MR HOOD Reputation in the caption

6 THE COURT Evidence to exclude any evidence
7 of damage to plaintiff's reputation?

8 MR HOOD Yes, sir, yes, sir

9 THE COURT Okay

10 MR HOOD The statement, which we've quoted
11 for you, is only about L&L Services, not Lawton Limehouse
12 Junior It's about the business, and as Mr Lewis just
13 explained, a corporate business has no reputation or
14 character in a personal sense and cannot suffer
15 humiliation and its recovery is limited to pecuniary loss
16 to the business

17 The statement was made about the corporation
18 It's the corporation that has the claim We've tried
19 their case This is Junior's case There is no
20 statement about Junior admitting everything in the
21 complaint

22 THE COURT I'm not sure what you're asking,
23 me to do here

24 MR HOOD I'm asking you to strike any
25 reference to the corporation's damages, we've had that

1 trial, and to limit the plaintiff's damages to what he's
2 claiming and not let him make a claim for the
3 corporation

4 THE COURT That is something that you would
5 argue to the jury, these statements were made only to --

6 MR HOOD I'm scared they're going to go
7 into it in the opening, and the prejudice has already
8 happened

9 MR LEWIS We understand, Your Honor, that
10 we can go into that statement and what it's about
11 That's what we want to do As a matter of fact, in their
12 memo, they recognize that that statement should come into
13 evidence

14 THE COURT I don't know What do you intend
15 to offer?

16 MR CISA Your Honor, I intend to offer what
17 the complaint says, and what the complaint says is, in
18 paragraph 11, that during the news conference or during
19 the defendant Paul Hulsey's meeting with members of the
20 news media, including a reporter from the Post & Courier,
21 defendant Hulsey made false and defamatory statements
22 concerning the plaintiff, the plaintiff is Lawton
23 Limehouse Junior, with the knowledge and intent that said
24 statements be published by the Post & Courier as well as
25 any other media located in Charleston County, which

1 statements included the following That the plaintiff
2 had engaged in a classic racketeering scheme, that the
3 plaintiff's conduct set the community back 150 years,
4 that the plaintiff engaged in a blatant case of
5 indentured servitude, and that the plaintiffs creating
6 perfect racketeering enterprise just like Tony Soprano

7 Those allegations are deemed admitted under
8 our law I intend to explain that to the jury in opening
9 because I can talk about the pleadings and those
10 statements are admitted They cannot contradict those
11 statements Liability is conceded, and the allegations
12 are admitted They cannot contradict those allegations

13 I don't intend to introduce any newspaper
14 articles because they're hearsay, for starters, and I've
15 established my liability in my complaint I'm not
16 bringing witnesses in to testify to all those issues
17 I'm bringing witnesses in on the issue of damages, and
18 I'm entitled to let the jury understand who Lawton
19 Limehouse Junior is and what business he operated, but
20 they can't cross-examine as to causation or liability

21 THE COURT If Mr Cisa puts a newspaper
22 article into evidence, then you get to cross-examine on
23 that, but if he doesn't put that into evidence, you don't
24 get to put it into evidence

25 MR CISA I am not putting that into

1 evidence I can tell the Court that So, Judge, I think
2 his motion was to exclude any damages information
3 concerning Lawton Limehouse Junior's reputation --

4 THE COURT That is what this whole case is
5 about, is what damage it's had to his reputation

6 MR CISA Exactly, and his mental suffering
7 and his problems he's had, et cetera, and, clearly, it's
8 alleged in the complaint as to Lawton Limehouse These
9 statements were made about him They cannot come back
10 and say, No, the statements weren't made about him They
11 were made about somebody else Liability is conceded
12 It's conceded It's over

13 Thank you

14 MR LEWIS Your Honor, somehow that
15 motion -- we do not say that the reputation of Limehouse
16 should not be gotten into We're saying the reputation
17 of the company should not be gotten into, the losses of
18 any business to the company should not be gone into, the
19 losses of income of the company should not be gone into,
20 nothing about the company should be gone into because the
21 company's damages are the company's damages, not
22 Mr Lawton

23 They chose not to sue on behalf of the
24 company and only on behalf of the two individuals, and
25 employees and shareholders don't get to bring suits for

1 damages to the company

2 THE COURT You want to address that?

3 MR CISA I allege he lost this business I
4 alleged that it's admitted I allege he has special
5 damages because he lost his business

6 THE COURT That's the answer to that He is
7 alleging it's not the loss to the business, it's the loss
8 of the business

9 MR CISA Right

10 THE COURT That's his damage So --

11 MR HOOD I thought he was an employee

12 THE COURT That is his theory of damages, so
13 to that extent, the motion is denied

14 MR HOOD The final motion in limine is to
15 exclude any negative comment regarding default

16 You remember in the prior trial Mr Cisa
17 several times said this rich, greedy lawyer thumbed his
18 nose at the court system and mocks justice He got the
19 jury fired up about it, and he got a lot of money That
20 ain't got nothing to do with anything

21 A default is a default It's a legal term
22 It's no one thumbing their nose at the Court system He
23 shouldn't have a right to say that to a jury to get them
24 mad, to say that about a lawyer who did everything he
25 possibly could to get out of a default and a judge who

1 rendered an opinion that he himself even said was novel
2 and didn't agree with either lawyer who talked about when
3 the answer was due and came up with his own date, but for
4 Cisa to use that to turn the defendant into a villain has
5 nothing to do with this case

6 It should be a mistrial instantly if it
7 happens, and he should not be able to go there at all
8 It's entirely too prejudicial, and it really hurt last
9 time when he did it And I can see, in the opening
10 statement, we're going to have three or four motions for
11 mistrials throughout the case, more and more and more
12 He's going to stand up and start off with greedy rich
13 lawyer That has nothing to do with the statement in the
14 paper, and it has nothing to do with damages

15 Greedy, to call a fellow lawyer greedy is
16 pretty egregious to me, and it certainly isn't civil and
17 it has nothing to do with this trial, and that is the way
18 we kicked off the last case, and I about went through the
19 ceiling

20 I don't want to kick off this case with that
21 kind of prejudice We don't need it Mr Hulsey is not
22 on trial for a criminal offense here He has done
23 tremendous things in his community He can't tell
24 anybody about any of them in this courtroom I would
25 like to, but he certainly doesn't have, and should not be

1 subject to ridicule because he's a lawyer who is in
2 default by a few days on answering a complaint

3 On that score -- well, I'll stop on what's in
4 the motion at this point, deliberately thumbed his nose
5 at the rules, deliberately refused to answer,
6 deliberately refused to answer on time That is a lie,
7 and it should be punished accordingly And I'll get you
8 the references in the transcripts because I sat here and
9 lived through it Should be punished, because he didn't
10 answer in two days

11 That is not a basis for punishment, and it
12 has nothing to do with the damages from a claimed
13 defamation, so I'm asking you to tell him now so in two
14 hours from now I don't have to stand up and object That
15 doesn't have anything to do with this trial, please

16 THE COURT Mr Lewis, do you join in that?
17 Do you want to add anything to it?

18 MR LEWIS I am joining into it because I
19 did read directions, Your Honor, and it's pretty amazing
20 I also think that it's real important that the Court be
21 wary of the fact that when you say he was in default and
22 how you say that makes a big difference to a jury, and
23 this is a big default over timing It isn't because he
24 was sitting around, and there's all kinds of questions
25 about the default and it's on appeal, so when we say

1 this, I want to be careful how we say he was in default,
2 and we're going to say he was in default like he was some
3 kind of a villain or are we going to say -- it's a
4 question and he got into default over his question, and
5 that is what we want to be careful of and that is all we
6 ask

7 THE COURT Well, I don't remember what I
8 said, but I usually don't try to characterize anything
9 during my statements, but I'll -- go ahead, Mr Cisa

10 MR CISA For the record, Judge, I think
11 Mr Hulsey is a villain I think he ruined my client's
12 life I think he ruined his family That's what I
13 think I don't recall during the trial picking on
14 Mr Hulsey because he was in default

15 The only time I made a statement to the jury,
16 as I remember, about the rules is the last thing I said
17 on closing argument, and what I said was, I'm sorry, but
18 I know I'm going to have to get up and object during
19 Mr Hood's closing argument I don't want to do it, but
20 I know I'm going to have to do it because I've had to do
21 it all this trial They're not playing by the rules

22 That is what I said That is what I said I
23 didn't ridicule Mr Hulsey because he's in default I
24 might explain to the jury that liability is conceded and
25 we're here about damages I'm not picking on him because

1 he went into default, and I at no time asked the jury,
2 that I recall, to award punitive damages because he's in
3 default, I asked them to award punitive damages because
4 of what he did to my client, on a number of basis, the
5 fact he's worth \$81 million --

6 THE COURT The only thing I think I would
7 limit you on at this point is to say he was deliberately
8 in default If you said that, that would be incorrect

9 MR CISA I agree

10 THE COURT That is what Mr Hood said you
11 said I don't know It's been so long ago

12 MR CISA It's been a long time

13 THE COURT I know y'all have been reviewing
14 the transcripts and all that other stuff and I haven't,
15 but that would not be something that would be a proper
16 characterization of the status of things, so I would tell
17 you not to say that he was deliberately --

18 MR CISA I won't say that No objection to
19 that

20 THE COURT As far as what I say, I just say
21 he's in default, and under the rules, he has 30 days to
22 answer He didn't file within the time frame and so the
23 allegations are deemed admitted I don't remember saying
24 anything more than that, but that is certainly what I
25 intend to say

1 MR HOOD I would like to respond to what he
2 just told you

3 MR CISA I'm not quite finished

4 I also allege in the complaint that the
5 statements made by the defendant, Paul Hulsey, were made
6 with the intent of bolstering the class action lawsuit
7 which he filed against the plaintiff and the plaintiff's
8 companies and also with the intent to attract individuals
9 who became members of class action suit so the defendant
10 could potentially earn large sums of money as legal fees

11 That is admitted by the default I think
12 that makes it clear that Mr Hulsey made these statements
13 to attract people so they could make money and earn
14 money, and I think that's being greedy So I think it's
15 founded in the complaint My comments were founded in
16 the complaint

17 Thank you

18 THE COURT Okay

19 MR HOOD His comments are knowingly not
20 true, nor is it allegations Mr Hulsey handled the case
21 pro bono, and he well knows that, but I want you to
22 listen to what he said in the transcript He can't
23 remember It was cited in our brief on page two and page
24 three

25 The defendant did not answer the complaint

1 within the statutory time frame The defendant, as I
2 told you, did not answer within the statutory frame line,
3 didn't answer in time, and I remind the jury of the
4 posture of the case once again

5 We all got to play by the rules, this is
6 Mr Cisa We tried to play by the rules, but I'm not
7 sure about the other side The defendants did not
8 respond within the time the rules allowed Now the
9 defendants don't like the rules, but they are the rules,
10 and they've got to abide by them We play by the rules

11 Everybody in the courtroom is bound by those
12 rule We're bound by those rules, the defendant is bound
13 by -- so he's got my client thumbing his nose at the
14 judicial process over how he calculated the date of the
15 answer and the judge disagreed and said, You're two days
16 late You're in default I thank you for agreeing with
17 us on that, and I'm hoping we won't hear that in opening
18 I'll ask for a mistrial That has nothing to do with
19 this case

20 A couple other things happened in the last
21 trial that Mr Lewis was referring to I think it's fine
22 to tell the jury why we're here and what the process is,
23 but if I'm objecting or they're objecting or we're
24 talking about something, I think if the jury keeps
25 hearing Your Honor -- respectfully saying this now --

1 keep hearing Your Honor saying, well, you're in default
2 and then he stands up in closing and says they thumbed
3 their nose at the rules, they did not play by the rules
4 and we do, then they've heard from Your Honor we did
5 something wrong, wrong, wrong, wrong, wrong, and so --

6 THE COURT Well, the only time I'm going to
7 bring it up -- I'm going to explain to the jury what
8 we're doing here and why we're here and why it's a little
9 bit different The only other time that I need to talk
10 to the jury any about -- and explain or have any use of
11 the word default is if you keep trying to bring something
12 up If you know that I'm not going to rule about it and
13 I have to say because you're in default, you don't get to
14 do what you want to do

15 MR HOOD I think it's fine to sustain the
16 objection That's the end of it We stop The thing
17 is, after a while it really does taint the jury and
18 particularly when he then dovetails it with the defendant
19 doing something wrong, he did something criminal, he
20 didn't follow the rules, that's not true, none of that
21 is

22 THE COURT I won't try to overuse the word,
23 and I'll be mindful of the fact that, you know, you think
24 it might cause prejudice, and if you think it will make a
25 record that I just say overruled to an objection that

1 they'll make and you go on --

2 MR HOOD Yes, sir

3 THE COURT I'll try to be as polite as I can
4 be about it

5 MR HOOD I know you will, and know that --
6 it did not become a big deal until his closing argument,
7 and then he took that and made it into a big deal in the
8 closing argument, and that has helped him to get the
9 punitive damages at the web site

10 THE COURT I'm mindful of that I hadn't
11 really thought about it in that respect, and I'll try to
12 do my best not to cause the jury to think that I have any
13 feelings about what the outcome of the case should be

14 I usually try to tell them that if they think
15 that I have a feeling about the case because of something
16 that I said or did during the trial that they'll
17 disregard that, but I'll just overrule you as politely as
18 I can be How about that? I'll try not to show any
19 favor for or against either party along the way to the
20 best I can

21 MR HOOD I appreciate that very much In
22 claim that Mr Hulsey had a press conference, there was
23 no press conference The author of the newspaper will
24 come and tell you about that, if you want to hear it in
25 the next hour There was a telephone call and he asked

1 Mr Hulsey, What is the lawsuit about that you filed in
2 federal court?

3 And Mr Hulsey he filed a RICO case, and then
4 Jim Scott said, What is a RICO case? So then using the
5 statement that is quoted here to be defamatory was an
6 analogy by Mr Hulsey to Mr Scott to explain what RICO
7 is, and that is it There was no press release There
8 was no printing of anything He didn't call anyone to a
9 location and stand up and talk to him It was a
10 telephone call, and that was all that happened, and it
11 only happened one time

12 And for him to claim that he did this to get
13 clients is fallacious He had the complaints he needed
14 He had three clients in federal court It was up to
15 Judge Houck whether he was going to certify a class or
16 not He didn't need any more clients If the case had
17 not settled, which, by the way, Mr Limehouse chose to
18 do, rather than to defend his reputation in federal
19 court, he paid money, and at the end of the day,
20 Mr Hulsey handled the case pro bono

21 He never had any kind of press release, he
22 didn't need any more clients, and we could -- all of that
23 is known to Your Honor because you know if you have three
24 clients, you don't need any more to bring the class
25 action It's within the discretion of the Court on

1 whether or not this was the kind of case that should be
2 certified or not

3 THE COURT Where are we going with this?
4 What do you want me to do?

5 MR HOOD In his opening statement this
6 afternoon, he's going to say all those things, and some
7 of them aren't in this complaint, but it's absolutely not
8 true The law has got to be wrong to let him say it,
9 knowing it's not true, and for the Court to allow him to
10 say it, knowing it's not true, has got to be wrong and
11 it's got to be reversible error, to let someone say
12 something in the courtroom, an officer of the court that
13 they know is not true, shouldn't happen

14 And what happened here ought to be -- and he
15 knows all of this, and he ought to be limited to what
16 really happened here, and it's no different than an
17 allegation it's in default I think Cam talked about it,
18 a personal injury case where he got a broken leg You
19 might put in your complaint that because of my leg being
20 broken, I hadn't had relations with my wife in five
21 years

22 Well, you know, no one is going to believe
23 that That's not true, and we've got to stop someone
24 from saying something that is not true knowingly in this
25 trial It happened a lot last time, and that is the way

1 we're going to kick off the case

2 THE COURT Okay

3 MR HOOD Cam, you want to add to that?

4 MR LEWIS Your Honor, I think this goes
5 back, what Mr Hood is talking about, is 55(b)2 55(b)2,
6 and it says in there, when you apply and you enter your
7 judgment in order to enable the Court to enter judgment
8 or to carry into effect it is necessary to take into
9 account the amount of damages or to establish the truth
10 of any averment by evidence or to make an investigation
11 of any other matter that the Court may conduct such
12 hearing or order such references it deems necessary and
13 proper and shall accord a right of trial by jury to the
14 parties of proper demand therefore has been made pursuant
15 to rule 38

16 What that's telling you is, and Mr Hood
17 says, you don't, as a Court, allow known falsities to
18 stand This is your way to make sure this is no fraud on
19 the Court A default does not allow a lie to be the
20 truth, and this part of the rule is what protects the
21 Court from a lie becoming a truth through default, and
22 that is what Mr Hood is saying And I join in with him

23 And he's also saying that if we're limited so
24 much in our abilities to do anything because we were in
25 default, we are in default as to what the complaint says

1 None of the cases that have been cited to you
2 from the other side are cases where the party that gained
3 the default tried to expand the well-pled facts When
4 you get something in default and you hold someone, you're
5 limited to the complaint as pled You don't get to
6 expand on it, you don't get to go further, you get to
7 read what it says and that is it

8 And when you try to go further, we're going
9 to have to object Your Honor is going to have to rule,
10 but that is, indeed, what it is None of the law, none
11 of it, allows them to expand on what they have pled and
12 what we're in default to because we can only hold us in
13 default as to the well-pled facts

14 Anything past that, more than that, we hadn't
15 agreed to that We didn't miss that, and as to anything
16 that is a lie cannot be made into truth, and you have
17 that right to look at it and we ask you to

18 THE COURT Mr Cisa?

19 MR CISA Your Honor, this is the kind of
20 thing I'm talking about It's kind of already starting
21 when Mr Hood gets up and says Lawyer Hulsey did this pro
22 bono He can't say that to the jury because that is not
23 going to be in evidence He's going to be commenting
24 about facts that are not in evidence, and we have no
25 knowledge about what Mr Hulsey did

1 THE COURT He won't be allowed to say that

2 MR CISA I don't think he should be allowed
3 to say that, but he's making the pitch to you That's
4 what he did the last trial The Supreme Court in citing
5 Howard again and Roche in 1998 said it is well settled
6 that by suffering a default the defaulting party is
7 deemed to have admitted the truth of the plaintiff's
8 allegations

9 What I alleged was is that the defendant had
10 a press conference with certain news agencies, including
11 the Post & Courier staff, at which time he said these
12 things about my client

13 THE COURT Did he have a press conference?

14 MR CISA It was my understanding he had a
15 press conference I'm just a lawyer All I'm trying to
16 do is take the posture of the case, take my complaint,
17 and try the case based upon the allegations of my
18 complaint that are deemed admitted and prove damages

19 THE COURT Okay

20 MR CISA He's trying to change the law I
21 alleged it, it's true, he can't contradict it It's
22 conceded I didn't bring witnesses to prove how the word
23 got to the Post & Courier I alleged it If they would
24 answer, then he would be entitled to rebut it, but he's
25 not entitled to it, and as the lawyer trying the case,

1 I've got to rely upon the complaint because that's the
2 procedure I said it I said it a couple of times in
3 the complaint

4 MR HOOD He alleged a disjunctive, or, this
5 paragraph reads, held a press conference or otherwise
6 made false statements about the plaintiff, and he knows
7 from reading other articles written by Mr Scott there
8 was no press conference, and he knows from his discovery
9 in the case that there was no attorney fee charge by Mr
10 Hulsey And --

11 THE COURT Well, it says he allegedly held a
12 press conference or otherwise made false statements to
13 the press I guess I would just be real careful about
14 suggesting that, you know, there was a bank of
15 microphones or something set up there We don't want to
16 get in the position of having to argue that something
17 happened when, in fact, it did not happen

18 I mean, I recognize that it was alleged there
19 was a press conference or otherwise made false statements
20 to the news My suggestion would be if you have a
21 question as to whether or not that is, in fact, true,
22 that there was a press conference in the sense that we
23 typically think about them -- I've been in press
24 conferences before where you only had one agency show up,
25 but if, in fact, it's just a newspaper reporter called

1 them and that is how he made the statements, maybe you
2 want to rethink how you suggest that to the jury so you
3 don't end up arguing that issue before the appellate
4 court later on

5 MR HOOD Your Honor, I would ask the Court,
6 in explaining to the jury in preliminary remarks, saying,
7 please, no reference to press conference by Your Honor
8 It gives credibility to something that didn't happen

9 THE COURT I'm not going to get into that
10 because I'm going to let him try his case, and if he
11 wants to say that a press conference was held, he may
12 want to argue that in his mind, answering a phone call
13 from a reporter was a press conference, I don't know

14 I'm not going to preclude him, I'm just going
15 to suggest if he wants to dwell on a press conference
16 when, in fact, one wasn't held and that becomes an issue
17 later on, then you put your verdict in jeopardy

18 All right Anything else?

19 MR HOOD With regard to the voir dire in
20 regards to the question we submitted and the plaintiff
21 has submitted we were in the court, in the room where the
22 jury was being qualified before Your Honor came in, and
23 we had ten or fifteen people that didn't give the
24 following information, and the plaintiff probably will
25 join in with this

1 When we get our 24 in front of Your Honor, we
2 would like to know if are out of work, how long they've
3 been out of work, where they used to work We had
4 several people say, I used to work at such and such, or
5 I'm not working now or I just started back

6 We would like to get the work situation
7 understood by each juror, and --

8 THE COURT Maybe I'm missing something

9 MR HOOD Why are they out of work? Did
10 they get laid off? What is going on there, and how long
11 have he been back to work?

12 THE COURT I don't usually get into that
13 kind of stuff

14 MR HOOD In this case, work is a big deal
15 Do they work or not? We're talking about an employment
16 agency here

17 THE COURT As you know, we have very little
18 in voir dire in this state If they answered those
19 questions in the preliminary qualification --

20 MR HOOD We couldn't hear them, and they
21 didn't answer the question, is why I'm bringing it to
22 your attention, and I think both sides have a right to
23 know some of these basic things about people We can't
24 find out looking at whatever available things we look at

25 THE COURT Write me down what questions you

1 want me to ask other than what you got here Are you
2 saying you got some questions other than what you have in
3 your joint voir dire?

4 MR HOOD Yes, sir

5 THE COURT All right Write those down

6 MR CISA Could I hand up my voir dire? I
7 haven't seen theirs yet

8 THE COURT All right Anything else?

9 MR CISA Nothing other than I haven't seen
10 their voir dire yet

11 THE COURT I got the jury panel coming back
12 at 2 00 So I'll have them open back up at, you know,
13 1 30, quarter to 2 00 They like to go to lunch and they
14 have to lock the doors

15 MR JAMES HOOD We need Mr Cisa to identify
16 who the witnesses are

17 THE COURT You got a witness list?

18 MR CISA Yes, sir, I do

19 THE COURT All right Hand that up to me
20 and we'll get a copy of that, and I'll see y'all back at
21 2 o'clock

22 (Recess taken)

23 A F T E R N O O N S E S S I O N

24 THE COURT All right Mr Wright, you're
25 the foreman of the jury Congratulations There is no

1 extra pay involved in that All you do is handle the
2 verdict at the end, conduct the jury deliberations, and
3 handle any fights that break out in the jury room, but
4 you don't get any extra money

5 We don't have assigned seating, but after we
6 take the break next time traditionally, we just have the
7 foreman sit right down where this lady is on the burgundy
8 on the end You don't have to move down but that
9 traditionally is the foreman's seat Y'all can sit
10 wherever you want You don't have to sit in the same
11 place every the time if you don't want to

12 Folks, let me tell you a little bit about
13 this trial we're getting ready to start right now It's
14 a little bit different than your normal civil trials
15 because, normally, when somebody sues somebody else, we
16 have rules that we follow that establishes procedures for
17 the way we conduct things, discovery, how trials are
18 conducted, how allegations are made, how allegations get
19 answered and that sort of thing, and we have a trial
20 based on the plaintiff needing to prove what they allege
21 in their complaint, and since they are the party that
22 brings the lawsuit, they have the burden of proof They
23 have the burden of proving what it is they allege in
24 their complaint

25 This trial has got a little bit of a

1 different twist on what we normally do, and so I'm just
2 going to give you a little bit of background, just to
3 tell you why this trial is just a little bit different
4 and what you will be deciding ultimately

5 Originally, how this case came about is
6 because the defendant, Mr Hulsey, through his law firm,
7 Hulsey Litigation Group, brought a lawsuit against the
8 plaintiff making some allegations about his employment
9 practices, and he filed this lawsuit in another court
10 After filing that lawsuit, the defendant, Mr Hulsey,
11 through his law firm, Hulsey Litigation Group, they are
12 codefendants in this lawsuit, made some statements to the
13 press which the plaintiff in this case, Mr Limehouse,
14 alleges were false and defamatory

15 A lawsuit in which you allege false and
16 defamatory statements we have are called slander, which
17 is false and defamatory oral statements, and libel, which
18 are published or printed false and defamatory statements
19 So Mr Limehouse then files a separate lawsuit in state
20 court, here, in which he files a slander/libel lawsuit in
21 which he served on the plaintiffs, Mr Hulsey and his law
22 firm, and they did not answer that lawsuit in the time
23 frame that is allowed in our rules of court, therefore,
24 the allegations in the complaint that Mr Limehouse filed
25 are, under our rules, deemed to be admitted They are

1 deemed to be true as a matter of law The allegations in
2 Mr Limehouse's lawsuit against Mrs Hulsey are deemed to
3 be true They are admitted, and the matter is then set
4 for a damages hearing

5 So what we have a trial on this week is a
6 damages hearing The defendants, because they did not
7 answer the lawsuit within the time frame stated by our
8 rules of Court, cannot raise any defenses Sometimes in
9 a lawsuit you typically say, I didn't do it, or sometimes
10 in a slander/libel lawsuit, you might hear the defendant
11 say not only didn't I do it, but if I did say that, it
12 was privileged, or they might say as a defense it was
13 true, whatever I said, but those defenses are not
14 available to the defendants in this lawsuit because they
15 did not answer the lawsuit within the time frame that our
16 court rules say they have to be

17 So the allegations that Mr Limehouse alleged
18 in his lawsuit, which they'll get into in a minute and
19 I'll give you some more detail on that, are deemed to be
20 true, and he cannot contest whether or not they are true
21 They are admitted, in other words, and so we are solely
22 here this week to determine the amount, if any, of
23 damages that are owed by the defendants to Mr Limehouse
24 It's not an issue as to whether or not liability can be
25 proven Liability is deemed to be admitted at this stage

1 in the lawsuit

2 All right? So that is what is a little bit
3 different about that, because normally we would have a
4 lawsuit as to liability, and if the party that brings the
5 lawsuit proves liability, then he will try to prove his
6 damages In this case, liability is deemed as a matter
7 of law to be admitted, and so the sole issue before you
8 this week is what, if any, damages are owed by the
9 defendants, Mr Hulsey and his law firm, to
10 Mr Limehouse

11 Okay? Now, this is a civil lawsuit, so there
12 is a burden of proof in a civil lawsuit called a
13 preponderance of the evidence That means the greater
14 weight of the evidence or is whatever they're trying to
15 prove more likely true than not true, so he's still,
16 Mr Limehouse, still has to prove he's owed damages and
17 what the amount of those damages are, and he has to prove
18 them to your satisfaction by a burden of proof called
19 preponderance of the evidence

20 Now, greater weight of the evidence, you
21 might be still looking and shaking your head going, I
22 don't quite get what that means You probably heard
23 somewhere along the line the phrase beyond a reasonable
24 doubt, through TV, movie, maybe you've been in court
25 before Well, that is a burden of proof, but that is a

1 burden of proof in a criminal case So if you heard that
2 before, it was in the context of a criminal case, and
3 it's a very, very high burden of proof because when the
4 state alleges that somebody commits a crime, the state
5 has to prove it You have to give them notice of what it
6 is They have to indict him, charge him with an arrest
7 form This is what you're charged with doing, and they
8 have to prove it, and they have to prove it by beyond a
9 reasonable doubt That means the jury has to be firmly
10 convinced of the defendant's guilt All right?

11 That is a very high burden of proof It's
12 not applicable in a civil case The burden of proof in a
13 civil case is much lower That is this burden of proof I
14 just told you called preponderance of the evidence, or
15 the greater weight of the evidence or is whatever the
16 party alleging to be true more likely true than not true

17 So if you're like me and you're still
18 scratching your head because you visualize things a
19 little bit better when you see them, imagine a set of
20 scales At the beginning of the trial, you got the
21 plaintiff on one side and the defendant on the other
22 side At the beginning of the trial, the scales are
23 even Mr Limehouse has to convince you that what he is
24 trying to prove is more likely true than not true by
25 tipping those scales, even if it's just a little bit,

1 that is the greater weight of the evidence All right?
2 Is whatever you're trying to prove more likely true than
3 not true

4 Now, at the beginning of the trial the scales
5 are empty, but he just what to tip them just a little bit
6 and he's met the burden of proof in a civil case In a
7 criminal case, the scales really have to tip in favor of
8 the state, but in a civil case, you only to tip those
9 scales a little bit in your favor and you've met the
10 burden of proof On the other hand, at the end of the
11 trial, if you don't believe Mr Hulsey has met his burden
12 of proof but those scales are still even or maybe they
13 even tip a little bit in favor of the defense, then he
14 hasn't met his burden of proof, but the burden of proof
15 is Mr Limehouse's to prove that he is owed damages as a
16 result of the statements that Mr Hulsey made which
17 appeared in the newspaper

18 All right? But he doesn't have to prove that
19 they were false and defamatory That is deemed to be
20 admitted We're just, again, talking about the amount of
21 damages that are owed So because the plaintiff has the
22 burden of proof, he gets to put up his case, and he calls
23 witnesses Now, in this kind of lawsuit where we're just
24 here for damages where the defendant didn't answer within
25 the time that the Court rules say, the defendant does not

1 get to put up any evidence The only thing that our
2 rules permit the defendant to do is cross-examine
3 witnesses that the plaintiff calls to the witness stand,
4 and he gets to object to any witnesses or any evidence
5 that the plaintiff puts up

6 But because he didn't answer within the time,
7 he's not allowed to participate in the way that you
8 normally would when you do answer within the time frame
9 that the rules provide, so he's not going to get to call
10 witnesses, he's not going to get to put up evidence, he's
11 not going to get to show photographs or documents or
12 things like that He or his lawyers get to object to any
13 evidence or witnesses that they put up and he gets to
14 cross-examine but he does not get to put up evidence
15 himself

16 So the way this will work, we just start here
17 in a minute with the lawyers making opening statements
18 Mr Cisa will get to go first because the plaintiffs have
19 the burden of proof, and he'll give you a little bit more
20 of an overview about what was said and done and all that

21 Then the defendants will have the opportunity
22 to have their lawyers get up and make opening statements
23 Because there are two defendants in this case, you'll
24 hear from the two lawyers that the defendants have, and
25 they'll basically kind of summarize what this is about

1 and give you a little bit of an overview so they can help
2 you follow things a little better

3 What is important to remember is this What
4 the lawyers are saying is not evidence All right? They
5 are not witnesses If they were witnesses, they wouldn't
6 be allowed to be the lawyer in the case They would be
7 called as a witness and put in the witness stand, sworn
8 in, and they can tell you whatever it is they heard, they
9 touch, they felt, they smelt, that sort of thing, the
10 thing that witnesses normally do

11 So that is critically important because a lot
12 of times you're going to hear from the lawyers more than
13 anybody, but what they say is not to be considered by you
14 as evidence Evidence is what the witnesses say in the
15 witness stand or the documents that I'll let you see, any
16 photographs, anything like that When a lawyer asks a
17 question, that's not evidence The answer to a question
18 that a lawyer asks, that's evidence All right?

19 Now, after the opening statement, the
20 plaintiff gets to call their witnesses and we'll go
21 through with the plaintiff calling their witnesses
22 Mr Cisa will get to ask questions first That's called
23 direct examination Then the lawyers for the defendants
24 will get to ask questions That's called
25 cross-examination And then I will usually allow one

1 follow-up round, so it's redirect, recross It's usually
2 a lot less because it's limited to what got brought out
3 in a prior set of questions All right

4 So once we have that, we then will go through
5 witnesses, all the ones that the plaintiffs call, and
6 then we will have closing arguments, where the lawyers
7 get up, summarize what evidence that you heard, and then
8 I will charge you on the law that applies to the facts
9 and then you retire and come up with a verdict All
10 right?

11 Now, I'm going to explain to you what the
12 rules are in this trial Everybody in the courtroom has
13 different roles Your role is, as I told you in the jury
14 qualification process earlier, you are the judges of the
15 facts All right? There are disputes sometimes as to
16 what goes on in a trial, what happened, and you will hear
17 through questions and answers and all that You try to
18 resolve what those conflicts are, and if there are any
19 factual basis to back up what you determine, we're bound
20 by that, because you resolve factual questions to your
21 satisfaction and we're bound by that

22 I'm the trial judge, and my job is two-fold
23 First of all, it's my job to make sure both sides get a
24 fair trial in this case I'm really sitting here like
25 you I know some of the parties and some of the lawyers

1 and all that, but not to the point where I couldn't be
2 fair and impartial Just like we had that little process
3 that I asked you that, well, I'm kind of on the honor
4 system I need to tell them if I felt like I'm
5 uncomfortable because I know anybody that's involved in
6 litigation such that it would affect my ability to be
7 fair and impartial, but while I know, you know, something
8 about the case and something about some of the lawyers
9 and some of the witnesses and stuff like that, it's not
10 such that it would affect my ability to be fair and
11 impartial, just like you All right? So that is my job,
12 to make sure both side get a fair trial within what our
13 rules say applies

14 Now, that is a two-fold process because
15 sometimes I have to listen to objections that the lawyers
16 make, and usually they're not trying to hide anything
17 We're just trying to do this one time So we have to try
18 to get you to hear what is called legally competent
19 evidence, and the way we do that is, again, it's usually
20 answers to questions that are asked and that sort of
21 thing, but the way we ever get a trial and have to do it
22 again is if I make a mistake, so if I let you hear
23 something that you weren't supposed to hear or if I kept
24 you from hearing something that you were supposed to
25 hear, you could get a new trial on that grounds, all

1 right?

2 If I charge you incorrectly on the law at the
3 end of the trial, it's my bad again, and we might have to
4 do it again. So when a lawyer stands up and says,
5 objection, sometimes I can just rule and say, well, I
6 know enough about what was asked in the context that I
7 can just say objection overruled or objection sustained.
8 Sometimes I have to have them come up and hear it out of
9 your earshot. Occasionally, I might have to send you out
10 of the room so I can hear what the witness might actually
11 say so I can rule on it, but the idea is we're not trying
12 to hide anything from you, but just that we're doing it
13 one time, all right? Because we don't want to do it
14 twice.

15 So nobody is trying to hide anything from
16 you. We're just trying to follow the rules that the
17 Court says we follow in these kinds of cases. Now,
18 another example that I gave you as my job is at the end
19 of the trial charge you on what the law is. You're duty
20 bound under that oath you just took to apply the law as I
21 charge you to the facts as you find them and then you
22 will retire and come up with a verdict.

23 Now, right now it's about 4 00, and this case
24 is probably going to last the better part of this week.
25 We usually go about till 5 00 to 5 30, and we'll break at

1 that time frame, just wherever we're at for a witness,
2 you know I don't usually like to stop in the middle of
3 a witness's testimony, but sometime it's necessary

4 We usually break around 5 00 or 5 30 just so
5 you can plan, if you need to make arrangements to get
6 back and forth and child care, things like that We
7 usually start back about 9 30 in morning

8 I told you this week has got a holiday in the
9 middle of it The courthouse is closed on Wednesday, so
10 we'll go today, for about an hour or so, go all day
11 tomorrow, we'll take Wednesday off, come back Thursday to
12 see where we're at, and it may be Friday that we're still
13 here But we should finish this week We might go into
14 Friday It's hard to tell That is kind of where the
15 process is, so if we need to go a little bit long on
16 Thursday in order to not have to come back, you know, for
17 Saturday, God forbid, or next week, we'll got a little
18 bit long on Thursday It's just this week has a hole in
19 the middle of it because of the holiday on Wednesday

20 So I want you to be thinking about that, and
21 so that will be on your plate So that we can get going
22 today and I don't want to talk all night long, I'm going
23 to turn it over to the lawyers so they can begin with
24 their opening statements Again, when the lawyers are
25 talking with you now, they are not giving you evidence

1 They're only discussing the evidence that you're likely
2 to hear, talking to you a little bit about it so they can
3 familiarize you a little bit more with what this case is
4 about All right?

5 Mr Cisa, if you're ready, you may begin

6 MR CISA Thank you, Your Honor Good
7 afternoon, ladies and gentlemen

8 MR HOOD Your Honor, Rule 615
9 sequestration

10 THE COURT Any of these folks that are
11 sitting back here that are witnesses, we need to ask them
12 to step in the other room

13 MR CISA You're going to grant their
14 request for sequestration? All right Anybody that is
15 going to be a witness has to leave

16 THE COURT Okay Go ahead

17 MR CISA Thanks Ladies and gentlemen I
18 represent Lawton Limehouse Junior He's the plaintiff in
19 this case The purpose of coming before you is to tell
20 you a little bit about the case Hopefully the case
21 won't take a week to try, and we'll try to move it along
22 as best we can

23 This is a case about a rich, hot shot lawyer
24 that had a --

25 MR HOOD Please, move for a mistrial

1 THE COURT Overruled

2 MR CISA This is a case about a rich, hot
3 shot lawyer that held a press conference, or otherwise
4 met with people in the media, including a Post & Courier
5 reporter to which he made defamatory and slanderous
6 statements about my client, and he made the statements
7 with the intent that they be published in the newspaper
8 and he made the statements to line his pockets This is
9 a case about greed, it's a case about reckless
10 indifference to the rights of others

11 MR HOOD It's irrelevant

12 THE COURT Overruled Go ahead

13 MR HOOD May I just have a continuing
14 objection to that

15 THE COURT Yes, sir

16 MR CISA Lawton Limehouse lost his business
17 as a result of the publication and his life took a big
18 change in direction

19 MR LEWIS Your Honor, loss of business is
20 not anything that is allowed in such a case We object
21 to him bringing it up at this time He cannot get those
22 damages The damages belong to the business

23 MR CISA Objection It's a speaking
24 objection

25 THE COURT Overruled Overruled Go ahead

1 MR CISA Lawton Limehouse lost his business
2 as a result of the defamatory statements, and his life
3 took a big change in direction

4 Lawton Limehouse was born and raised in
5 Charleston He raised his family here He's married and
6 he has three boys He worked here all his life, at least
7 until this happened He farmed most of his life,
8 approximately 20 years In 1999, he and his father, who
9 is also a farmer, started a temporary staffing agency
10 called L&L Services, LLC He also started another
11 business called WLL LLC, which really doesn't have much
12 to do with this case

13 The staffing business was where they hired
14 people, and they leased these people out to golf courses
15 and restaurants for people that needed temporary labor
16 In 2004, the defendant, Lawyer Hulsey, filed a class
17 action lawsuit against Lawton Limehouse and his business
18 Class action lawsuit has got nothing to do with this
19 case, but that is what he did He filed a class action
20 lawsuit

21 On or about April 23rd of 2004, he talked to
22 members of the press, the Post & Courier reporter, to
23 tell them about the class action lawsuit He talked to
24 them for the purpose of bolstering his lawsuit He was
25 trying to get people in his door so he could get more

1 people on the plaintiff's side of this class action
2 lawsuit so he could gain legal fees from their
3 representation That is why he did it

4 At the press conference, or what he told the
5 reporter, was that the plaintiff, Lawton Limehouse, had
6 engaged in a classic racketeering scheme

7 MR HOOD If the Court please, that is
8 inaccurate I object to it

9 THE COURT Overruled

10 MR CISA He said to the reporter that the
11 plaintiff had engaged in a classic racketeering scheme
12 He said to the reporter that the plaintiff's conduct set
13 the community back 150 years He said to the reporter
14 that the plaintiff had engaged in a blatant case of
15 indentured servitude He said to the reporter that
16 Lawton Limehouse had created a perfect racketeering
17 enterprise, just like Tony Soprano

18 All of those statements were false There is
19 no question about it All the statements were false We
20 don't have to prove it It's admitted, as Judge Young
21 instructed you

22 I don't know how many of you have seen the
23 Sopranos, but as we alleged in our complaint, Tony
24 Soprano was portrayed as a gangster on the critically
25 acclaimed Emmy and Peabody award winning HBO series, the

1 Sopranos It ran for about five years I think it's now
2 stopped

3 In that series, Tony Soprano is depicted as a
4 gangster and a mobster, a murderer, a person engaged in
5 prostitution, a person engaged in gambling, a person
6 engaged in extortion, a person engaged in racketeering, a
7 person who operates a strip club, a person who extorts
8 money from people through physical violence as well as
9 other means, and a person who uses vulgar and obscene
10 language on a daily basis That is what he said about
11 Lawton Limehouse

12 MR HOOD If the Court please, that's not
13 true

14 THE COURT Overruled

15 MR CISA That's what he said about my
16 client

17 MR HOOD I would like to be heard on this

18 MR CISA I would like you to stop
19 interrupting me, Judge I'm reading from the complaint

20 THE COURT Let me send y'all out, please

21 (In open court, jury not present)

22 MR HOOD Counsel, under the rules, has lied
23 to the jury and he's perpetrating a fraud on the Court
24 I move for a mistrial

25 The statement in the newspaper says L&L

1 Services took advantage of the complexity of the system
2 They had created a perfect racketeering enterprise, just
3 like Tony Soprano He has told this jury three times
4 that this statement referred to Lawton Limehouse It
5 does not He then told this jury that in the complaint,
6 Lawton Limehouse was -- that Mr Hulsey told the
7 newspaper that Lawton Limehouse was a gangster, a
8 mobster, and so forth None of that is in the complaint

9 What the complaint says is that Tony Soprano
10 in the TV series the Sopranos is depicted as Tony
11 Soprano, not Lawton Limehouse There's is no way to
12 overcome this prejudice with this trial It's been
13 tainted There is nothing that anyone do to change this
14 This jury can never come back with a fair verdict
15 Please grant a mistrial

16 THE COURT I will not, but I will caution
17 you You've done this a lot more than I've been doing
18 trials, but if you want to continue to jump up in front
19 of the jury the entire time, I don't really know that it
20 benefits your client

21 If you want to make and ask for a continuing
22 objection, I'll do that, but if you want to jump up in
23 front of the jury every two minutes, I'm not sure that
24 works to your client's benefit, but I can't stop you from
25 making an objection, but I'll allow to you make a

1 continuing objection, if you feel it necessary, to
2 protect the record

3 MR LEWIS I would like a continuing
4 objection I didn't jump up, but I'm getting ready to
5 Any time he mentions businesses, I'm objecting to it
6 because I don't think that's allowed, so I would like a
7 continuing objection every time he mentions business

8 THE COURT Okay

9 MR LEWIS Every time he mentions that there
10 was an article in the paper about Lawton Limehouse, I
11 want an objection because that's not true It's not
12 alleged -- excuse me, that the paper said that he had all
13 those bad acts that Tony Soprano said when he makes the
14 leap from calling of him or an organization like Tony
15 Soprano to being a murderer and those type things, I want
16 that objection as continued to run

17 THE COURT Okay Record is noted then

18 MR HOOD Judge, the complaint that we have
19 admitted says that Tony Soprano in the TV series the
20 Sopranos is depicted It does not say what he told this
21 jury, Lawton Limehouse is depicted as So he's
22 misreading what we've admitted here We're not
23 questioning Tony Soprano is these things, we are
24 questioning because it's so extremely prejudicial to put
25 Lawton Limehouse in this sentence which his name is not

1 THE COURT Okay I've noted your objection
2 I've overruled it Is this anything else you want to
3 have it on the record before I bring the jury back? I'm
4 denying your mistrial motion

5 MR HOOD May I have a continuing motion on
6 the grounds as stated by Mr Lewis

7 THE COURT Yes, sir Anything else? All
8 right Let's bring the jury back in

9 (In open court, jury present)

10 THE COURT Okay You may resume

11 MR CISA Thank you To go backward just a
12 little bit, Mr Hulsey said that Lawton Limehouse created
13 a perfect racketeering enterprise, just like Tony
14 Soprano Tony Soprano is depicted as a murderer, a
15 gangster, extortionist in the Sopranos All that is
16 deemed admitted in the complaint That newspaper article
17 came out on April 24, 2004 When it came out, it came
18 out on a Saturday

19 It was a little over 99,000 newspapers
20 published that day The readership was approximately
21 240,000 readers By the following Monday --

22 MR HOOD If this Court please, none of this
23 is in the complaint He's testifying

24 THE COURT Overruled Go ahead

25 MR CISA By the following Monday, from that

1 Saturday, they had lost their business They had over
2 200 employees The phone was ringing off the hook They
3 were shut down by the Monday following the publication

4 Lawton Limehouse's reputation went down the
5 tubes when that publication came out He's been
6 struggling ever since He's been depressed He's been
7 hospitalized for it You'll hear testimony all about it
8 As Judge Young told you, this is a damages hearing It's
9 solely to determine damages I've got the duty, or the
10 burden, the plaintiff has the burden, to prove damages by
11 a preponderance of the evidence

12 The liability is established There is no
13 question that Lawyer Hulsey and his law firm are liable
14 for the false and defamatory statements that were made
15 There is no question that Lawyer Hulsey and his law firm
16 is responsible for the loss of Lawton Limehouse's
17 business, L&L Services, that he owned with his father,
18 over 50 percent interest There is no question about it

19 You'll hear testimony about the value of the
20 business, you'll hear testimony about how Lawton
21 Limehouse's life has changed as a result of these
22 statements I ask you to please listen up during the
23 trial, ladies and gentlemen, because at the conclusion of
24 this damages hearing, I'm going to ask you to come back
25 with a multimillion dollar verdict against Lawyer Hulsey

1 and his law firm, and I'll explain to you why at the
2 close of the trial

3 Thank you very much

4 THE COURT Mr Hood?

5 MR HOOD Mr Lewis is going

6 MR LEWIS Good afternoon You're going to
7 sit here and learn a lot of things you never wanted to
8 learn It's not going to be as fun as Law and Order or
9 Matlock or any of those Nobody is going to jump up and
10 say, I did it

11 We're going to present evidence here that is
12 going to be evidence, and you're going to have to judge
13 on it You're going to have to look at the people on the
14 stand My name is Cam Lewis I'm a lawyer from
15 Columbia I represent Mr Hulsey over there in the blue
16 coat, along with Arial King with the red sweater on

17 Mr Hulsey is a lawyer I'm a lawyer
18 You're going to hear a lot about this case, but let's use
19 something that you bring with you that is the most
20 important thing that a jury has, and it's logic and
21 common sense That's why we have a jury system, and that
22 is why it works That is why it doesn't matter what you
23 do, where you work, how far you've gone in school None
24 of that is as important as common sense and logic If it
25 doesn't meet common sense and it isn't logical, it's not

1 true

2 That is what you use as your test, and it's
3 the greatest, and juries have used it for centuries and
4 it works And we're one of the countries that have a
5 jury system No one else does, not very many countries
6 It's great So welcome to the jury system I'm glad to
7 have you

8 Now, what are we talking about here? The
9 judge gave you some little indication that us, our side,
10 we are in a straitjacket We can't give evidence We
11 can only cross-examine We can't call witnesses We
12 can't ask them to put in evidence It's a straitjacket
13 Why are we in this straitjacket? Well, we calculated the
14 time to answer one way The judge, another judge,
15 calculated it another way, and said it was a novel
16 question, a novel question

17 He cited a case from California and said we
18 were -- our calculation was wrong and he liked his
19 better, and we were in default, that we had not answered
20 in time

21 Now, how does that happen? Well, this
22 lawsuit was filed during, as was told to you before,
23 during the lawsuit that Mr Hulsey brought against the
24 Limehouses for racketeering and not paying their workers,
25 housing their workers in slum-like conditions --

1 MR CISA Your Honor, I'm going to object to
2 this He's going way beyond what he's allowed to do He
3 can comment on his pleadings He had no pleadings He
4 can talk about damages, he cannot get into all of this,
5 all these allegations

6 THE COURT Sustained It's irrelevant
7 Allegations in this suit is what is at issue, and they
8 have been deemed admitted You can talk about damages
9 That's all the jury is going to hear evidence about in
10 this case

11 MR LEWIS It is about damages It's about
12 damages because of when that suit was filed, and I will
13 bring that up at the time when we -- we'll bring that up
14 again

15 THE COURT If there is evidence that you can
16 talk to them about other than what Mr Cisa puts up, you
17 can put that up at the time of closing

18 MR LEWIS I will In any event, when the
19 suit was filed, this suit was filed, Mr Hulsey removed
20 it to federal court That is a procedure that is allowed
21 and you don't need to know --

22 MR CISA I note the objection The
23 procedure that got Mr Hulsey in default is not relevant
24 to this lawsuit

25 THE COURT Sustained

1 MR LEWIS Part of the record in this case
2 is what happened to -- as to the complaint, and I think
3 that I'm allowed to publish that since he published and
4 talked about being in default, and that is the reason I
5 was just going to publish the sequence of events which I
6 think I'm allowed to do It's already the record in this
7 case

8 THE COURT I have told the jury he did not
9 answer within the time The rules say he is in default
10 We're not going to discuss about how that all happened
11 He did not answer

12 The Court has ruled on that This is a
13 hearing to determine solely the amount of damages as a
14 result of this being -- or having brought this as a
15 result of the plaintiff's having brought the lawsuit He
16 did not answer within the time those allegations are
17 deemed to be admitted This is solely on damages

18 MR LEWIS Yes, sir, but when you say he
19 didn't answer on time, this is a reason -- there is a
20 dispute over that

21 THE COURT In case I haven't made it clear,
22 I'm trying to make it clear now I'm sustaining his
23 objection You're not to go into all of that as to what
24 led up to going into default He is in default, and this
25 is solely about damages

1 MR LEWIS Yes, sir

2 THE COURT Your objection is continually
3 noted

4 MR LEWIS That's another thing I want to
5 bring up, objections This is such a terrible case for
6 Mr Hulsey and the straitjacket that I have on, you can't
7 see it, but I promise you it's there I have to object
8 I have to make sure that my record is okay as when it
9 goes up, if it has to go up, to the Supreme Court

10 So objecting is my job Finding out what the
11 Court rules is my job Making the Court rule is my job,
12 and this is a difficult one in this one and I apologize
13 that you all have to be put in this position, but I have
14 no choice but to protect my client, and if you were my
15 client, you would want me to do it too

16 So when I object, and the judge fusses at me,
17 that's my job He just fussed at me, and he'll fuss at
18 me again, I'm sure, because I have got to make sure I try
19 to put in before you what is important and what should be
20 before you, in my opinion

21 Our case, the Court said you are to determine
22 the amount of damages, if any I like the if any
23 You're going to hear about it We get to cross-examine
24 him We don't get to put up any evidence We get to
25 object, but we can't put any evidence in

1 This case is about Tony Soprano Somehow
2 somebody calling, saying that the way a company operates
3 Let me read you this This is what they're complaining
4 about

5 MR CISA I object, Your Honor, to him
6 reading a newspaper article when he can't put evidence up
7 to the ladies and gentlemen of the jury I object to it

8 THE COURT Sustained

9 MR LEWIS I want to make sure I am
10 protected

11 THE COURT You are

12 MR LEWIS The fact that he said in his
13 pleadings --

14 THE COURT You are protected Any record
15 that you need to make you can put anything in on a
16 proffer during the break, but right now, just make an
17 opening statement

18 MR LEWIS I'm trying Now, we have an
19 article in the paper that they object about, and he
20 said -- I'm going to read what they say so I don't get
21 fussed at That the plaintiff created a perfect
22 racketeering enterprise just like Tony Soprano That's
23 what they say caused all his damages He had an
24 enterprise like Tony Soprano, and he said because of they
25 said that thing, they want millions of dollars They

1 want to take advantage right now, take millions of
2 dollars

3 Well, we're going to try to make sure we get
4 before you as much as we can We're going to probe into,
5 and we're allowed to do this, the credibility of the
6 witnesses What is their relationship? Why are they
7 here? We didn't get discovery in this case, so we, the
8 witnesses that -- we've never gotten to take depositions
9 or know what they're going to say We just have to react
10 to them as they get on the stand, but we're going to make
11 sure what their relationship is to the plaintiff That
12 is the plaintiff right there We want to know what their
13 relationship to him is

14 We want to know about their bias Why would
15 such an article all of a sudden be so damaging when the
16 day before the article they were sued for racketeering --

17 MR CISA Objection, Your Honor It's not
18 correct

19 THE COURT At this point, we're not going to
20 talk about evidence

21 MR LEWIS All right We're going to go
22 ahead and attack them and see what their bias or anything
23 else they have that might make them testify one way or
24 the other We get to go into the amount, the amount that
25 they say they're damaged, and whether or not it's

1 business damages or personal damages or anything else

2 Where are the damages? You got to put them
3 in little categories because some categories are allowed
4 and some are not That is going to be our position, so
5 we're going to have to do that What we have here, and
6 we're going to try it as best we can with a straitjacket
7 I have on, we're trying to test a story that they get to
8 tell without much testing because in a lawsuit, the other
9 side tests the plaintiff's case, and this case, testing
10 has been taken away, so we're limited in how we test
11 their story

12 And when you have a story that is not able to
13 be tested, you'll have a story that you have to look at
14 extra strong, using your logic and common sense We're
15 going to ask you to look at this, to look how their
16 witnesses act, to see what they say, to see if it makes
17 sense, to see if it logically stands up, and if it does,
18 then you can believe them

19 If it doesn't, then we're going to ask you to
20 bring a verdict back for us, and that verdict is the
21 amount of damages, if any, and we're going to say, none
22 None Tony Soprano If I called you Jessie James, would
23 you be mad?

24 THE COURT Mr Hood?

25 MR HOOD Yes, sir Good afternoon,

1 Mr Foreman Good afternoon ladies and gentlemen of the
2 jury Everybody okay? Anybody need to take a break?
3 Are we all right?

4 I've objected more in this case already than
5 I have in the last 30 trials, because I try cases for a
6 living, and I believe in our system Thank you for
7 promising to be fair Thank you for promising and taking
8 your oath to be jurors and serving in this case At the
9 end of the day, we're going to tell you what's fair and
10 what we think the verdict should be

11 And it certainly isn't millions of dollars
12 You understood why we're here and how we're here We're
13 not going to have a fair trial It's impossible for us
14 to have a fair trial, and we're in America We're not
15 going to be allowed to call a witness --

16 MR CISA Your Honor, I object to that

17 THE COURT Sustained It is possible to
18 have a fair trial We're are going to have a fair trial
19 under the rules which we have instituted in this Court
20 and the rules that I will conduct this trial by

21 MR HOOD In this case, the fair trial will
22 allow us to read to you what is in this complaint It
23 was answered two days late, and therefore the default was
24 created

25 MR CISA Your Honor, I object to him going

1 back in and relitigating what we already --

2 THE COURT Sustained Mr Lewis made the
3 same objection I made the same statement We're not
4 going to bring up how we got here We're here This is
5 solely on damages

6 MR HOOD And when we look at the complaint,
7 it says that the Hulsey Litigation Group filed a class
8 action lawsuit alleging, and it goes into what was
9 alleged on the part of the plaintiff and L&L Services,
10 LLC a corporation And then it refers to a newspaper
11 article In that newspaper article Lawton Limehouse
12 Junior is not mentioned

13 MR CISA Objection, Your Honor

14 THE COURT Hold on

15 MR CISA I note an objection That is not
16 what the complaint says The liability is admitted I
17 don't have to put up evidence to prove any allegation in
18 the complaint

19 THE COURT Sustained The allegations in
20 the complaint are deemed admitted

21 MR HOOD And then you were read a paragraph
22 that said what Tony Soprano in the TV series was depicted
23 as You were told Lawton Limehouse This clearly says
24 Tony Soprano's depicted as not Lawton Limehouse And
25 that is a big one

1 Truth is the truth, and being fair and doing
2 what's right is what the jury system is all about
3 Mr Limehouse has the burden of proving in this case to
4 your satisfaction, what his reputation was, and if and in
5 any way at all there was any change in what his
6 reputation was because of one article, at one time, in a
7 newspaper, and that is it

8 The Court rules are such that if we don't
9 make an objection, we waive it, so it's not like baseball
10 where you have an umpire and he calls ball strike If
11 you don't holler ball strike you waited It's gone So
12 that is why we're objecting We've got to object We've
13 got to put our position on the record about what really
14 the words were, who they really applied to, what this
15 case is really about, what the issues are in this case,
16 what the character of the witnesses are with their bias
17 and their real reputation

18 If a witness is asked a question and doesn't
19 answer the question but comes up with something else,
20 we're going to object That's improper The witness
21 isn't allowed to get on the stand and give a speech If
22 we move to strike something, it's because we think the
23 question is improper or the answer is improper and it's
24 prejudicial We play by rules in the courtroom Even if
25 you're in default, you play by the rules

1 If we ask for a mistrial, we're asking for a
2 mistrial to protect our client from something we think is
3 very prejudicial and it can't be cured Something has
4 been let out of the bottle and it can't get put back in
5 So, remember, you took an oath to be fair, to judge this
6 case impartially

7 You have no friends to award here That is
8 what the voir dire process is all about If the
9 plaintiff can prove to your satisfaction what his
10 reputation was before and that one article had an impact
11 on it, that's what this case is about Does he have
12 damage? If so, how much? And that is it, and to try to
13 bring in other things that have no bearing on that, or to
14 attribute things to the defendant that don't wear on that
15 or that are not true will require us to object throughout
16 the case whenever it happens and we will have to object
17 because we can't waive it

18 So thank y'all for sitting on this case
19 Thank y'all for giving up your own time from your own
20 families and your own work to be here We need your help
21 to resolve this The jury system is a great system, but
22 when your hands are tied behind your back, it's very
23 tough

24 So listen carefully to the testimony
25 Remember what the constraints are for this case, and

1 remember, is there a damage or not? Was there a business
2 here that's been damaged or not? What kind of business
3 was it? We'll talk about those things, hopefully So I
4 thank you in advance

5 Thank y'all, ladies and gentlemen, for being
6 here and serving on this jury You know the word verdict
7 comes from a Latin phrase The Latin phrase is
8 veredicto It means to speak the truth We are going to
9 speak the truth when we have our chance, and I hope your
10 verdict will speak the truth and find that there has been
11 no damage to Mr Lawton Limehouse Junior

12 He is not L&L Services He's an individual
13 He's not bringing this lawsuit for L&L Services, a
14 corporation, he's bringing this lawsuit for himself, not
15 for his father, not for his father's business, not for
16 anybody but himself Thank you

17 THE COURT All right Folks, since we got a
18 late start today, I know there are no witnesses really --
19 it's going to take a few minutes so, what I'm going to do
20 is we'll break for today, and we'll start fresh with the
21 first witness in the morning

22 If you could be in the jury room about by
23 9 15, 9 20, we'll get started right at 9 30, but I'm
24 going to send you on home today so that way you won't be
25 here till too late tonight

1 Now when you go home, obviously, your family
2 members all want to know did you get picked on a jury
3 You can tell them yeah, I got picked on a jury but that
4 is really all I can talk to you about this case right
5 now

6 The reason why that is really simple, when
7 you think about it You need to make a decision that you
8 have to make this week based on what you hear in this
9 courtroom, and you're going to hear stuff that nobody
10 else hears All right? And you're going to hear it from
11 people that are on the witness stand and maybe some
12 photographs or documents, sometimes those come in I
13 don't know at this point, but what I'm saying is
14 evidence, what you make your decision on, not what your
15 family members think about the case or what their
16 feelings are about things or what your bartender feels
17 about it or your neighbor feels about it It's what you
18 hear in this case

19 It's only fair to everybody that that is what
20 you make the decision on, and it is what your duty bound
21 to make your decision on, on the oath I gave you So
22 tell them you got picked for a jury but the judge says I
23 can't talk about the case You'll have plenty of time to
24 talk about it when the jury is over with, talk about it
25 all day, all night, after it's over with and you come

1 back with a verdict, but don't talk about the case with
2 anyone, don't go to try to find out stuff about the case
3 on the Internet and things like that

4 I tell you, people get invested They want
5 to start getting to see what I can do they? Get real
6 excited about it, but that's totally improper so what you
7 need to decide on you will hear in this courtroom and
8 nowhere else, all right? So don't go trying to find out
9 anything about the case Don't go on the Internet, try
10 to find out newspaper articles or court records or
11 anything like that

12 Don't try to find out if anybody knows about
13 anything so they can tell you about it Again, what you
14 need to know we'll tell you All right? We'll see you
15 in the morning Try to get here by about 20 after 9 00
16 and we'll get started at 9 30 Thank you for your
17 patience

18 (Jury recessed)

19 THE COURT All right Once those folks
20 clear out, I would like to have the lawyers meet me back
21 in my office for a few minutes so we can talk about a
22 couple things We'll see you all in the morning, but I
23 would like to see the rest of you in my office

24 MR LEWIS Your Honor, I just wanted -- one
25 thing you told me, if I had a proffer, I should do it

1 right now

2 THE COURT Sure Go right ahead

3 MR LEWIS You said that he didn't answer,
4 and under our rules We don't have any rule for this
5 This is a novel question that Judge Pieper admitted in
6 his order, so that's very harsh to say that, what we did,
7 and I think that I have the right to publish the docket

8 The docket is already part of this record,
9 and that is what I talked about, was the docket and the
10 different entries in the docket, and I was stopped and
11 that is all I wanted to proffer I wanted to go through
12 the docket and the dates of the docket, which is already
13 part of the record, and that would be my proffer

14 THE COURT All right Very well Okay

15 MR HOOD My proffer would have been to read
16 the exact sentence from the newspaper article, which is
17 at issue in this case, because he had said the article
18 referred to Lawton Limehouse It does not The truth is
19 the truth I ought to be able to tell the jury what that
20 one sentence, which this whole trial is about, says, and
21 it says L&L Services, not Lawton Limehouse Junior Thank
22 you

23 THE COURT All right Let me see y'all in
24 the back

25 (Recess taken)

1 (November 10, 2009)

2 THE COURT All right Well, we got
3 everybody here? Okay All the jurors are here Let's
4 bring them on in

5 (In open court, jury present)

6 THE COURT Okay, folks Welcome back
7 We're now going to start with the plaintiff's calling
8 their first witness, so, Mr Cisa, whenever you're ready,
9 you may begin

10 MR CISA Thank you, Your Honor I call the
11 plaintiff, Lawton Limehouse Junior

12 WILLIAM LAWTON LIMEHOUSE, JR ,

13 having been first duly sworn,
14 was examined and testified as follows

15 DIRECT EXAMINATION

16 BY MR CISA

17 Q How old are you, sir?

18 A Forty-six

19 Q Where do you currently reside?

20 A West Ashley

21 Q Are you married?

22 A Yes, I am

23 Q How long have you been married?

24 A Twenty-three years

25 Q Have any children?

1 A I have three
2 Q Okay What are their names and ages?
3 A Thomas Elliotte, who I adopted with my wife's
4 first marriage, he's 26, William Lee Limehouse, 21, and
5 Marcus James Limehouse, 20
6 Q Do you suffer from diabetes?
7 A Yes, I do
8 Q Does that sometimes cause you problems?
9 A Yes, it does
10 Q You understand if you're having a problem during
11 the course of the examination you let us know?
12 A Yes, I will
13 Q Okay What is your educational background? Did
14 you graduate from high school?
15 A I graduated from St Andrews High School
16 Q When did you graduate from St Andrews High
17 School?
18 A 1982
19 Q Did you have any other formal education past high
20 school?
21 A Went to Abraham Baldwin Agriculture College in
22 Tifton, Georgia It's a junior college I went for one
23 year
24 Q What did you study there?
25 A I studied agriculture engineering

1 Q Did you go to any other schools?

2 A I also went to Trident Tech for a year

3 Q And what did you study at Trident Tech?

4 A Just business

5 Q What has been your work history, I guess, since
6 getting out of high school? What did you predominantly
7 do?

8 A My family farm down in Johns Island and Wadmalaw
9 and Hollywood area

10 Q How long did you farm?

11 A I farmed ever since I was about 16, 17, helping my
12 father

13 Q What type of crops did you grow?

14 A Cucumbers, cabbage, tomatoes, green beans, squash,
15 pickling cukes, mostly field vegetables

16 Q Where did you farm, Charleston County?

17 A I farmed in Charleston County and Johns Island,
18 Wadmalaw, a little bit on Edisto, and Hollywood

19 Q Were you successful in your farming operations?

20 A Yes, we were

21 Q Okay Were you successful every year?

22 A Not every year Some years you have good years
23 and some years you have bad years

24 Q When did you stop farming? When did you quit?

25 A I quit altogether in about 2001, right in that

1 area

2 Q Okay When you grew crops, how did you harvest
3 the crops?

4 A We had contractors that came through with help,
5 mostly migrants

6 Q Did you have a place for them to stay when they
7 came to harvest the crops?

8 A Yes, sir, we did

9 Q Where did you have a place for them to stay?

10 A Out on Johns Island

11 Q How many people could stay at the place you had on
12 Johns Island?

13 A The houses that I have are six bedroom houses and
14 then they also had, like, a bunk house The Department
15 of Agriculture comes by and they tell you how many people
16 you can put into a house and how many people were allowed
17 to stay

18 Q So how many people could you put in your place on
19 Johns Island?

20 A We could put roughly 75 to 80 people, maybe a
21 little bit more It's been a while

22 Q Did you start a business called L&L Services?

23 A Yes, sir

24 Q When did you start that business?

25 A October of '99

1 Q Who did you start the business with?

2 A My father

3 Q Okay Was your father also a farmer as well?

4 A Yes, sir He was retired

5 Q What type of business was it?

6 A L&L Services?

7 Q Yes

8 A It was a temporary labor service

9 Q All right And did you have an ownership interest
10 in that business?

11 A Yes, I did

12 Q And what was your ownership interest?

13 A 50 percent

14 Q Who owned the other 50 percent?

15 A My father owned the other half

16 Q All right How did you get the idea to start a
17 temporary labor business?

18 A A friend of mine was doing it out of Lake City,
19 and I went up there for a funeral and he asked -- you
20 know, he said, Since you have these houses down here that
21 sit dormant for nine months out of a year, you might want
22 to look to see if you can supplement your income because
23 farming ain't the best and most stable income in the
24 world

25 And I said, Well, I'll think about it, and, you

1 know, six, seven months went by, and I rode up there and
2 talked to him, and he showed me his books, how he did
3 everything, and I came back and I told dad that I think
4 we could do this

5 Q Okay When you first started in 1999, how many
6 employees did you have?

7 A When we first started, no more than about a dozen

8 Q When you first started the business, what were
9 your duties and responsibilities? What did you do for
10 the company?

11 A I did everything I took people to the jobs I
12 even worked on the jobs I did the billing

13 Q How did the business work, as far as the people?
14 How did it work?

15 A We had -- we had a set price of \$10 an hour

16 Q What does that mean, a set price of \$10 an hour?

17 A If you needed ten people, we would charge you \$10
18 a man hour

19 Q How much would you pay your people?

20 A I think minimum wage back then was something like
21 \$5 15, 5 35 We paid them \$6

22 Q Did the business grow from 1999 forward?

23 A Yes, it did

24 Q All right And how did the business grow?

25 A Just word of mouth, going out and talking to

1 business owners

2 Q In April of 2004, how many employees did L&L
3 Services have?

4 A Roughly 200

5 Q Did you have a business location?

6 A Yes, we did

7 Q Okay Where did you first start out in your
8 business location?

9 A We first started out at my parents' house, in my
10 old bedroom

11 Q How long did you stay there?

12 A The business started picking up, and we stayed
13 there for maybe six months

14 Q All right And then where did you go?

15 A They moved over to Sam Rittenberg Boulevard to a
16 business office over there

17 Q How long did you stay there?

18 A I stayed there about a year until we ran out of
19 room there, and then we moved over to corner of Magwood
20 and 61, or St Andrews Boulevard, whatever you would like
21 to call it

22 Q How long were you at that location?

23 A We were there for -- I don't know, about two
24 years

25 Q Did you have supervisory personnel?

1 A Yes, sir

2 Q Office personnel?

3 A Yes, we did

4 Q How many office personnel did you have?

5 A We had Ms Pat, who was the bookkeeper We had

6 another young woman in there My wife came in part-time

7 We had another boy named call Carlton, he was in there,

8 in and out, and maybe one or two of the drivers that

9 would come in and give us reports on where people got

10 dropped off

11 Q Did you buy equipment to run the business?

12 A Yes, sir

13 Q And what type of equipment did you buy?

14 A Fifteen passenger Dodge vans

15 Q What were the Dodge vans used for?

16 A To haul the employees around

17 Q Tell me the arrangements you had as far as housing

18 employees

19 A With the housing, we had houses that we did not --

20 you know, we gave them -- if they wanted to stay in the

21 houses they could stay in the house If they had their

22 own place, they stayed in their own place

23 Q Did you use the camp on Johns Island?

24 A Yes, sir

25 Q And how many people stayed out there?

1 A About 70, 75

2 Q Okay Did you furnish it?

3 A Yes, sir

4 Q Okay Was there any charge for people staying in
5 those houses?

6 A No, sir

7 Q Okay Were people required to stay in the houses?

8 A No, sir

9 Q How did you furnish the camp out on Johns Island?

10 A The beds were military bunk beds from Fort Gordon,
11 Georgia, rest -- you know, tables and chairs and sofas we
12 picked up from flea markets that were donated to us

13 Q Did any churches help you with the furnishing of
14 the camp?

15 A Yes, sir

16 Q Who helped you? What churches?

17 A First Baptist Church of James Island helped us a
18 lot They were out there every week

19 Q And what were they doing out there every week?

20 A They would come out there and preach to the men
21 and help them with any kind of legal problems that they
22 would have or anything, help them get letters back to
23 their relatives, or whatever needed to be done, they
24 helped

25 Q What was the nationality of the employees mostly?

1 A Most of them were Mexican Some of them were from
2 Guatemala, some of them from Ecuador

3 Q How did you get employees? Where did you get
4 them?

5 A We applied with a permit through the government on
6 an H --

7 Q Was it H2B program?

8 A That's it

9 Q What kind of program is that?

10 A That's a program that allows you to bring in
11 people for certain periods of time What you would do is
12 you would advertise for the jobs, and if nobody applied
13 for the jobs, you could send in all your paperwork to
14 Columbia and Columbia would issue how many people you
15 were allowed to bring in

16 Q Did you, in fact, bring people in?

17 A Yes, sir

18 Q From where?

19 A From Mexico and Ecuador

20 Q And how did you facilitate that? How did you go
21 about bringing them in?

22 A In Mexico, there was -- there is an outfit in
23 Virginia that helps find everybody that wants to come,
24 and you pay them, you know, a finder's fee and they get
25 all the paper work straight so you don't have to do it,

1 and you just have to supply a Greyhound bus to pick them
2 up at the border and bring them to you

3 And as far as getting them to Ecuador, we hired a
4 lawyer down in Ecuador, and he did all the paperwork for
5 us and we put them on a plane, flew them into Miami, and
6 we picked them up in Miami

7 Q How did you pick them up?

8 A I think we went down in the vans to pick them up

9 Q Once you picked the people up, what did you do
10 with them when you brought them into the United States?

11 A We brought them here, got them situated, made a
12 time period to go to social security to set up meetings
13 so they could get social security cards

14 Q Did you take them to the social security
15 department?

16 A Yes, we did

17 Q And were they processed through there?

18 A Yes

19 Q Was there anything else you had to do as far as
20 processing them in?

21 A Not that I recall, no

22 Q And other than the -- did you pay everybody \$6 an
23 hour, or did it vary?

24 A The van drivers got more

25 Q Other than paying them \$6 an hour and furnishing

1 housing, were there any other benefits given to your
2 employees?

3 A We tried to get health insurance on them, but we
4 couldn't afford that premium, so what we did was we went
5 to every doctor that my family went to and made a deal
6 with them If I had a bad tooth, you went to go see
7 Dr Smith

8 Q Who is Dr Smith?

9 A He was my dentist, my family dentist

10 Q Okay

11 A We had a deal with him -- whatever he was getting
12 paid through insurance or Medicaid, if we walked out that
13 same day, we could put our credit card on the table and
14 pay whatever Medicaid or the insurance was paying that
15 day There wouldn't have been no people digging around,
16 paperwork or this He got paid that day

17 Q Did you charge your employees for the health
18 benefits and the dental benefits?

19 A No, I did not

20 Q So that was a cost to L&L Services?

21 A Correct

22 Q Did you give them any other benefits other than
23 the housing and the health and dental benefits?

24 A We allowed them to go wherever they wanted in the
25 vans We charged \$15 a week fee on the van That means

1 you could go to work, you could go to Northwoods Mall,
2 you could go to Folly Beach You could go anywhere you
3 wanted for \$15 a week to help offset their costs for
4 riding around

5 Q Were they required to pay \$15 a week?

6 A Not as long as they lived with us they didn't

7 Q Okay

8 A If they drove their vehicle, we would give them a
9 tank of gas a week

10 Q Okay Did most people pay the \$15 a week?

11 A Yeah

12 Q And were the vans available to them to go to other
13 places other than to the job and back?

14 A It was available to them 24 hours a day Like I
15 say, they could go to the jobs, they could go to the
16 movies, they could go to the beach, grocery stores,
17 wherever they wanted to go

18 Q Other than the camp location where you had 70, 75
19 people, what other locations did you have?

20 A We got places downtown We had places in North
21 Charleston We had trailers, mobile homes in Hollywood
22 We had mobile homes on Johns Island, mobile homes in
23 Summerville

24 Q What were you doing? What were your
25 responsibilities? Were you interacting with the men?

1 A At the Johns Island site, I was out there just
2 about every day

3 Q For what reason?

4 A I had a field tank for my truck, so that is where
5 I kept my field, so it made a reason for me to go out
6 there every day to check and make sure everything was
7 fine

8 Q How about the other houses? Did you go by the
9 other houses?

10 A The houses, we would ride by and check on those

11 Q How were the employees paid? Were they paid in
12 cash? Were they paid in check?

13 A They were paid in check

14 Q How did you keep track of that?

15 A What we did was we sent out a pay sheet, a time
16 sheet, every week to the customer He would fill it out,
17 send it back in to us on Monday, or, you know, between
18 Monday and Tuesday they were supposed to fill it out and
19 get it back to us And we would add up the hours on
20 Wednesdays Thursdays and get their checks to them on
21 Friday afternoon

22 Q When these employees were paid, did you deduct
23 social security and federal and state taxes?

24 A Yes, we did

25 Q And how often were they paid?

1 A Every week

2 Q Did you spend any time out at the camp on Johns
3 Island socializing with your employees?

4 A Yes, I did I used to eat with them We had
5 recreation deals with Charleston County Rec We had our
6 own soccer team I was going to soccer games

7 Q Did you play soccer with them?

8 A No, I'm a little too old to be doing that

9 Q How about your children?

10 A My two sons did

11 Q Which two sons?

12 A Thomas Elliotte and Marcus James

13 Q And how often would you go out there for soccer
14 activities?

15 A We had a soccer match every week

16 Q How did you get business? Tell me that procedure
17 How did you go out and get business?

18 A Basically word of mouth We would talk to
19 contractors, knock on the door and left business cards

20 Q In April of 2004 how many customers did you have?

21 A I had right around 200, sir

22 Q And what type of businesses did you lease out
23 labor to?

24 A We had construction, golf courses

25 Q What golf courses did you have?

1 A We had Ocean Course, River Course, Turtle, Osprey,
2 Oak Point, the two on Seabrook, Briars Creek, we had Snee
3 Farm now whenever they needed us, we had Yeoman's Hall
4 whenever they needed us

5 Q Did you have any construction clients?

6 A Yes, sir

7 Q What construction companies did you have as
8 clients that you used as labor?

9 A We had Gulf Stream Construction, Trident
10 Construction, Banks Haven, other big paving company,
11 Sanders Construction and paving, we had Landmark
12 Construction

13 Q Did you lease out labor to any manufacturing
14 companies?

15 A Yes, we did We had a tire recycling plant up in
16 Goose Creek We had a manufacturing company up in
17 Summerville We did the graveyard shift up there

18 Q Okay Did you have a candle company?

19 A We had a candle company We ran both shifts
20 there

21 Q How about restaurants? Did you hire out any labor
22 for restaurants?

23 A Yes, sir we had restaurants also

24 Q What restaurants did you lease out labor?

25 A We had them at Planter's Inn, McCrady's,

1 Tristan's, Cypress, Magnolia's, Slight North of Broad,
2 Robert's, the restaurant at Seabrook, and a few other
3 restaurants

4 Q What type of work were they doing in the
5 restaurants?

6 A Mostly just dish washing and bussing

7 Q Did you lease any people out to the Ports
8 Authority?

9 A We cleaned up the grain silo there at the end of
10 I-26, before they shut it down

11 Q Did you lease any people to Kiawah?

12 A Yes, sir

13 Q To do what type of things?

14 A They worked on the golf courses

15 Q How about the Beach Company?

16 A The Beach Company, we worked on some of their
17 construction sites, getting land prep, general labor

18 Q Did you form another company called WLLC?

19 A Yes, sir, we did

20 Q And what was the purpose of forming the other
21 company?

22 A When we started taking other jobs We found out
23 that if you put somebody on a roof or something, it would
24 throw your workmen's comp higher than working on a golf
25 course, so what we did was we had two companies, one that

1 would work, like, roofing companies, and other ones that
2 would do dish washing and light construction and golf
3 courses

4 Q Did WLLC shut down eventually?

5 A We realized it wasn't worth going after that kind
6 of business because the workmen's comp rates are so high
7 We just shut it down, put it on the shelf

8 Q You owned a half interest in L&L Services,
9 correct?

10 A Correct

11 Q Were you also an employee?

12 A Yes, sir

13 Q Now, how were you compensated?

14 A I was on a salary plus 10 cent a minute for every
15 hour -- I mean, 10 cent for every hour the men worked

16 Q And what was your salary?

17 A I had a salary of \$500 a week

18 Q All right And how much did you average on this
19 10 cents per hour?

20 A Roughly around \$400 a week

21 Q You were grossing approximately \$900 a week?

22 A Right

23 Q Do you recall what your net pay was?

24 A I would say it was probably, after taxes, a couple
25 hundred less than that, I don't know, roughly right

1 around \$800, somewhere in that neighborhood

2 Q All right Was your wife also working?

3 A Yes, she was

4 Q And was she drawing a salary?

5 A Yes, she was

6 Q All right Do you recall what her salary was?

7 A I believe her salary was \$350 a week

8 MR HOOD She's not a party to this case,
9 Your Honor

10 THE COURT Sustained

11 BY MR CISA

12 Q Did any of your children work there?

13 MR HOOD Same thing

14 THE COURT Sustained

15 MR HOOD I would ask the number was thrown
16 out about the wife --

17 THE COURT The jury will disregard how much
18 the wife made She's not a party to the lawsuit

19 BY MR CISA

20 Q Did you get any other benefits other than the
21 approximately \$900 a week gross?

22 A I got free insurance on my truck, got a truck
23 payment, fuel

24 Q Did you get any health insurance benefits?

25 A Yes It paid my health insurance on me and my

1 family

2 Q All right How about dental benefits?

3 A Yes, sir, sure did

4 Q Okay Can you think of any other benefits that
5 you got?

6 A Not off the top of my head, no

7 Q Approximately how many trucks did L&L Services
8 have?

9 A We had three pickup trucks and about 12 vans

10 Q Did you have office equipment?

11 A We had computers and copiers and fax machines,
12 yes, sir

13 Q All right How many hours a week did you work for
14 L&L Services, say, in 2004 when it got going?

15 A We had, basically, about 8 30 to 5 00 day

16 Q How many days a week?

17 A We split it up Some weekends dad would work,
18 some days I would work weekends, some days my son would
19 work weekends We would answer the phones 24 hours a
20 day

21 Q All right Did you have ID cards made for your
22 employees?

23 A Yes, sir

24 Q What was the purpose of that?

25 A The purpose for that was we made ID cards It

1 said L&L Services on the back It said call if you have
2 any problems call Lawton Limehouse or Lawton Limehouse
3 Junior and gave them both our cell phone numbers,
4 whenever they wanted to cash a check or something and
5 somebody was curious about a check

6 Q Do you recall, Mr Limehouse, the article that
7 came out in the Post & Courier on April 24, 2004 where
8 the defendant was quoted as saying that you engaged in a
9 classic racketeering scheme?

10 MR LEWIS Your Honor, it's a leading
11 question He's given a question that just requires a yes
12 or no answer, and he can't do that It's very important
13 He's going to do that through this thing We want to
14 bring that up now

15 THE COURT He's just directing his attention
16 toward an article

17 MR LEWIS He said, Do you remember that it
18 say, and he's reading that And that --

19 THE COURT He can direct his attention to an
20 article Go ahead

21 MR HOOD Well, Your Honor, I add to that
22 He's characterizing an article where it says you were,
23 and it doesn't say that

24 MR CISA Your Honor, it's admitted It's
25 in the complaint --

1 THE COURT Go ahead and ask the question
2 BY MR CISA

3 Q Do you recall the article that came out in the
4 Post & Courier on April 24, 2004, where Lawyer Hulsey was
5 quoted as saying that you engaged in a classic
6 racketeering scheme, that your conduct set the community
7 back 150 years --

8 MR HOOD If the Court please, that's not
9 true I would like for him to read exactly the way the
10 article is written

11 MR CISA Your Honor, I object to this
12 Speaking objection I'll read it right out of the
13 complaint

14 THE COURT Overruled

15 MR HOOD I would ask Your Honor for the
16 record that he read the quotation --

17 THE COURT Overruled Go ahead
18 BY MR CISA

19 Q We'll do it one more time Do you recall the
20 article that came out in the Post & Courier on April 24,
21 2004 where Lawyer Hulsey said that you engaged in a
22 classic racketeering scheme, that your conduct set the
23 community back 150 years, that you engaged in a blatant
24 case of indentured servitude and you created a perfect
25 racketeering enterprise, just like Tony Soprano?

1 MR HOOD Your Honor, my objection, I would
2 like it continued

3 THE COURT It's noted It's overruled

4 MR LEWIS Your Honor, I would like to join
5 in that and have it continuing

6 THE COURT It's noted for the record Go
7 ahead

8 BY MR CISA

9 Q Do you recall that article?

10 A Yes, I do

11 Q Okay Do you recall where you were when you read
12 the article?

13 A I was home

14 Q Okay

15 A My son was on the weekend phone duty, and that is
16 the first thing, he started getting phone calls

17 MR HOOD If the Court please, I move to
18 strike that as hearsay, and it's irrelevant in this case

19 THE COURT Overruled Go ahead

20 MR HOOD This is about his son

21 THE COURT Overruled Go ahead

22 BY MR CISA

23 Q Tell me what happened? What day of the week did
24 the article come out on?

25 A That was on a Saturday

1 Q What happened to the business of L&L Services
2 following this article's publication in the Post &
3 Courier on April 24, 2004?

4 MR HOOD If the Court please, this case is
5 about him, not L&L Services

6 THE COURT Overruled Go ahead
7 BY MR CISA

8 Q Let me ask the question again What happened to
9 the business of L&L Services that you owned a half
10 interest in after this article came out in the Post &
11 Courier on April 24, 2004?

12 A The phone started ringing

13 Q Did you have to go pick up people?

14 A Yes, we did

15 Q Why did you have to go pick up people?

16 MR HOOD He's leading the witness

17 THE COURT Overruled Go ahead

18 MR LEWIS I joint in Mr Hood's objection

19 THE COURT It's overruled Go ahead

20 BY MR CISA

21 Q Why did you have to go pick up people?

22 MR HOOD That's a leading question

23 THE COURT Overruled It's not a leading
24 question

25 THE WITNESS They said they did not need our

1 services anymore

2 MR LEWIS Your Honor, that is hearsay

3 MR HOOD Move to strike that, Your Honor
4 It's improper It wasn't a question

5 THE COURT Hold on Stop I need y'all to
6 go out for a second Don't discuss the case

7 (In open court, jury not present)

8 THE COURT Let me tell you something I
9 think the world of you two I understand you got a case
10 and it's a difficult case for you to prosecute or defend,
11 but I'm not going to have this be made a mockery of by
12 objecting to every single question along the way If
13 your aim is to get a mistrial, it's not going to happen
14 I will remove you as counsel and have one of your
15 associates replace you in the case, but this is not going
16 to happen where every word that Frank asks a question
17 draws an objection If that is your intention, to make a
18 mockery of this, that is not going to be allowed

19 I told you yesterday, I know you got a
20 difficult case to try Whether or not it is to your
21 client's advantage to object to every question that is
22 said, I don't know That is something that you want to
23 consider as a trial strategy This is a difficult case
24 to try, and we're getting off to an awful rough start on
25 it, but I'm warning you that if this continues in this

1 line, I'm going to remove you as trial counsel and
2 substitute in one of your associates

3 MR LEWIS Your Honor, I don't agree with
4 you because we have to object to a question that we think
5 is improper

6 THE COURT I understand that, but he's
7 asking a simple question These are not leading
8 questions, and it's just --

9 MR LEWIS The question -- when he said do
10 you remember and he reads the article, do you remember,
11 and he reads whatever --

12 THE COURT He asked a question, did you lose
13 business as a result of this, or something, and
14 objection, leading Well, how is that possibly leading?
15 It doesn't suggest an answer

16 MR LEWIS Yes, it does It's a yes or no
17 answer In my opinion, when you ask a question that has
18 a yes or no answer, it's leading You can ask questions
19 that are how, what, where and when Those are the
20 questions that are proper in a trial

21 When they ask questions that don't start with
22 how, what, where and when, then I am going to object to
23 them as leading If you tell me that I've preserved any
24 question that isn't started with how, what, where, or
25 when as a leading question, then I'll take that

1 preservation, but I have to know that

2 THE COURT I will, and I've told you we will
3 preserve as a continuing objection to anything that you
4 feel like it's necessary to do, but I'm not going to have
5 y'all objecting on every single question that is asked
6 I personally think it's disruptive to your cause

7 MR LEWIS We've got to make that call

8 THE COURT I get that, and I'm willing to
9 allow you a lot of leeway, but at the same time I've got
10 to conduct a courtroom, and I'm telling you, this --

11 MR LEWIS Then we would say any time the
12 question does not start with how, what, where, or when,
13 then we would have an objection as to it being leading,
14 and that would be throughout the rest of the trial

15 THE COURT I will note that for the record

16 MR LEWIS And we think that when he quotes
17 an article, and I've said this before, the default does
18 not turn a lie into the truth, and if Your Honor wants to
19 say that when he says what the article says in a question
20 and that is not what the article says that we're stuck
21 with it because it's in the complaint, even though it is
22 not the truth, then Your Honor has ruled that way, we'll
23 understand that Is that the ruling?

24 THE COURT That is the ruling If he wants
25 to introduce the article, that is his choice If he

1 chooses not to, that is his choice Obviously, y'all are
2 not allowed to put it in

3 If he wants to ask the question from the
4 complaint, then that is ultimately his option It is his
5 case at this point

6 MR HOOD Your Honor, I consider the way
7 he's asked the question in comparison with the words that
8 are in the article a fraud on the jury and the Court
9 The article reads, and I would like to say this for the
10 record, quote, This is a blatant case of indentured
11 servitude said Hulsey, formerly of the Ness Motley law
12 firm Quote, L&L Services took advantage of the
13 complexity of the system They have created a perfect
14 racketeering enterprise just like Tony Soprano, end of
15 quotes

16 Not one reference in that quotation is to
17 Lawton Limehouse Senior or Junior, and for him to ask
18 three questions about each sentence in there saying that
19 they say about you, that is not true, and it should not
20 be allowed to stand as a fraud on this jury in this trial
21 process And I strenuously object to it, and I
22 appreciate you letting us having a continuing objection

23 The last objection I made, the question was
24 asked, the answer was not responsive to the question
25 That happened a lot in the last trial This witness has

1 a few things he's been told to say, and he's going to say
2 them whether he was asked or not, and that is what
3 happened on that last question, so I don't have a choice
4 there, but to stand up and say, Your Honor, that is not
5 responsive to the question Please strike the answer and
6 let's hear an answer to the question that was asked

7 The witness doesn't have the right just to
8 volunteer anything, and we will have that throughout So
9 if you can help me, I won't object, by just turning to
10 the witness and saying, Mr Witness, please answer the
11 question I'm going to strike your response, I won't
12 have to do anything, and we'll preserve the others as to
13 where he's testifying with his leading questions, but I
14 sincerely, as an officer of the Court, feel like every
15 objection I made had one reason It was improper, it was
16 leading, he was telling the witness what to say, and I
17 don't want to waive that for my client

18 THE COURT I understand it is a difficult
19 task, but I'm also telling you that I don't think it
20 serves your cause to do it in the manner that y'all have
21 been doing it, and, plus, it is totally disruptive to the
22 mode of trial, so your standard objection is noted It's
23 not necessary for you to object every single time on the
24 issues that we've talked about as to responsiveness to
25 the questions I will direct the witness that you answer

1 the questions that are asked All right?

2 MR LEWIS And the final thing, Your Honor,
3 under 55(b)2, we ask the Court to delve into the -- find
4 the truthfulness of the answers and evidence that's given
5 as required by that rule

6 MR CISA And, Your Honor, I would just like
7 to address that First of all, he mischaracterized that
8 article Lawton Limehouse Junior and Lawton Limehouse
9 Senior own L&L Services, but they are stuck with the law
10 that says that the allegations in my complaint are deemed
11 admitted Period

12 THE COURT I understand that Ultimately,
13 you know what, this will be something if you get a
14 verdict and it gets appealed, then y'all can argue this
15 until you're blue in the face to the Court of Appeals of
16 the Supreme Court I'm just trying to get through this
17 All right?

18 MR CISA I understand I am too

19 THE COURT All right Bring the jury back
20 in

21 (In open court, jury present)

22 MR HOOD Will you explain to the jury we
23 have a continuing objection, please

24 THE COURT All right, folks We're going to
25 resume now I have told the lawyers that I have noted

1 their objections They don't need to object on every
2 single question to preserve the record, so they have
3 objections to the questions that are being asked, but we
4 are not going to have the trial slowed down by having to
5 address every single one of them

6 As a matter of law, I have told them that I
7 have noted that they have continuing objections to this
8 mode of questions, and that should cut down on the
9 necessity to enter an objection on the record All
10 right?

11 Mr Cisa, you may continue

12 BY MR CISA

13 Q Thank you, Your Honor Mr Limehouse, could you
14 describe for me what happened to the business of L&L
15 Services after this publication came out on April 24 of
16 2004

17 A It collapsed

18 Q It collapsed by when?

19 MR LEWIS We have the objection as the
20 business is not part of the damages

21 MR CISA I object to the speaking
22 objection

23 THE COURT Again, the objection is noted

24 MR LEWIS Could we have a continuing one on
25 that one?

1 THE COURT Continuing one on that one All
2 right Go ahead

3 BY MR CISA

4 Q What happened to the business of L&L Services when
5 this article came out and was published on April 24,
6 2004?

7 A On Saturday, people started calling and saying,
8 Come pick up your men That was on the weekend Sunday,
9 more people started calling on a full week -- I'm sorry
10 The full week started on Monday Everybody started
11 calling, saying, Please pick up your men

12 Q And what happened to the business?

13 A It was no longer a business I had 200 people
14 sitting there in my houses doing nothing

15 Q Did you do any business at all with L&L Services
16 after that Monday following that Saturday publication?

17 A No, I did not

18 Q Was business shut down?

19 A Business was completely shut down

20 Q Were you concerned about your employees?

21 A Yes, I was

22 Q What did you do?

23 A The only thing I could do was talked to the man I
24 talked to up in Myrtle Beach area that was doing the same
25 thing and asked him to come down here and just take these

1 men other and save as many jobs as he possibly could

2 Q Did he come down?

3 A He came down

4 Q Did he hire any of your employees?

5 A He hired about half of them

6 Q What happened to the other half?

7 A They were now unemployed

8 Q What about your vans? What did you do with your
9 vans?

10 A The vans, he used some of the vans He eventually
11 bought them

12 Q Approximately how many of them did he buy?

13 A He probably bought nine or ten of them, and we
14 sold a few of them

15 Q Were the vans financed?

16 A Yes, they were

17 Q Did you pay off all the financing on the vans?

18 A No, we did not

19 Q Who have they financed by?

20 A Southcoast Community Bank

21 Q What did your do with your computers and
22 equipment?

23 A We packed them all up and sent them to my wife's
24 parent's house

25 Q Following -- that Monday, following the article's

1 publication, what did you do?
2 A Went looking for a job
3 Q All right Did you go to work for the guy that
4 took over the 100 men?
5 A Yes I worked for him for about four weeks
6 Q And what were you doing for him?
7 A Just trying to get all his men -- since he was out
8 of Myrtle Beach, just trying to get his new managers in
9 place and meeting new customers and that was it
10 Q Did you quit the job after four weeks?
11 A After that, they said they didn't need me any
12 more
13 Q What happened to the camp on Johns Island?
14 A Camp, they rented the camp out for my wife
15 Q Okay The same people stayed there?
16 A Same people stayed there
17 Q They continued to work for this other gentleman?
18 A Correct
19 Q Are they still there?
20 A They're still there
21 Q Since 2004?
22 A Since 2004, yes, sir
23 Q Just not working for you?
24 A They don't work for me, no
25 Q Prior to this newspaper article coming out on

1 April 24, 2004, how was your life going? How was things
2 going?

3 A It was going good I had three boys I could
4 spend time with them I have one handicapped son that
5 takes a lot of time

6 Q Who is that?

7 A That is William Lee He's 21 and has an IQ of
8 about second grader

9 Q Were you providing therapy for him?

10 A Yes

11 Q At L&L Services?

12 A Yes, we were

13 Q How about after the business shut down?

14 A No, I couldn't afford to do it

15 Q What was -- you got Elliotte and Marcus? What was
16 Marcus doing?

17 A Marcus, he was going to -- Marcus has a learning
18 disability, and he was in special classes at public
19 school That wasn't working out We got him transferred
20 into Trident Academy in Mount Pleasant

21 Q After the business collapsed, were you able to
22 continue to pay for Trident Academy?

23 A No

24 Q Did he get out of Trident Academy?

25 A Yes They told us to leave

1 Q Okay How about Elliotte? What was Elliotte
2 doing?

3 A Elliotte was going to Trident Tech, also working
4 for the business, and when the business collapsed, he had
5 to move back in with us, and he didn't want to be a
6 burden on me or his mom He joined the military

7 Q Did the fact that you couldn't provide therapy for
8 Lee cause you anxiety and problems?

9 A Yes, it did

10 Q The fact you couldn't provide education for Marcus
11 at Trident Tech, did it cause you difficulties?

12 A Yes, it did

13 Q How about your -- how about Elliotte going into
14 the service?

15 A That was devastating to me

16 Q How long did you worry about Elliotte being in the
17 service?

18 A Until he got back from Iraq

19 Q How about your mental state following the collapse
20 of the business? What happened to you?

21 A I was placed in a psychiatric ward at St Francis
22 Hospital

23 Q For how long?

24 A For a week

25 Q Treated for what?

1 A Depression

2 Q When did that happen?

3 A In May of 2004

4 Q Had you ever been treated for depression prior to
5 that time?

6 A No

7 Q Did you have any problems with depression prior to
8 that time?

9 A No

10 Q When you got out of St Francis, did you look for
11 work?

12 A I was mostly sitting on the sofa My
13 brother-in-law said his father needed a little bit of
14 help part-time, and he gave me that just to get off the
15 sofa

16 Q What were you doing sitting on the sofa?

17 A Mostly crying

18 Q How long did that continue?

19 A For almost five, six months

20 Q Did you have problems sleeping?

21 A Yes

22 Q Tell me about that

23 A I would fall asleep and wake up thirty minutes
24 later, stay up for another couple hours, go to sleep for
25 thirty minutes, wake up, and it was a pattern that I had

1 for months

2 Q Did they prescribe anti-depression medication?

3 A Yes, they did

4 Q What did they prescribe?

5 A At first they had me on Paxil and side effects
6 weren't all that helpful on me, so they changed me to
7 Lexapro and Xanax -- excuse me, Ativan

8 Q Were you still taking anti-depression medication?

9 A Every day

10 Q What are you taking?

11 A I take Lexapro and Ativan

12 Q Do you go to the doctor to get that?

13 A Yes, sir

14 Q Who did you go to?

15 A I go to Dr George Rosebrock

16 Q Prior to the April 24 publication, what type of
17 activities did you engage in, social activities,
18 recreational activities?

19 A My oldest boy, Elliotte, he used to have a little
20 Honda car that he would road race His younger brother
21 raced also up in Charlotte We would try and race every
22 other weekend, or every week

23 Q How long had y'all been doing that prior to the
24 publication?

25 A When Elliotte turned 17 and Marcus started when he

1 was about 13 I made a deal with him If he made better
2 grades and could figure out a way to pay for his car, I
3 would help him, so --

4 Q And how often did he race?

5 A He raced every week

6 Q After the April 24, 2004 publication, how often
7 did y'all go racing?

8 A Once every other month, just special races

9 Q What other activities did you engage in prior to
10 April 24, 2004?

11 A We hunted, fished

12 Q Have you been doing that all your life?

13 A All my life

14 Q How about after the publication?

15 A We quit

16 Q You didn't get off the couch to go hunting and
17 fishing?

18 A No

19 Q Why not?

20 A Just -- I didn't feel like getting up

21 Q Prior to the April 24, 2004 publication, were you
22 attending church?

23 A Yes

24 Q How about after?

25 A No, I quit

1 Q Why did you quit?

2 A I just didn't want people to see me

3 Q All right You said your brother-in-law's father
4 offered you some work

5 A Yes, sir

6 Q What type of work?

7 A He was into -- he's into the bait business, so we
8 would haul shrimp and minnows and fiddler crabs up and
9 down South Carolina

10 Q What did he hire you to do?

11 A To drive a truck

12 Q How often did you drive a truck?

13 A Anywhere from two to three times a week

14 Q And how were you paid for doing that work?

15 A I got \$75 a day

16 Q And you were working two or three days a week?

17 A Yes, sir

18 Q Prior to this publication, what jobs had you had?
19 What was your work history like? What type of activities
20 did you do to earn money?

21 A I farmed, farmed on the family farm for over 25
22 years

23 Q Did you do anything else? Did you clear lots?

24 A Cleared lots During the down time, winter times,
25 out on Kiawah, did some landscaping on Kiawah The farm

1 was right across the river from Kiawah, so this was easy,
2 easy to get to

3 Q Prior to the April 24th publication, were you able
4 to provide for your family?

5 A Yes

6 Q How about after?

7 A No

8 Q All right How long did this part-time job last?

9 A It lasted --

10 Q Hauling bait?

11 A It lasted until January or February of that
12 following year

13 Q 2005?

14 A 2005

15 Q During that time, prior to January or February of
16 2005, did you go out and try to get employment anywhere?

17 A Yes, I did

18 Q Where did you seek employment?

19 A I even got so desperate I asked my cousin for
20 employment and got turned out

21 Q Where was your cousin's employment?

22 A Limehouse Produce

23 Q And they need somebody?

24 A Yeah, they needed somebody

25 Q They wouldn't hire you?

1 A Wouldn't hire me

2 Q Where else did you try to apply or work?

3 A Applied in the newspaper for jobs, went to some of
4 the career fairs

5 Q No luck getting a job?

6 A No, no luck getting a job

7 Q After the bait hauling business stopped around, I
8 think you said, January of 2005, what did you do after
9 that for employment?

10 A I went down to south Florida A friend of mine
11 was in the produce business down there They just bought
12 a used produce packing house and it needed to be rebuilt,
13 so I went down there and worked on it?

14 Q Who was your friend that got you a job?

15 A There is two of them There is one named Dick
16 Minor, who actually does the farming, and produce
17 brokering himself is a man named Ed Meyer

18 Q And how long have you known Ed Meyer?

19 A Probably since I was about five years old

20 Q All right So what did you do down in Georgia,
21 starting in -- you said, January, February of '05?

22 A Yes, sir

23 Q What did you do down in Georgia?

24 A We took the machine apart and just completely
25 rebuilt it

1 Q Okay And how long did that job last?

2 A It took all that spring and part of the summer

3 Q And how much were you paid when were you working
4 down in Georgia?

5 A When I was down there, I was getting \$800 a week

6 Q Okay And how far was the Georgia job from your
7 home in Charleston?

8 A 305 miles exactly

9 Q Where was your family when you were in Georgia?

10 A They were here in West Ashley

11 Q Did you go back and forth to see them?

12 A Yes, I did

13 Q Did they come to see you?

14 A They came to see me

15 Q So that job ended approximately when?

16 A It would -- it is seasonal work, so we started
17 rebuilding in February, and the season ran from May to
18 June or July, early July, and then we had a down period
19 in the summertime and it started back up in September
20 By Thanksgiving it would be over with

21 Q Okay And then what you did do?

22 A I came back here, told my wife that Mr Meyer
23 wanted to do more farming down there and he asked me if I
24 would help farm and I said I would, so I went back and
25 started farming on my own

1 Q Now, when you say farming on your own, what do you
2 mean? What was the deal you had with Mr Meyer?

3 A We had a deal if it worked out, he would lend me
4 the money to grow the crop If it worked out and he made
5 some money, I would get the proceeds He would get me
6 back on my feet

7 Q What type of crop were you growing?

8 A We were growing bell pepper and whole cucumbers

9 Q On how many acres?

10 A On 60 acres

11 Q Did you borrow money to get it started?

12 A Yes, I did

13 Q From who?

14 A Mr Meyer

15 Q How much money did you borrow?

16 A Roughly about \$220,000

17 Q It takes \$220,000 to grow 60 acres of bell
18 peppers?

19 A Yes, sir

20 Q How much does it cost an acre to grow them?

21 A Bell peppers are \$10,000 an acre The cucumbers,
22 we're trying to grow them on a fence now so they are more
23 perfectly shaped, so what you have to do with the
24 cucumbers is you have to put stacks down and put up a
25 fence, and they have variety of cucumbers that will grow

1 up through the fence, and you just pick them off the
2 fence so you don't have to be bending down And the idea
3 is that gravity pulls the cucumbers down straight and you
4 have a more uniform cucumber

5 Q How much does it cost an acre to plant that?

6 A Same thing, \$10,000

7 Q So you went back farming approximately when?

8 A Went back to farming in that February

9 Q February of 2006?

10 A '06, yes

11 Q And how did the farming go?

12 A 2006 we had a bad drought, all throughout the
13 southeast We had underground irrigation, six inch well,
14 600 feet It dried up completely and the crop burnt up

15 Q Why didn't you put another well down?

16 A Once it was burnt up, there wasn't enough time to
17 get another well put down 600 foot

18 Q Did you lose the entire crop?

19 A We lost the entire crop

20 Q And that took you up to what point in time?

21 A That brought me to June of 2006

22 Q What did you do about the 225,000 that you
23 borrowed from Mr Meyer?

24 A Mr My said it was his project Let him worry
25 about that

1 Q Did you make any money? Did he pay you any money
2 while you were farming these 60 acres of crops?

3 A Just what little advances I was taking along

4 Q You lost the crop?

5 A But we lost the crop

6 Q Is that why you and your father got into the
7 temporary staffing business, back in 1999?

8 A We got into staffing, temporary staffing agency
9 here in Charleston, because the farming in Charleston was
10 dead 25 years ago there were 25 packing sheds from here
11 to Myrtle Beach Now there is maybe only two or three
12 Farming used to be a big thing on the east coast of South
13 Carolina Now it's completely gone

14 Q So it takes us up to about July of 2006

15 A Yes, sir

16 Q All right What did you do after you lost the
17 crop?

18 A I kept working for Dick Minor, helping him I
19 stayed down there through the fall and helped run the
20 beams because I felt like I was obligated to do
21 something The man lost his money, and I stayed down
22 there all the way through February

23 Q Of 2007?

24 A Of 2007, yes, sir

25 Q Then what did you do?

1 A I came here I saw an ad in the paper for
2 Thompson Irrigation Pumps I applied for the job I got
3 the job

4 Q Doing what?

5 A Working on diesel pumps, irritation pumps

6 Q Where did you learn how to work on diesel pumps?

7 A Just off the farm

8 Q And you went to work for Thompson Pumps
9 approximately when?

10 A Approximately in March

11 Q Of 2007?

12 A Yes, sir

13 Q How much were you paid at Thompson Pumps?

14 A \$13 50 an hour

15 Q How long did you work as Thompson Pumps?

16 A About a year and a half

17 Q And then what happened? Did you quit?

18 A I was laid off I started working, we had five
19 mechanics working When they laid me off, it was me and
20 one other boy that had ten years of experience, so they
21 kept him

22 Q So you got laid off when?

23 A Roughly about December the 15th, I think it was

24 Q Of what year?

25 A Of 2008

1 Q All right What did you do after that?

2 A After that, I started putting in jobs I put in a
3 job working for general diesel, I applied for a job with
4 the state bus, school bus district, put in a job with
5 Department of Transportation, got a job working as a
6 mechanic, as a one day mechanic, which is the bottom of
7 the pay rung on the state employees

8 Q You got a job as mechanic working for who?

9 A Department of Transportation, maintenance

10 Q And what are you doing?

11 A I work on everything from bulldozers to cars,
12 trackers, snow plows, everything

13 Q When did you start that job?

14 A St Patrick's Day, March 15th, 17, something like
15 that of this year

16 Q And how much are you being paid by the Department
17 of Transportation?

18 A \$12 05

19 Q Per hour?

20 A Yes, sir

21 Q How much do you bring home from that job?

22 A I bring home \$296 a week

23 Q Are you still working there?

24 A Yes, I am

25 Q Were you proud of the business of L&L Services?

1 A Yes, I was
2 Q Did you work hard for the company?
3 A Yes
4 Q Did you work hard making it grow?
5 A Yes, sir
6 Q When it collapsed, did you get anything out of it?
7 A Driving a 2001 pickup truck that I still owe
8 \$8,000 on That's the only thing I got
9 Q What is your reputation like following the April
10 24th, 2004 publication?
11 A People really didn't want to talk to me
12 Q Prior to the publication, were you able to talk to
13 people?
14 A Yes I could go anywhere and talk to them
15 Q Do you think about it all the time?
16 A Yes, I still do
17 Q Does it continue to bother you?
18 A Yes, it does
19 Q Are you now going out and interacting with people,
20 like you did before?
21 A Slowly
22 Q Has Lawyer Hulsey or any members of his firm
23 called you to apologize about these false statements they
24 made?
25 A No, sir

1 Q Have you had occasion to look on Mr Hulsey's web
2 site?

3 A Yes, sir

4 MR HOOD Question and answer are not in the
5 complaint

6 THE COURT What was the question again?

7 MR CISA The question was, have you had
8 occasion to look at lawyer Hulsey's web site?

9 MR HOOD No, sir, the question was if
10 Lawyer Hulsey called and apologized to you That's not
11 in the complaint That is my objection It has nothing
12 to do with this case

13 MR CISA It has to do with damages

14 THE COURT Overruled Go ahead

15 MR HOOD Your Honor, please

16 THE COURT It's overruled

17 MR HOOD May I be heard on the next
18 subject?

19 THE COURT Which -- what was your next
20 question?

21 MR CISA My next question was, have you had
22 occasion to look at Lawyer Hulsey's web site?

23 MR HOOD That's not in the complaint

24 THE COURT All right We'll take our mid
25 morning break Don't begin deliberations or discussions

1 about the case, and they'll escort you downstairs We'll
2 have you back in about 15 minutes

3 (In open court, jury not present)

4 THE COURT Okay

5 MR HOOD Your Honor, the last question is
6 about a web site that is not in the complaint It got
7 Mr Cisa \$5 million in the last trial I would like to
8 be able to talk about it May I do so?

9 THE COURT Sure

10 MR HOOD Your Honor, the web site has
11 nothing to do with did you or didn't you answer these
12 allegations It has nothing to do with anything in this
13 lawsuit Please don't let us go there with this case
14 It was extremely prejudicial last time, and
15 I'm afraid with the way he's asked this question this
16 time anybody on that jury that has got a computer at home
17 can go look at a web site, and I think we've created the
18 problem here that is beyond the scope of this lawsuit

19 THE COURT What is that?

20 MR HOOD The damages that he has incurred
21 by a publication in a paper, which is the issue in this
22 case, has nothing to do with a web site It has nothing
23 to do with an apology It only has to do with what
24 damage occurred to this man from that publication, and
25 he's told us that, and he's told us about what his

1 reputation was before and after and how it was damaged by
2 this publication

3 Frankly, I believe the door has been opened
4 by that line of questioning to everything we want to ask
5 on cross-examination, but the subject we're now dealing
6 with, the web site issue, is too crucial for me to sit
7 here and allow him to get into that without discussing
8 this with you and asking you, please, to rule it
9 irrelevant

10 It has nothing to do with damage It has
11 nothing to do with this case, and it's not in the
12 complaint in this case The words web site are not in
13 the complaint

14 THE COURT Okay Mr Cisa, what about this
15 web site?

16 MR CISA Your Honor, it goes to the
17 duration of the conduct I think Mr Limehouse will
18 testify that Lawyer Hulsey had the newspaper article on
19 his web site from shortly after the time it was published
20 up until February of 2008 I think it goes to the
21 duration of the conduct

22 This is a damages hearing I'm asking for
23 punitive damages Duration of the conduct is relevant on
24 the issue of punitive damages, and I'm here to prove
25 damages You know, it's not in the complaint about how

1 much money he earns, but this is a damages hearing

2 THE COURT Tell me what you want to do You
3 want to show the jury this web site?

4 MR CISA No, sir I want him to testify
5 about what he saw on Lawyer Hulsey's web site There was
6 a link to this newspaper article on his web site for well
7 in excess of two years It is relevant to the issue of
8 punitive damages We had this discussion at the last
9 trial It's the same thing It goes to duration of the
10 conduct

11 I believe if you charged the jury like you
12 charged the jury before you will say one of the factors
13 to consider is the duration of the conduct, and I, quite
14 frankly, was appalled to find that Lawyer Hulsey had
15 continued to link this newspaper article in his web site
16 All I could think was, how do you get this off his web
17 site? It goes to duration of the web site, Your Honor
18 It's a damages hearing It's relevant It's relevant on
19 the issue of punitive damages

20 THE COURT All right What about that, that
21 it goes to the duration of the conduct and is relevant to
22 the issue of punitive damages?

23 MR LEWIS It never mentions duration of
24 conduct in the complaint, and he was just going to say,
25 do you see the web site where it -- this article appears,

1 it doesn't appear there There is a link to the article,
2 not the article You can't -- you have to go punch it
3 and link it, just like how you can go look at any article
4 in the Charleston paper, if you want to, so it's a link
5 and it's not in the web site

6 Last time I was just told that we got -- we
7 were told we didn't object to it, but we're objecting to
8 it It is improper It's not in the complaint

9 THE COURT It wouldn't matter if it's in the
10 complaint It doesn't have to specifically be there if
11 it goes to the issue that is raised in the complaint, and
12 that is punitive damages It doesn't have to say that he
13 suffered punitive damages because this was in there I
14 don't think you have to allege that amount with
15 specificity in your complaint

16 MR LEWIS You can't punish someone or
17 have -- punish someone for something that happened after
18 the complaint How do you do that?

19 MR CISA I filed a suit in '06 He ran
20 this link on his web site offering to these people, all
21 you got to do is click it After I sued, him he
22 continued to run it He continued to run it until
23 February, whatever date it was, February 8 of 2008 He
24 ran it for two years after I had sued him

25 It goes to duration of conduct, Judge

1 That's what it goes to, and that is relevant as to
2 punitive damages This is a damages hearing

3 MR HOOD Have you seen the web site, Your
4 Honor?

5 THE COURT I probably have if it was
6 introduced during the first trial I've done a lot of
7 cases since then

8 MR CISA They admit that it was linked on
9 their web site, Judge They admit it They say it is
10 linked on his web site, that newspaper article They
11 admit it

12 THE COURT Let me ask you this If you are
13 going to introduce this -- if you're not going to put
14 that up there, why doesn't that open the door for them to
15 be able to cross-examine him thoroughly but referring to
16 the article and to the web site?

17 MR CISA Because --

18 THE COURT It opens the door, doesn't it?

19 MR CISA This is not an open the door -- I
20 would submit, respectfully, this is not an open the door
21 trial I get to present my case They are limited to
22 cross-examining as to damages

23 We don't open the door The procedure that
24 they should follow is dictated by the Supreme Court
25 They can cross-examine as to damages, not as to

1 liability, not as to causation I don't open the door
2 They are limited in their procedure In a regular trial,
3 I would agree, you do something, you open the door We
4 don't open the door in a default damages hearing They
5 are limited to cross-examining solely as to damages, not
6 as to liability, not as to causation They just can't do
7 it They are limited Period That's the procedure
8 they've got to follow

9 We don't open -- I don't open doors by
10 presenting my case They are stuck with the procedure
11 The procedure is not you can cross-examine as to damages
12 but not liability and not causation unless a door is
13 open They're stuck with what they're limited to do, and
14 it's a very limited procedure that they've got to follow
15 It's cross-examining as to damages

16 It's the Ames case, it's the Holiday Inn
17 case, it's the Doe case It's all the cases we've
18 previously discussed I don't open the door, and they
19 can't put up evidence You're stuck with that But the
20 jury should be entitled to know that Lawyer Hulsey
21 continued to engage in this conduct for a substantial
22 period of time because it goes to punitive damages

23 THE COURT All right Let's take a break
24 (Recess taken)

25 THE COURT If Mr Cisa wants to refer to the

1 web site, he can It's relevant as to the issue on
2 punitive damages for the statement he made and continued
3 to stand behind, I guess, for a period of about two
4 years, and he doesn't have to introduce it if he doesn't
5 want to It's his case He can refer to it if he wants
6 to

7 MR LEWIS Your Honor, we also would object
8 under the best evidence rule that he would have to
9 introduce it if he's going to question him

10 MR CISA He saw it He clicked it He can
11 testify to what he saw and what he did

12 THE COURT All right What I'm going to let
13 you do is you can -- if you want to refer, say, Did you
14 say see the web site and did you talk about this -- I'm
15 not going to let you start quoting from it and putting it
16 into evidence

17 MR CISA I'm not going to put it into
18 evidence All he's going to say is that he's gone to the
19 web site, he saw it, there is a link to the newspaper
20 article and he saw it, based upon his personal knowledge

21 THE COURT Okay

22 MR HOOD We're going to have a fiction
23 based on a fiction, because what is going to happen is
24 he's going to say that the web site fiction create a
25 perfect racketeering enterprise, just like Tony Soprano

1 That is a fiction That's not true It says
2 L&L Services

3 MR CISA He needs to read the complaint

4 MR HOOD Now he's going beyond the
5 complaint to a web site that is not referenced in the
6 complaint to add to that fiction, another fiction that
7 there is a click on to an article, and he's saying to
8 this jury that article and he's going to quote it again,
9 and he's not quoting it correctly, so under Rule 55 it's
10 a fraud on the Court and the jury to do that

11 THE COURT All right I've noted your
12 objection

13 MR HOOD Yes, sir, and if we could just for
14 one second while the jury is out, please, the subject of
15 did Mr Hulsey call you and apologize We would be in
16 front of the grievance committee if Mr Hulsey had called
17 him and said anything Mr Hulsey could not call him
18 Everyone that is in this courtroom that is a lawyer knows
19 that

20 He had a lawyer They were in a lawsuit He
21 was being sued for a RICO violation He then voluntarily
22 settled that case rather than to fight over his
23 reputation in that case, and now we are getting our hands
24 tied because Mr Hulsey didn't violate the canons of
25 ethics and call him and apologize for a case that he

1 decided to settle and paid Mr Hulsey's client a lot more
2 money than their claims were worth

3 That is so prejudicial it needs to be struck
4 The jury needs to be instructed about it or we need a
5 mistrial, and I so move

6 THE COURT Well, first of all, Mr Cisa, you
7 want to speak to that?

8 MR CISA I think it's entirely relevant as
9 to the damages It goes to actual and punitive damages
10 Someone makes a false statement about you, it seems to me
11 the proper thing to do is call and apologize This
12 defendant chose not to do that I think it's relevant I
13 think it's relevant in this case Their hands are tied
14 I understand that, but that is the posture that we find
15 ourselves in, you know

16 THE COURT Well, I've -- I'm sorry You
17 want to speak?

18 MR LEWIS Yes, sir

19 THE COURT All right Go ahead

20 MR LEWIS The default has nothing to do
21 with the question of did he call, and Mr Hulsey was
22 prohibited by the rules of professional ethics from doing
23 that, and to ask that question when you know that it's
24 simply wrong, and we're just asking that it be cleared
25 up

1 I can't believe I'm sitting here hearing
2 another lawyer stand up and say did Mr Hulsey, after we
3 brought it to his attention that he was represented, that
4 is, the other side, and that Mr Hulsey, over the
5 obligations put forth under the rules of professional
6 ethics, he's supposed to call this guy? You know --
7 that's all I have, Your Honor

8 THE COURT Okay Well, he asked the
9 question I think it is relevant on the issue of
10 punitive damages, but you are entitled to make the
11 argument that you just made in your closing, if you want
12 to, about that issue

13 And if you want to address why he was asked
14 that question, folks, and the reason he didn't is because
15 the rules of professional ethics wouldn't allow him to, I
16 think you're entitled to make that argument, because it
17 is in the record and it is an argument that you can make
18 based on an inference from the evidence

19 MR CISA Judge, what time are you going to
20 break for lunch?

21 THE COURT How much longer do you think
22 you'll be on your direct?

23 MR CISA I got about three or four more
24 questions, so I'll be finished in about five minutes

25 THE COURT Well, I imagine somewhere between

1 12 30, 1 00, depending on how long they are on their
2 cross

3 MR CISA I probably don't need a witness
4 down here until after lunch

5 THE COURT I don't imagine -- unless they
6 just ask a very brief one, we'll probably have 12 30,
7 1 00

8 MR CISA I don't want to bog you down
9 I'll wait until after lunch

10 THE COURT All right Bring the jury in
11 (In open court, jury present)

12 BY MR CISA

13 Q Mr Limehouse, did you have occasion to look at
14 lawyer Hulsey's web site?

15 A Yes, I did

16 Q Do you recall when you first looked at it?

17 A Yes, I do

18 Q When did you first look at it?

19 A He put up the article on the 24th It was on
20 this -- probably, I would say, maybe four or five weeks
21 after he made that statement

22 Q Well, what did you see when you looked at his web
23 site? Did you see the article of April 24, 2004?

24 A You see a link to the article He tells you about
25 the story, and then you see the Post & Courier and there

1 is a link to that

2 Q And when you click on that link, what do you come
3 up with?

4 A It goes to the article on the 24th

5 Q Of April 2004?

6 A Yes, sir

7 Q And how long did Mr Hulsey have that link to the
8 article on the web site?

9 A It stayed up until January -- I mean, February the
10 12th of 2008

11 Q And it started in 2004?

12 A Yes, sir

13 Q As a result of that April 24, 2004 article, were
14 you embarrassed?

15 A Of course I was

16 Q Were you humiliated?

17 A Yes

18 Q Is that why you had trouble getting off the couch?

19 A Yes, it was

20 Q Is that why you stopped going to church?

21 A Correct

22 MR LEWIS Your Honor, we have -- I know we
23 have a --

24 THE COURT He has a continuing objection to
25 leading questions

1 MR LEWIS And those are just --

2 THE COURT Try not to lead on your
3 questions

4 MR CISA All right I don't have any
5 further questions, Your Honor At this time I offer
6 Mr Limehouse

7 THE COURT All right Cross exam Who is
8 going first, Mr Lewis or Mr Hood?

9 MR LEWIS I am, Your Honor Just give me a
10 second

11 CROSS-EXAMINATION

12 BY MR LEWIS

13 Q Mr Limehouse?

14 A Yes, sir

15 Q You said who your doctor was, didn't you?

16 A Yes, sir

17 Q And you told us you went into the hospital

18 A Yes, sir

19 Q Did you see your discharge papers?

20 A I haven't seen my discharge papers

21 Q You haven't You've never seen them?

22 A Well, I don't read them, no

23 Q You don't -- you never read them?

24 A I don't read them, no

25 Q Do you know what a discharge report is?

1 A Yes

2 Q Did you read it?

3 A No, I did not I let my wife read it

4 Q You let your wife read it Did she tell you what
5 it said?

6 A Yes, she did

7 Q Did she tell you that in that report that it
8 says --

9 MR CISA Your Honor, I would object

10 MR LEWIS He is under a lot of stress --

11 MR CISA He's seeking to introduce
12 evidence, is what he's seeking to do He's not allowed
13 to introduce evidence in this trial

14 I object to this He is reading a hearsay
15 document to the jury and trying to introduce evidence
16 which, he is not allowed to do I'll let you take this
17 up out of the presence of the jury if I need to

18 THE COURT All right Let me send the jury
19 out a minute

20 (In open court, jury not present)

21 THE COURT All right

22 MR CISA If I put the discharge summary in,
23 it would probably be fair for cross-examination What
24 he's doing is taking a document which is a hearsay
25 document and seeking to introduce evidence before this

1 jury of what the discharge summary said He cannot
2 introduce evidence, Judge It is clear He can't
3 introduce evidence, and that is what he's seeking to do
4 He cannot introduce evidence

5 THE COURT Mr Lewis?

6 MR LEWIS We all agree that my job with the
7 straitjacket the Court has put on us, I can probe into
8 bias, credibility, and amount And bias and credibility,
9 in this case credibility, and he's telling us that he was
10 in the hospital because of this little article The
11 discharge summary says something different

12 It goes to credibility I'm trying to find
13 out what his wife told him and if it's different than
14 what he said It's all relevant to probing into bias,
15 amount, and credibility

16 THE COURT It's a hearsay document and
17 you're quoting from it

18 MR LEWIS I'm asking if his wife told him
19 that That's what I'm asking him

20 MR CISA He didn't ask him what his wife
21 told him He's reading a hearsay document and
22 introducing it into evidence, Judge

23 MR LEWIS And it's also a document that he
24 put in in another Court, but I'm just asking if he was
25 told that

1 THE COURT It doesn't matter if it was put
2 in in another Court

3 MR LEWIS I can ask him if he was told
4 anything I'm allowed to ask that

5 MR CISA Not in a default damages hearing
6 He cannot introduce evidence He can't pick up a
7 discharge summary and say, This is what your discharge
8 summary says, Mr Limehouse Do you agree with it or
9 not?

10 That is introducing evidence, and it's a
11 hearsay document He cannot do it in a default damages
12 hearing It's like him taking a newspaper article and
13 saying, this is what the newspaper article says That is
14 introducing evidence He can't do that

15 MR LEWIS I can ask him what his wife told
16 him

17 MR CISA I'm not prepared to try this case
18 with him introducing evidence That's not the way it
19 works

20 MR LEWIS It's cross-examination I'm not
21 introducing anything

22 MR CISA With a hearsay document --

23 THE COURT I will permit you to say did
24 someone tell you, but I'm not going to let you read from
25 a document and say, Did anybody tell you and then read

1 from a document

2 If you want to summarize it in some form and
3 say, Oh, did somebody tell you about, you know, a
4 diagnosis of something, but it just seems to me totally
5 improper for you to be able to read from a document that
6 you can't put into evidence, and I'm trying to figure out
7 the proper way to do this

8 MR LEWIS That's all they've done is read
9 from documents that haven't been put into evidence You
10 let them do it, I hope you let me do it, but I see they
11 get a different standard than me, and I don't think it's
12 proper

13 THE COURT Normally, we treat everybody the
14 same, but again, this is a whole different proceeding

15 MR LEWIS This is just cross-examination,
16 Your Honor, so what I need to know -- I can ask him, but
17 I just can't read the document? Is that the ruling?

18 THE COURT Correct

19 MR CISA Judge, if you're going to allow
20 him to refer to a discharge summary and hold it up and
21 let the jury know what he's reading in a discharge
22 summary the implication is that evidence is going before
23 them

24 He cannot introduce evidence in this trial
25 He can only cross-examine about damages He can ask

1 about what his wife said, but he cannot impart to this
2 jury what is in a discharge summary, in any fashion
3 It's hearsay, and he's not allowed to introduce evidence

4 MR LEWIS I understand your ruling, Your
5 Honor

6 THE COURT All right

7 MR CISA I'm not sure I do, but I would
8 object to him reading something or summarizing something
9 that he's referring to the jury so that the jury knows
10 what it is I object to that

11 THE COURT Here is the problem I've got
12 I'm trying to figure out within the confines of the very
13 different type of hearing how to get to the truth Now,
14 it will be one thing if he got up there and said, Well, I
15 went in the hospital because I was depressed, and the
16 truth of the matter is he went in to have his appendix
17 removed

18 There ought to be some way to challenge what
19 he says I understand they can't put evidence in, but at
20 the same time the whole point of having a
21 cross-examination is to get to a truth He can't say, I
22 went in the hospital for this when it ain't true

23 MR CISA Just like Doe couldn't
24 cross-examine SMB on that case over why he lost his job,
25 why they couldn't cross-examine SMB as to --

1 THE COURT We're not talking about the
2 liability, we're talking about the aftereffects, which is
3 what y'all put into play, his mental health

4 MR CISA But what I'm saying is he's
5 cross-examining him with a hearsay document and he's
6 seeking to introduce that document If not, put it into
7 evidence to read it to the jury so it's in evidence
8 They're not allowed to do that They're not allowed to
9 introduce evidence

10 THE COURT I'm not allowing him to put it
11 into evidence I'm allowing him to ask a question

12 MR CISA Everything that goes before this
13 jury is in evidence

14 THE COURT I get it, I get it, I get it, but
15 I'm trying to figure out how do you get the truth before
16 the jury when we're in this kind of trial? And,
17 obviously, if he's got something in his medical record
18 that suggests that isn't why he was in the hospital, I
19 can't let it go forward without them having an
20 opportunity to do a full cross-examination

21 MR CISA He can't introduce evidence --

22 THE COURT I got it We're moving on
23 Let's go We'll bring the jury back in

24 (In open court, jury present)

25 THE COURT Go ahead

1 BY MR LEWIS

2 Q We were talking about what your wife told you
3 about the discharge report You told me she read it and
4 talked to you about it Do you remember saying that?

5 A Uh-huh That was five years ago

6 Q I understand Do you remember her telling you
7 that discharge report said that your stress was because
8 you were under investigation by the federal investigators
9 with the possible charges pending for your labor
10 practices? Do you remember that is what the reason says
11 in the report?

12 MR CISA I object, Judge, on the basis I
13 objected before

14 THE COURT We'll note a continuing objection
15 so that you don't have to jump up every time they ask a
16 question

17 THE WITNESS There is a lot of things my
18 wife has told me in the last 23 years I don't remember

19 BY MR LEWIS

20 Q You don't remember that

21 A No

22 Q Do you remember anything she said?

23 A There is a lot -- like I said, I've been married
24 to her for 23 years

25 Q Do you remember anything she said about that

1 discharge?

2 A No

3 Q You said you had housing around where you put the
4 workers

5 A Yes, I did

6 Q And you had houses that you rented

7 A Yes, I did

8 Q Were you under investigation for those houses?

9 MR CISA Same objection, Your Honor Same
10 grounds we talked about I object to him introducing
11 evidence or seeking to introduce evidence Liability has
12 been established

13 THE COURT Sustained We're not getting
14 into whether or not the allegations were true or not
15 true They are deemed admitted, and we're only talking
16 about damages at this hearing

17 BY MR LEWIS

18 Q You bring up a date in April of 2004, is that
19 right?

20 A Correct

21 Q And what is the date that you keep bringing up?

22 A The 24th

23 Q And you blame that 24th date as something that
24 happened to you that you blame for all your troubles?

25 A That was the day Mr Hulsey put that article in

1 the paper

2 Q Now, did you get sued the day before?

3 A I don't know I would have to look

4 Q All right Just a minute Let me have a copy of
5 the --

6 MR CISA I note an objection on relevancy
7 That question has no relevancy as to the damages
8 sustained by Mr Limehouse

9 MR LEWIS Your Honor, I'm going to show him
10 this to refresh his recollection I'm allowed to do
11 that

12 THE COURT For the purpose of trying to
13 refresh his recollection only
14 BY MR LEWIS

15 Q Here is the RICO complaint, and what is the date?
16 Does that refresh your recollection of when it was filed?

17 A April the 23rd

18 Q What year?

19 A Of 2004

20 Q Okay So we now know that this RICO complaint was
21 filed the day before the article that you now complained
22 of, is that right?

23 A Correct

24 Q And you knew of this RICO complaint, didn't you?

25 A Correct

1 Q And did the allegations of the RICO complaint not
2 get you upset and stressed you out too?

3 A No

4 MR CISA Objection, Your Honor

5 THE COURT Overruled

6 THE WITNESS Because I knew they were lies
7 BY MR LEWIS

8 Q So if you know something is a lie, it doesn't
9 stress you out?

10 A No

11 Q And in that complaint, do you remember that they
12 accused you of manufacturing false documents?

13 MR CISA Your Honor, I object to this
14 He's seeking to introduce evidence in this trial which
15 I'm not prepared for because it's not allowed I object
16 to this

17 MR LEWIS Your Honor, this goes to the
18 damages

19 THE COURT You can ask the question We're
20 not going to go into whether the details of trying to
21 prove that, but he has said his mental health was an
22 issue, and he's saying, well, this is what you are
23 alleged to have done Does that not cause you stress?

24 MR LEWIS That's correct

25 THE COURT His mental health is at issue

1 Go ahead

2 MR LEWIS Thank you

3 BY MR LEWIS

4 Q It says in here that you manufactured and issued
5 false identification documents, including false social
6 security cards That didn't bother you?

7 A No

8 Q Okay You provided false social security numbers
9 to various taxing authorities That didn't bother you?

10 A It was false too

11 Q Manufactured and issued false immigration
12 documents, including but are not limited to the false
13 resident alien cards? That didn't bother you?

14 A That's false too

15 MR CISA Your Honor, I don't have to do a
16 running objection --

17 THE COURT It is a continuing objection

18 MR CISA Thank you

19 BY MR LEWIS

20 Q They would continue to withhold portions of their
21 employees' wages without any justification in violation
22 of state and federal law That didn't bother you?

23 A No

24 Q They would consistently fail to compensate their
25 employees at the rate of one half times the regular rate

1 for hours worked in excess of 40 hours a week in
2 violation of state and federal law Did that bother you?

3 A We had a labor problem We got it straight

4 Q That one was true, wasn't it?

5 A Well, we had a problem Labor Department came in
6 and got it straight

7 Q But at least that violation didn't bother you,
8 even though it's true?

9 A They told us how to straighten it up We got it
10 straight We were not fined

11 Q So as I understand your testimony, this complaint
12 filed the day before the article, it didn't bother you
13 because you knew it was false

14 A Correct

15 Q Okay Now, this article, it bothered you, right?

16 A What article are you speaking of, sir?

17 Q The one on April 24th

18 A The 24th, yes, it did

19 Q And it was false?

20 A No --

21 Q It was true? It was true?

22 A It was false, yeah Mr Hulsey said it was true

23 Q But you said that when you know something is false
24 it doesn't bother you

25 A Well, Mr Hulsey caused me to lose my business

1 Q I didn't ask you that I know you want to say
2 that I asked you a simple thing You told this jury
3 time and time again that if you know it's false, it
4 didn't bother you, and you read all these bad things in
5 this complaint, and now I asked you, did you think that
6 the statement that was in the newspaper, was it false,
7 and you said it was false, is that true?

8 A It was false

9 Q And so it didn't -- but it was a false statement
10 that bothered you and all these false statements didn't?

11 A It put 200 people out of business, out of work

12 Q So that is why you're upset, because your business
13 is gone?

14 A It caused the business to fall

15 Q What you're here complaining about is the business
16 is gone?

17 A The business that I had

18 Q And you are a member or a shareholder or
19 something?

20 A Correct

21 Q And your daddy was another shareholder?

22 A Correct

23 Q And so this business is still in existence, isn't
24 it?

25 A Not under us, it's not

1 Q You don't think it's got a good standing with the
2 secretary of state?

3 A I don't know I don't even talk to the man
4 anymore

5 Q You don't talk to who?

6 A I don't know What -- you just asked me if the
7 business was still operating

8 Q No, I didn't I asked you if it's in good
9 standing It's still considered a corporation under
10 South Carolina law

11 A I have no idea

12 Q You don't?

13 A No, I do not It folded four years ago How
14 could it still be in business?

15 Q You know you got to go to the office of the
16 secretary of the state and get rid of it

17 MR CISA Objection, Your Honor

18 THE COURT It's not a question Go ahead

19 BY MR LEWIS

20 Q Did you ever do that?

21 A No, I haven't

22 Q So you didn't look at that at all You wouldn't
23 know if it's in good standing or not?

24 A No, I have not

25 Q Now, this article, you keep saying it's about you

1 Was it about you?

2 MR CISA Objection, Your Honor He needs
3 to read the complaint The complaint alleges the article
4 was about him It's admitted that is conceded by the
5 defense He's questioning him about liability It's
6 improper

7 THE COURT What is your question again?

8 MR LEWIS I'll start over, Your Honor

9 BY MR LEWIS

10 Q Do you get the Post & Courier?

11 A No, I do not

12 Q You just happened to read that one paper on one
13 day?

14 A I didn't say that You asked me if I get it
15 today I do not

16 Q I'm sorry Back in April 2004, did you get the
17 Post & Courier?

18 A I got it that day, yes

19 Q Do you get it any other day during the week?

20 A No

21 Q Just that one day?

22 A Whatever it is at work It shows up at work I
23 get it

24 Q How often did you get it at work?

25 A I don't know I wasn't the one bringing it in

1 every day

2 Q Who -- when an article was in the paper -- is work
3 being L&L Services? Is that work? Is that what you're
4 talking about?

5 A Yeah

6 Q Well, when an article was in the paper about L&L
7 Services, wouldn't you get it?

8 A Most of the time, yes

9 Q Okay Good I'm going to show you this Is this
10 the article you keep complaining about?

11 MR CISA Your Honor, I object

12 THE COURT Sustained

13 BY MR LEWIS

14 Q Let me ask this Do you mind if the jury has that
15 article?

16 MR CISA Is unfair to the plaintiff

17 THE COURT Sustained, Mr Lewis

18 MR LEWIS He can put the article in

19 THE COURT No

20 THE WITNESS I need glasses to read it
21 because I can't read it right now

22 MR LEWIS You can't?

23 THE WITNESS No

24 MR CISA Your Honor, this is improper

25 THE COURT Sustained

1 THE WITNESS I don't know what you're
2 putting in front of me

3 THE COURT Don't answer a question that is
4 not asked to you right now

5 MR LEWIS We would like this marked as a
6 Court's Exhibit, Your Honor

7 THE COURT You can do that

8 (Web site marked for identification as
9 Court's Exhibit No 1)
10 BY MR LEWIS

11 Q Do you remember reading other articles about your
12 company?

13 MR CISA Objection, Your Honor Object to
14 this line of questioning on the same basis

15 MR LEWIS He puts this all -- this all
16 happened because of one piece of paper There is a whole
17 bunch more articles

18 MR CISA I object to this

19 THE COURT He can ask the question He
20 hasn't offered anything into evidence He can ask this
21 question that he just asked Overruled

22 BY MR LEWIS

23 Q Did you hear me?

24 A Please repeat your question

25 Q Did you read other articles that were in the Post

1 & Courier about your company?

2 A Some of them I did

3 Q And weren't there articles before April 24th about
4 your company?

5 A Yeah, there were

6 Q And weren't they derogatory about your company?

7 A Some of them were

8 Q Did that upset you?

9 A No, because they were lies

10 Q All right But the article on April 24th, 2004,
11 even though it was a lie, it bothered you?

12 A Yes, it did

13 MR LEWIS I have no other questions, Your
14 Honor

15 THE COURT All right Mr Hood?

16 CROSS-EXAMINATION

17 BY MR HOOD

18 Q Do you remember testifying in the RICO case on
19 June 24, 2005?

20 A Testifying?

21 Q Under oath, with a court reporter present I'll
22 hand the witness the deposition, if I may, Your Honor
23 I'm going to give a copy to the court reporter for her
24 benefit

25 And, if you will, turn to page 44 This is the

1 deposition of Lawton Limehouse Junior, June 27th, 2005,
2 taken at 10 29 a m before Bill Roberts, a court
3 reporter, here in Charleston, at the law office of
4 Mr Hulsey, taken by counsel for the plaintiff, who was
5 Mr Hulsey, and the reporter is David Roberts, certified
6 court reporter

7 The attorney for the defendant, Mr Limehouse, was
8 John Massalon of Wills & Massalon, a law firm here on
9 Meeting Street in Charleston County Also present at the
10 deposition was Mr Lawton Limehouse Senior

11 Now, turn to page 44, line 14 You were asked
12 this question Did you ever receive complaints from the
13 employees about the housing conditions that they were
14 living in?

15 MR CISA Your Honor, same objection I've
16 had about him going into matters when liability is
17 admitted

18 THE COURT What is the purpose of the
19 question?

20 MR HOOD He said one thing under oath one
21 time and he said a second thing another time

22 THE COURT Wait a minute Stop Please go
23 out for a few minutes We need to discuss this

24 (In open court, jury not present)

25 THE COURT All right What do you want to

1 draw my attention to?

2 MR HOOD The witness has told the jury
3 about his relationship with these workers and built
4 himself in their eyes as a good employer This does not
5 say that He's on cross-examination, and I'm impeaching
6 the witness's credibility

7 THE COURT Draw my attention to the line you
8 intend to use

9 MR HOOD Line 17 is totally opposite from
10 his testimony in your courtroom, line 24, it's totally
11 opposite

12 THE COURT What is different about it? He
13 said earlier that he didn't get any complaints This
14 says in response to the question, did you ever receive
15 complaints from the employees about the housing
16 conditions they lived in? His answer was, I never did
17 because I never handled that part

18 MR HOOD And he said he handled it here in
19 the courtroom He was there all the time playing
20 softball with them and ate with them

21 THE COURT That doesn't say he handled
22 complaints

23 MR HOOD Look at the next page He'd go
24 deal with drunks, turn down the music Judge, this
25 impeaches the witness I got a right to do that under

1 608

2 THE COURT Where did he give an answer
3 different earlier than this? I don't get it He didn't
4 ask about handling complaints about drunks

5 MR HOOD He said he put people in nice
6 houses, ate with them, had a softball team for them, took
7 care of them, hung out with them, they were his friends
8 Here he said he never went there unless they got drunk or
9 were loud and needed to be controlled It's proper 608
10 cross-examination

11 MR CISA He says that he went to the labor
12 camp

13 THE COURT Please, just one at a time
14 Would you let Mr Cisa respond to what you said?
15 Mr Cisa, you want to respond?

16 MR CISA Well, Your Honor, his testimony
17 was that he went to the labor camp Mr Hood is reading
18 about houses And the thing that really bothers me is
19 that we've alleged, because of the slanderous statements
20 that are referred to in the complaint, Lawton Limehouse
21 lost his business What they're trying to show is he
22 lost his business from some other reason It goes to
23 liability It's improper

24 It's improper for them to say he lost his
25 business because of the federal government coming in and

1 looking at him, which has already been put before this
2 jury It's improper for them to argue

3 THE COURT If it was in response to a
4 question that you asked, I would say if he gave a
5 different answer, then he would be entitled to be
6 cross-examined about that, but he gave a different
7 answer -- I fail to see where this is a different answer
8 than he talked about

9 MR CISA It isn't a different answer

10 THE COURT So I don't think it's proper to
11 impeach him on something where the answer isn't
12 different

13 MR HOOD Let me ask him the questions and
14 see what he says

15 THE COURT Go ahead Make a proffer, if you
16 want

17 MR HOOD I mean, I'll ask the questions
18 now, I'm on cross We'll see what he says I am just
19 trying to move it along

20 THE COURT Well, if you want to ask him
21 about these things right now, I guess I'm trying to
22 figure out what would be the purpose of asking those
23 questions

24 MR HOOD All right, Your Honor He said on
25 direct examination that he used migrant workers He

1 provided them housing on Johns Island, Summerville, North
2 Charleston, and other places

3 THE COURT All right

4 MR HOOD He just went into the details of
5 what he did for them with regard to benefits and so
6 forth

7 THE COURT Okay

8 MR HOOD And transportation and activities
9 with them, and all I'm trying to do is put that testimony
10 into the proper context

11 THE COURT Well --

12 MR HOOD Incidentally, he put his
13 reputation in Don't forget that is an issue in the
14 case, that he said his reputation has been damaged by
15 this article, that it was a good reputation before, and I
16 think that opens the door to the whole subject matter,
17 anything to impeach him with He is on cross-examination
18 under 608

19 THE COURT I don't disagree with that I'm
20 not sure what that has got to do with the line of
21 questioning you were on, but --

22 MR HOOD If I may, I'll just continue, and
23 I think I can tie it back in

24 THE COURT We'll see Bring the jury back
25 in

1 MR HOOD Incidentally, there was a
2 reference to Mr Hulsey seeing him Mr Hulsey didn't
3 sue him, Mr Hulsey's client sued him

4 (In open court, jury present)

5 BY MR HOOD

6 Q These migrant workers that you had living in these
7 houses, did they ever complain about the housing
8 conditions you had them living in?

9 A Not to me, no

10 Q They did complain?

11 A Sometimes they did

12 Q And the city of North Charleston fined you for the
13 housing conditions?

14 A I don't know about the ones in North Charleston
15 I didn't take care of the ones in North Charleston

16 Q Didn't your company, L&L Services, get fined
17 \$10,000 by North Charleston?

18 MR CISA I object on the same basis I've
19 been objecting He's interjecting things into this that
20 he's not allowed to interject

21 THE COURT Sustained

22 MR CISA Could I ask the jury be instructed
23 to disregard Mr Hood's questions?

24 THE COURT Disregard the line of
25 questioning It's improper We're only here to talk

1 about damages

2 MR HOOD Under 608, I would like to go into
3 that, but I understand Your Honor's ruling

4 THE COURT All right Move on

5 BY MR HOOD

6 Q You never actually went out to any of the houses,
7 did you?

8 A Yes, I did

9 Q When you went out there, did you go out there to
10 quiet down music and drunks?

11 A Sometimes I had to, yeah

12 Q Now, you had a problem with the Department of
13 Labor, right? You told us about that a minute ago

14 MR CISA Same objection

15 THE COURT Sustained

16 MR HOOD Your Honor, he's already testified
17 to it

18 THE COURT If you got something you want to
19 say that he said something different --

20 MR HOOD Your Honor, he's testified --

21 THE COURT Hold on I can only hear one of
22 you at a time, the court reporter certainly can't take
23 both of you down at the same time, so what is your
24 objection, Mr Cisa?

25 MR CISA The same objection I've had,

1 Judge He's getting into matters of liability He's not
2 cross-examining him on the damages I object to it
3 He's trying to inject something into this trial that he
4 shouldn't, and I say that as tenderly as I can say it in
5 the presence of the jury

6 MR HOOD He was asked on cross-examination
7 before I stood up about the Department of Labor, and he
8 said he got it straight I want to ask him a question
9 about it

10 THE COURT Go ahead

11 BY MR HOOD

12 Q You were fined 66,000, or you paid that in back
13 labor, didn't you?

14 A I wasn't fined

15 Q You had to pay it, didn't you?

16 A Yes, I paid it

17 Q That's because you weren't paying overtime for
18 work --

19 MR CISA Same objection

20 THE COURT Overruled

21 THE WITNESS That's not true

22 BY MR HOOD

23 Q It's like the article It's not true What is
24 wrong with the Department of Labor making you pay
25 \$66,483 24?

1 A You're saying that I didn't pay overtime I did
2 pay overtime

3 Q Okay Why did they make you pay all that money
4 then?

5 A Well, we had some groups of men wanted to keep
6 working We could not send them to another job and pay
7 them the overtime rate, and they said they wanted to
8 work, so they worked two different jobs at two different
9 companies

10 Q Okay

11 A Labor Department came in and said that we couldn't
12 do it We corrected the problem

13 Q The article is about using illegal immigrants
14 Did that hurt your reputation?

15 A We didn't use illegal immigrants

16 MR CISA Objection He's cross-examining
17 him about using newspaper articles, and I object to this,
18 and I object on the basis that liability is established
19 Same objection I've had

20 THE COURT What is your question?

21 MR HOOD On the record he brought out the
22 fact that there were articles before and articles after
23 and there were articles before that did not affect his
24 reputation

25 MR CISA I would like to be heard on this,

1 Judge

2 THE COURT Overruled

3 MR CISA All right

4 BY MR HOOD

5 Q As a matter of fact, your reputation that there
6 were allegations that you were using illegal immigrants?

7 A No

8 Q Did it affect your reputation that you were using
9 substandard housing?

10 A I wasn't using substandard housing

11 Q Did it affect your reputation that the article
12 said that in the paper?

13 A No

14 Q Did it affect your reputation that articles in the
15 paper said that you were fined by the housing
16 authorities?

17 MR CISA Your Honor, I object

18 THE COURT Overruled Go ahead

19 THE WITNESS No

20 BY MR HOOD

21 Q Did it affect your reputation that you did not
22 have workmen's compensation for your employees that were
23 fined by the South Carolina Department of --

24 A We had workmen's comp for L&L Services

25 Q You got fined, didn't you?

1 A We got fined, W&L, for letting it lapse

2 Q Did that hurt your reputation?

3 A No, it did not We paid it and moved on

4 Q What was the largest number of people you put in
5 one room Was it over 30?

6 A No

7 Q Twenty?

8 A No

9 Q Ten?

10 A I couldn't tell you I wasn't there at night
11 sleeping with them

12 MR CISA I object to --

13 BY MR HOOD

14 Q Did it hurt your reputation?

15 THE COURT Objection is sustained As to
16 newspaper articles, you can ask him that question As to
17 the question before, well, it wasn't objected to, but go
18 ahead

19 BY MR HOOD

20 Q Did that hurt your reputation?

21 A No

22 Q The fact that there were 300 inquiries by United
23 States --

24 MR CISA Objection

25 THE COURT Hold on, hold on Mr Hood,

1 Mr Cisa is standing up with an objection, so under our
2 rules of Court, we stop when other side has an objection

3 MR CISA I object to him making speeches
4 and introducing evidence before the jury, Judge He's
5 not entitled to introduce

6 THE COURT Sustained The jury will
7 disregard the question that he had just asked

8 BY MR HOOD

9 Q Did it affect your reputation that you had five
10 municipal and zoning violations?

11 A No

12 Q Did it affect your reputation that you had a RICO
13 lawsuit against you?

14 A No, it did not

15 Q Do you have the RICO complaint up there? It was
16 in the courtroom There we go Did you read this
17 complaint that was filed on the 23rd of April 2004?

18 A Five years ago? I probably did

19 MR CISA Your Honor, I note an objection
20 before it starts on the basis that he's seeking to read
21 allegations of the complaint that are solely allegations
22 He's seeking to put that into evidence I object

23 THE COURT Sustained

24 MR HOOD If the Court please, I would like
25 to define RICO, just the words that add up to RICO

1 THE COURT If you want to withdraw as being
2 counsel and you want to testify, then I'll let you do
3 that

4 MR HOOD Your Honor, I just want to say
5 what's in this complaint

6 THE COURT I know what you want to say, but
7 you're not in the position to make speeches or elucidate
8 on what the law is in front of the jury at this point

9 BY MR HOOD

10 Q The lawyer that handled this case for you, the
11 RICO case in federal court, is he going to be testifying
12 in this case, do you know?

13 A He might be

14 Q Do you agree with your father that the articles
15 that were written before April the 24th did not hurt your
16 business?

17 MR CISA Objection

18 THE COURT What is your objection?

19 MR CISA He's pitting witnesses He's
20 asking about did he agree with his father

21 THE COURT Overruled

22 MR CISA That is an improper question

23 THE WITNESS I wasn't in the courtroom --

24 BY MR HOOD

25 Q Did those earlier articles that I've referred to,

1 did they hurt or help your business?

2 A It didn't hurt --

3 Q They didn't hurt your business?

4 A Didn't hurt, didn't help We just went on doing
5 business

6 Q The only article that hurt was the one we
7 mentioned, correct?

8 A Correct

9 Q And your name is not anywhere in that article,
10 Lawton Limehouse Junior?

11 A L&L Services --

12 MR CISA Objection

13 THE COURT Hold on When one of the lawyers
14 stands up and says objection, you got to stop talking
15 Yes?

16 MR CISA Mr Hood is -- I object on the
17 basis that the complaint is clear and unambiguous
18 concerning this article and this plaintiff What
19 Mr Hood is trying to do is get into liability, which is
20 improper, and I would like to be heard on this because we
21 need to

22 THE COURT Objection is sustained

23 MR HOOD Thank you I may have one other
24 question

25 BY MR HOOD

1 Q On May 20, 2004, you entered the hospital,
2 correct?

3 A Correct

4 Q And on that date, the postal inspector seized the
5 records of L&L Services, correct?

6 A Twenty agents went to --

7 MR CISA Same objection, Your Honor

8 THE COURT What is your question again?

9 MR HOOD And on May 20, 2004 the postal
10 inspector seized his records Goes to his claim

11 THE COURT How is that relevant to damages?

12 MR HOOD It goes to damages and the impact
13 of having the federal government go in and grab your
14 records He goes to the hospital the same day

15 THE COURT It's overruled Go ahead

16 BY MR HOOD

17 Q I'm right they came in and seized all the records
18 of L&L Services?

19 A They came in at 6 00 and put guns in my mother's
20 face, yes, they did

21 Q They what?

22 A They put guns at my mom's face

23 Q Did you ever put a gun to someone's face?

24 A No, I have not I don't need to

25 Q Did it bother you that they put guns to your

1 mother's face?

2 A It bothered me, but I wasn't there I was busy
3 getting kids off to school that morning

4 Q I see Now, Mr Hulsey doesn't work for the
5 Department of Labor, does he?

6 A I don't know what Mr Hulsey does on his side
7 jobs

8 Q Okay

9 MR HOOD There is another matter of court I
10 would rather tell you about first

11 THE COURT All right Send the jury out
12 Don't discuss the case See you in a couple minutes

13 MR HOOD Could we ask the witness to step
14 out one moment, please

15 THE COURT The witness?

16 MR HOOD Yes, sir I want to talk to you
17 about what I've got in my hand All right You can go
18 back and sit in one of those rooms for a minute

19 (In open court, jury and witness not
20 present)

21 THE COURT Okay all right Go ahead

22 MR HOOD I asked him, he was upset because
23 the law enforcement officers pointed a gun at his mother
24 I said, Have you ever pointed a gun at anybody? There it
25 is He's been arrested and charged with it It happened

1 to be his wife

2 THE COURT Did he get convicted?

3 MR JAMES HOOD We hadn't had a chance to
4 take his deposition

5 THE COURT You run a thing and find out if
6 he had a conviction People get arrested and not
7 convicted If he got arrested for it, that doesn't mean
8 he did it

9 MR HOOD But that means that is impeachment
10 to the truth of what he just told this jury

11 THE COURT If it's true

12 MR HOOD He can deny it

13 THE COURT He denied that he ever did it
14 He has not been convicted of it, otherwise, you would
15 have a conviction record of it, I assume, as opposed to
16 just the arrest warrant People get arrested for stuff
17 all the time Not everybody gets convicted of it That
18 means if they didn't get convicted, arguably, they didn't
19 do it So --

20 MR HOOD Okay But I'm not trying to prove
21 he is guilty of it, I am just trying --

22 THE COURT You want to prove that he did it

23 MR HOOD That he has pointed a gun at
24 somebody, in fact, it's his wife That's all I want to
25 ask, and he was charged, whatever the charge --

1 THE COURT But there is a difference between
2 being charged with something and being convicted of it
3 They may have testified truthfully

4 MR HOOD But he actually pled to one year
5 suspended on three years' probation He paid court
6 costs

7 THE COURT For which of these?

8 MR HOOD For this one here, about pointing
9 a pistol This one -- he has specifically said, I've
10 never pointed a pistol at anybody

11 He's been charged with it He pled guilty to
12 it Judge Epps found him -- one year suspension, three
13 years' probation Here it is right here I've got a
14 contested copy from the clerk, Julie Armstrong

15 THE COURT Let me see Well, you want to
16 speak on that, Mr Cisa?

17 MR CISA I haven't seen it, Judge Could I
18 look at it real quick?

19 THE COURT Sure Well, he pled guilty to
20 carrying a pistol

21 MR CISA That's not pointing a pistol

22 THE COURT See what's on the second page
23 there

24 MR CISA Pled guilty to carrying a pistol
25 back in 1984 Pled guilty to carrying a -- these are all

1 copies of the same things, Judge, July 12, 1984 He pled
2 guilty to carrying a pistol I think 1984 is too far
3 back under the rules, Judge

4 THE COURT Under 609, it exceeds that for
5 the purpose of using it for credibility

6 MR CISA He is trying to use it for
7 credibility It goes too far back, and I would submit
8 it's improper, and it's a guilty plea for carrying a
9 pistol

10 THE COURT All right

11 MR HOOD It's impeachment under 608, Your
12 Honor, pure and simple He said one thing to this jury
13 It's again a fraud on the Court under Rule 55 not to
14 allow me to do that, bring out the truth about this man's
15 testimony

16 MR CISA As to credibility It doesn't go
17 to his damages, and it's back in 1984, which is 28, 29
18 years ago, 24 years ago

19 THE COURT All right Obviously, as far as
20 the conviction for carrying, that is too old under 609
21 Under 608(b), you can ask a person about a specific
22 instance of the conduct of the witness for the purpose of
23 attacking or support their credibility without a
24 conviction You can ask them were you ever charged with
25 that, basically, but you're stuck with their answer You

1 can't prove by extrinsic evidence, so you can say were
2 you ever charged with pointing and presenting a firearm
3 back in 1984 If he says yes, that is his answer If he
4 says no, we move on You can't prove it by extrinsic
5 evidence But you can ask him, and if he says yes --

6 MR HOOD Yes, sir Thank you very much

7 THE COURT Okay

8 (In open court, jury and witness present)

9 THE COURT All right You may resume

10 BY MR HOOD

11 Q You've been represented by a lawyer since April of
12 2004 up until today, correct?

13 A A lawyer, from 2004 till today?

14 Q Yes

15 A Yes

16 Q And on the day the postal inspectors came in the
17 afternoon and employees of the federal government and
18 seized L&L Services's records and had a gun pointed at
19 your mother, that was the same day, May the 20th, 2004,
20 that you went into the hospital, correct?

21 A Right in that same time, yes

22 Q And you told the jury you never pointed a pistol
23 at anyone, is that true?

24 A No, that's not true

25 Q You have, haven't you, and you've been charged

1 with that, haven't you?

2 A I don't know It's been so long I couldn't tell
3 you ,

4 Q You don't remember being charged?

5 A No, sir That's something that happened over 20
6 years ago

7 Q Do you remember pleading guilty?

8 A I don't even remember

9 Q And that person you pointed the pistol at, who was
10 that?

11 A I don't know

12 Q Wasn't your wife?

13 A Well, that's what she said But I did not do
14 that

15 Q But you pled guilty to it

16 A I pled guilty to it, yes

17 Q Did that affect your reputation?

18 A No

19 THE COURT Go ahead

20 BY MR CISA

21 Q How long ago?

22 A Twenty years ago, almost

23 Q Mr Limehouse, did L&L Services ever make papers
24 up to give illegal immigrants the ability to work?

25 A No

1 MR LEWIS This goes into liability, and
2 it's already over with

3 THE COURT Hold on

4 MR CISA What I want to do is -- Mr Lewis
5 has put all this before the jury I'm going to let
6 Mr Limehouse now explain to the jury about what
7 Mr Lewis brought up making papers for illegal
8 immigrants --

9 THE COURT Hold on a second Let me send
10 the jury out

11 (In open court, jury not present)

12 THE COURT Frank, I'm going to let you try
13 the case how you want to and you want to go back into
14 this, and I kept him from going into it on recross It
15 is wide open You rethink that

16 MR CISA What happened during their
17 cross-examination, they put before this jury that L&L
18 Services was making papers for illegal immigrants

19 THE COURT I got it, and it's before the
20 jury on a very, very limited basis, and if you get in
21 here to start having him explain the details, then they
22 get to cross-examine on the details

23 MR CISA I don't think I have any choice
24 The jury already knows it They're going to get up in
25 closing argument and argue all this stuff they put before

1 the jury that I don't want put before the jury

2 I don't think I have any choice than to let
3 him explain what happened I don't think I have any
4 choice I mean, it's before the jury Cam Lewis put it
5 before the jury, Bobby Hood put it before the jury

6 They talked about the RICO case It seems to
7 me I got to let him explain what happened with that case
8 and everything else They brought it up to taint this
9 jury I didn't think they should have been allowed to do
10 it

11 THE COURT I'll tell you what we're going to
12 do We're going to take a break for lunch, and I'm going
13 to let you think about that long and hard

14 During the lunch break, you get to spend some
15 good, solid quiet time with yourself You can't talk to
16 anybody, including your lawyer, because you're still a
17 witness on the stand Go to lunch, take a walk, do
18 whatever you want to do during lunch, but you cannot talk
19 to anybody about your testimony, including your lawyer

20 So let's take a break and we'll think about
21 what you want to do to the extent of that Let's bring
22 the jury back in

23 (Recess taken)

24 (In open court, jury present)

25 THE COURT All right We'll all on the same

1 wave length I called you back to say we're going to
2 take a lunch break The jury wants to go to lunch, so
3 we're going to break now I would like you to be back in
4 the jury room by quarter to 2 00, and we'll get started
5 back at that time, okay?

6 Now, you can go to lunch with anybody you
7 want to, including other members of the jury, but this is
8 important, and I'm going to repeat it a number of times
9 during the trial You can't discuss the case either
10 while you're on a break or at lunch or overnight with
11 anybody, including other jurors

12 So I know the temptation is there to say,
13 okay, let's talk about this and to talk about anything
14 about the trial is improper during the trial You can
15 talk about anything you want except this trial

16 So with that admonition, and, again, not
17 trying to find out anything about the case, anything you
18 need to know we will tell you about in this courtroom,
19 have a nice lunch, and we'll see you back at quarter to,
20 okay? Quarter to 2 00

21 (Recess taken)

22 - - - - -

23 A F T E R N O O N S E S S I O N

24 (In open court, jury not present)

25 THE COURT What have you decided to do?

1 MR CISA I don't think I have any choice
2 but to let him explain about the allegations of making
3 papers about illegal immigrants and workmen's comp and
4 overtime pay They all brought it up before the jury,
5 and the RICO complaint

6 THE COURT And you want to get into the
7 details of all that?

8 MR CISA No, sir

9 THE COURT What do you want to ask him about
10 it for?

11 MR CISA That I think this jury is
12 wondering about what they brought up

13 THE COURT So what is your point in bringing
14 it back up again, if it's not getting into the details of
15 what that is about? Because if you do that, that gives
16 them the opportunity to get into details on recross

17 MR CISA It's very brief

18 THE COURT You may want to keep it brief,
19 but it opens the door up quite a bit

20 MR CISA They're going to argue in closing
21 all about this stuff, and the jury is not going to have
22 an explanation He didn't lose any customers because of
23 a workman's comp violation or overtime pay violation or
24 because a RICO complaint was filed He didn't lose any
25 customers or employees He only lost employees as a

1 result of that April 24 article

2 THE COURT Why don't you just argue that to
3 the jury?

4 MR CISA Because it's not in evidence

5 THE COURT Why do you want to make it an
6 issue? I'll let you do whatever you want, Frank, it's
7 your case, but I tell you, you open the door, we're going
8 to be here the rest of the day talking about this because
9 it's wide open then because you brought the issue up in
10 the context of liability, and it is your door to open
11 It is your door right now to close, but I'm telling you,
12 it is it wide open if you bring it back up and you start
13 asking him about the details of those investigations,
14 which is what you're telling me you want to do

15 So I cannot limit their cross-examination of
16 asking him about the details and say you get to ask him
17 about it, but they don't? That ain't the way it works
18 We'll be here all day, if you want, but I'm just telling
19 you, I'm forewarning you that is a door that has been
20 closed to them That is a door that you will be opening

21 MR CISA But it's already been opened

22 THE COURT I'm telling you, Frank, it's your
23 choice If you want to go there, we'll go there, but
24 there will be no limit to what they get to ask him about
25 Right now they have asked it It's very, very limited on

1 what I let them ask, but if you want to get in and let
2 him explain the details, it's a different ball game, and
3 we'll be here the rest of the day, I'm betting I don't
4 know if we'll finish this week if we go there, but it's
5 your case

6 MR CISA I want to make sure I understand
7 your ruling Are you ruling that if I go into these
8 matters, you're going to let them cross-examine my client
9 about the newspaper article?

10 THE COURT I don't know what you're going to
11 get into just yet, but I'm telling you that if you ask
12 him about details of an investigation to explain it to
13 the jury, I would let them bring up, Oh, wasn't there an
14 investigation that injured your reputation, that sort
15 of -- but we did not get into the details of those, but
16 if you now want to explain the details of those
17 investigations, cross-examine on the details of those
18 investigations -- we're here for a week

19 We'll do it any way you want, but if we don't
20 finish in a week, that jury was not brought in for two
21 weeks and we only got two alternates and -- you know, I'm
22 going to let you try your case any way you want, but I
23 really think if you want to open this case back up on
24 redirect you are making a --

25 MR CISA I think it will be brief, and I

1 don't think I'm going to be opening the door

2 THE COURT I'm telling you, that is a real
3 risk

4 MR CISA I understand the risk, Judge I
5 don't think I have any choice but to explain it to the
6 jury, now that it's in and before them It gives him the
7 ability to argue about it in summation without me giving
8 testimony on it I'll be very brief, and I don't think I
9 have any choice

10 THE COURT Why would you want to get into
11 the detail of those investigations after spending the
12 morning not even letting them talk about it?

13 MR CISA Because they got into it, and I'm
14 not going into the details

15 THE COURT They're going to

16 MR CISA There are no details The feds
17 came in and seized and they found nothing They found
18 nothing That is the detail That is all it was
19 Seized, they already know that they seized the books and
20 the records What was the result of the investigation?
21 Nothing They found nothing They didn't lose clients
22 because of overtime pay or customers workmen's comp and
23 he didn't hire illegal aliens and there is nothing to
24 cross-examine him about He just didn't do it, and in
25 the RICO complaint, they go into detail about the RICO

1 complaint, you know, that -- 20,000 bucks

2 THE COURT They will find out everything
3 about it, I suspect, by the time they're finished with
4 their recross I suspect they'll find out every detail
5 about that investigation, because if you want to go into
6 the details, cross-examination is not going to be limited
7 to what you want the jury to know at that point

8 MR CISA I'm not going into details I'm
9 just saying, what was the result of the investigation?
10 They found nothing

11 THE COURT Isn't that already in front of
12 the jury?

13 MR CISA I don't think the jury knows that
14 All they know is there was an investigation, that the
15 feds put a gun to Lawton Junior's mother's head They
16 need to know the feds found nothing because they're
17 trying to get off track and they put all that --

18 THE COURT That is exactly what they're
19 going to try to do, but they're going to spend the
20 afternoon talking about those investigations if you
21 reopen it I can assure you, and, you know -- but, look,
22 man, it is your case This is your last chance I'm
23 trying to nicely and politely say that door is open and
24 I'm just giving you a fair warning, and we'll deal with
25 it, if that's the way you want to do it

1 MR CISA As long as the fair warning is
2 you're going to allow them to cross-examine with
3 newspaper articles, Judge, I'm not concerned about it,
4 and we've been down the road about them trying to
5 cross-examine with a newspaper article

6 THE COURT I didn't say I was going to let
7 them cross-examine with a newspaper article I still
8 think -- whether or not you put the newspaper article in
9 is your business Ultimately, I can guarantee you
10 they'll probably be arguing on closing why did we have
11 this argument on this newspaper article that you never
12 put in? But that is something you will have to deal
13 with, but the details of these investigations, which is
14 what you, I'm hearing, think they need to know what the
15 results were of these investigations, what these
16 investigations were all about, we're going to find out
17 what they're all about

18 They get to ask him questions about what
19 these investigations were all about, and I really don't
20 know how to limit them on that I've been trying to keep
21 out stuff because that's what the rules say I need to do
22 on this, but they get a full cross-examination, and so
23 I'm telling you, I'm not going to be able to limit their
24 cross-examination as much as you would like me to, is
25 what I am trying to as openly and trying to forewarn you

1 about as I possibly can Having said that --

2 MR CISA I understand, Judge I just
3 really don't think I have a choice I think it's already
4 in They're going to talk about it in closing

5 THE COURT Mr Limehouse, come on back and
6 take the stand Bring the jury back

7 MR LEWIS Your Honor, we want to make
8 sure -- we've been standing here two days and he stood
9 up, no liability, no liability, no liability

10 THE COURT And now he wants to bring
11 liability in

12 MR LEWIS And he wants to bring liability
13 up now and he opens the door and we get to go all the way
14 back into everything into liability, and I want to make
15 sure --

16 THE COURT I don't know how I could have
17 made it any clearer, but if it wasn't clear enough --

18 MR LEWIS And I think that since liability
19 is opened up, then the default is, in effect, opened up
20 We can call witnesses We can do everything

21 THE COURT Well, I don't know about that

22 MR LEWIS There is no halfway open There
23 is no door that is partially opened You either open it
24 or you don't, and I want to make sure that everybody
25 understands that is what we're going to try and attempt

1 to do, because we got an open door He's going in to try
2 and bring up liability, which he says we can't do it, and
3 our cross-examination of Mr Limehouse only was whether
4 or not these articles bothered him

5 That's all we asked him He said no because
6 he knew they weren't truthful That was all we got We
7 got those answers from him We went around in a circle
8 and came to the only article that bothered him was the
9 one that they keep trying to publish wrongly

10 MR CISA I'm not going to call him, Judge
11 I don't think it opens up liability They are limited
12 They cannot cross on liability They cannot cross on
13 causation, but if that is the way you're going to let
14 them conduct it --

15 THE COURT That is what the result would be,
16 I'm telling you, so I think --

17 MR CISA Come on down You're finished

18 THE COURT All right You got your next
19 witness ready?

20 MR CISA I do, Judge

21 THE COURT Bring the jury in

22 (In open court, jury present)

23 THE COURT Welcome back, folks We're now
24 finished with Mr Limehouse's questions, so I just had
25 him go ahead and have a seat instead of walking down in

1 front of you So we have our next witness ready to go
2 So what is his name?

3 MR CISA Michael Frost

4 MICHAEL FROST,

5 having been first duly sworn,
6 was examined and testified as follows

7 DIRECT EXAMINATION

8 BY MR CISA

9 Q State your full name, please

10 A Michael John Frost

11 Q Mr Frost, where do you currently reside?

12 A 406 Elizabeth Avenue, Mooresboro, North Carolina

13 Q And how old are you?

14 A Sixty-two

15 Q What do you do for a living?

16 A I'm now retired

17 Q What did you retired from?

18 A Owned a series of businesses in North Carolina

19 Q Do you know Lawton Limehouse Junior?

20 A Yes, I do I'm his godfather

21 Q So you've known him since approximately when?

22 A November of 1966 or 1967, long time ago

23 Q Since you've known him, have you had occasion to
24 interact with him on a regular basis?

25 A Yes, sir

1 Q How often do you talk to Lawton or see him?

2 A Probably once a quarter

3 Q Okay

4 A Once every three or four months

5 Q Do you keep up with him?

6 A Yes, I do

7 Q Do you remember the article that came out on April
8 24, 2004 referencing Tony Soprano?

9 A Yes, sir, I do

10 Q Prior to -- can you describe for me Lawton
11 Limehouse Junior's personality and demeanor prior to
12 April 24 of 2004 What kind of person was he?

13 A Lawton is an outdoorsy person, loves working
14 outdoors, he's happy, he's go lucky, enjoys being
15 outside, enjoys being with people, friendly, outgoing

16 Q Did you spend time with him prior to April 24,
17 2004?

18 A Yes, sir

19 Q Okay Can you describe his personality and
20 demeanor after April 24, 2004?

21 A Lawton became real sad to the point that when we
22 would meet, it was very difficult When he would leave
23 he would cry I mean, just despondent, depressed, just
24 really upset

25 Q When did you first notice that behavior, do you

1 recall?

2 A When his son Marcus was racing in Charlotte and we
3 would go over and have lunch with him and watch him race
4 in Charlotte, and that was in 2005, 2006, that period of
5 time He just began to spiral down, became really quiet,
6 to the point that I was really concerned about him

7 Q Concerned about him in what respect?

8 A I discussed with my wife whether or not he was
9 suicidal, instead of just depressed

10 Q Over the years, has his mental health improved,
11 based upon your observations?

12 A No We had -- we met him -- I had him come as a
13 guess to Deerfield Plantation, which is up near St
14 George, South Carolina, to hunt, in June or July of this
15 year That's when I saw him and spent some time with
16 him, and it was worse It was probably worse than it had
17 been He was really down

18 MR CISA Please answer any questions these
19 other lawyers may have Thank you

20 CROSS-EXAMINATION

21 BY MR LEWIS

22 Q Good afternoon, Mr. Frost

23 A Good afternoon

24 Q You live in North Carolina, but you seem to know a
25 lot about South Carolina

1 A I had an athletic scholarship to Charleston
2 Southern University, the old Baptist college, from 1965
3 to '69, was entered into the hall of fame in '91, had an
4 honorary doctorate in '97 and served on the athletic
5 board So I still have contacts, still love Charleston,
6 Charleston County

7 Q I was an athlete too, but since then I always tell
8 everybody that was 60 pounds ago

9 A I always say I just remember what I used to do

10 Q We're here on behalf of your grandson -- excuse
11 me, your godson?

12 A Yes, sir

13 Q And you want to help him

14 A I'm going to make sure that Lawton is okay
15 Lawton is a good guy

16 Q But you want to help him It's not bad to want to
17 help him if you're the godfather

18 A I just want to tell the truth

19 Q And you talked to him, I believe, once a quarter,
20 back in 2004, you said?

21 A No I maintain contact with him throughout his
22 life

23 Q How often?

24 A I probably see him every three, four months

25 Q Every three or four months And then you said you

1 remember an April 24, 2004 article Do you get the Post
2 & Courier?

3 A No, sir, but I owned an oil distribution company
4 here in Charleston on Ashley Phosphate Road People know
5 that I have married close to the Limehouse family, and
6 someone had called me and inquired and said, Did you
7 know, and then they read the article

8 Q What about all the other articles prior to that,
9 about the Limehouses and the company? Did they call you
10 on those too?

11 A No, sir Just the one regarding the Sopranos

12 Q Just the one

13 A Yes, sir

14 Q Did they call you on the investigation on
15 5/20/04 --

16 MR CISA Objection

17 THE COURT Hold on You have an objection?

18 MR CISA On the same basis that liability
19 is established They're going into liability issues
20 again

21 THE COURT Sustained

22 MR CISA Thank you

23 BY MR LEWIS

24 Q Were there any other incidents they called you
25 about that might have caused this problem to be -- that

1 you noticed four or five months after -- I guess it was
2 more than that, it was about a year after the article
3 that you noticed that Mr Limehouse was not himself?

4 A I don't understand your question

5 Q You said in 2005 or 2006 you noticed Mr Limehouse
6 wasn't himself

7 A Correct

8 Q And the article was in 2004, so was it about a
9 year later?

10 A I believe it's about right

11 Q And you don't have any idea what happened in that
12 year, do you?

13 A I do because I hunt down here in Dorchester
14 County, Deerfield Plantation, so I have people asking me
15 about it, and when Lawton comes down, they ask Lawton
16 about it

17 Q Did they ever tell you about any other incidents,
18 about any other investigations or anything about his
19 mother? Did he ever tell you that?

20 A No

21 Q Did you ever read the article?

22 A No, sir

23 Q Someone just told you about it, and that is what
24 you're basing all this on, someone told you?

25 A Somebody told me

1 A I met his sister
2 Q Okay Are you married to his sister?
3 A I am
4 Q And what is your wife's name?
5 A Amy Limehouse-Eager
6 Q Do y'all have any children?
7 A We do
8 Q How many children do you have?
9 A Just one, a daughter
10 Q How long have you been known Lawton Limehouse
11 Junior?
12 A Pretty much since I met his sister We've been
13 married since 2000, October 22, 2000 Good thing she's
14 not here or else I would get in trouble, and I knew her a
15 year and a day before that
16 Q Have you had occasion -- well, do you recall the
17 newspaper article that came out on April 24, 2004?
18 A I do
19 Q Where were you that day, do you remember?
20 MR HOOD If the Court please, anything
21 about him and the article or his family is irrelevant
22 We're dealing with one person here
23 THE COURT Well, I don't have a problem with
24 that question, where he was that day Go ahead
25 THE WITNESS April 24, 2004 was the day my

1 MR LEWIS Thank you

2 MR HOOD I have no questions

3 MR CISA No further questions, Judge

4 THE COURT All right You can step down

5 MR CISA Your Honor, I would call Derek

6 Eager

7 THE COURT All right

8 DEREK EAGER,

9 having been first duly sworn,

10 was examined and testified as follows

11 DIRECT EXAMINATION

12 BY MR CISA

13 Q Mr Eager, where do you reside, sir?

14 A 1128 Lining Lane

15 Q How old are you?

16 A Thirty-six

17 Q What do you currently do for a living?

18 A Outside sales representative for an equipment
19 rental company called Sunbelt Rentals

20 Q What did you do before that?

21 A I worked with my father on a fishing shrimp farm
22 and also worked for L&L Services

23 Q Do you know Lawton Limehouse Junior?

24 A I do

25 Q How did you come to know Lawton Limehouse Junior?

1 daughter was born I was at home It was a beautiful
2 spring day --

3 MR HOOD If the Court please, may I
4 approach the bench?

5 THE COURT Yes

6 (Discussion held at sidebar)

7 BY MR CISA

8 Q So you remember the article came out the same day
9 your daughter was born, April 24, 2004?

10 A That's correct, yes, sir

11 Q At the time the article came out, where were you
12 working?

13 A I was working for and with Lawton Limehouse
14 Junior

15 Q With L&L Services?

16 A With L&L Services?

17 Q What did you do at L&L Services?

18 A Disbursing paychecks, helping out at that point in
19 time with transportation as well because at that time I
20 was currently also working with my father at his fish and
21 shrimp farm

22 Q After your daughter was born, did you have a job
23 anymore as L&L services?

24 A No, sir

25 Q What happened to the company?

1 A It closed the doors

2 Q Do you remember when he closed the doors?

3 A April 24, 2004

4 Q Prior to April 24, 2004, did you have occasion to
5 interact with Lawton Limehouse Junior?

6 A Yes, pretty much on a daily basis

7 Q Did you also socialize with him?

8 A Sure did

9 Q Could you describe his personality and his work
10 ethic and demeanor prior to April 24, 2004?

11 A Work ethic, he was like me, driven, you know, goal
12 oriented, you know, wanted to see the business succeed
13 I was helping working for him at L&L, try to make that
14 succeed because I have pride in it, by helping out, as I
15 did working with my father

16 We both had the same common goal, to make the
17 business the best that it could be, you know, and then
18 after work it wasn't uncommon for us to go grab a beer
19 together and just do what we would do and just talk about
20 nothing sometimes, you know

21 Q Did you go hunting and fishing with him prior to
22 April 24, 2004?

23 A Prior to April 24?

24 Q Yes

25 A Yes, sir

1 Q What was his personality like? Was he a happy
2 person, a sad person?

3 A Prior to the 24th, he was happy Don't get me
4 wrong, everyday trial and tribulations like everybody
5 else but for the most part, up and up, happy-go-lucky, if
6 something would come across, deal with it, move on to the
7 next one

8 Q Can you describe how he was after the newspaper
9 article was published on April 24, 2004

10 A Uh-huh Yeah, he was despondent You know,
11 trying to carry on a conversation with him was almost
12 impossible Emotional It seemed like he was very
13 embarrassed with everything that went on

14 Q Did you continue to interact with him or did he
15 become withdrawn?

16 A He became withdrawn There was many a time
17 that -- well, when my daughter was born, of course, my
18 parents were there, my wife's parents were there,
19 Lawton's wife was there as well --

20 MR HOOD If the Court please, we're getting
21 into hearsay, is what I'm saying, Your Honor

22 MR CISA He's trying to --

23 THE COURT Overruled Go ahead

24 THE WITNESS My parents were there, my
25 wife's parents were there, Lawton's wife was there I

1 didn't see Lawton, and I called him after my daughter was
2 born and everything, and I asked him where he was, and he
3 said he didn't want to come, and I asked him why and he
4 said, I'm embarrassed

5 MR HOOD Isn't that hearsay? I mean --

6 THE COURT Overruled Go ahead

7 BY MR CISA

8 Q Okay

9 A He said he was embarrassed and he didn't want to
10 show his face because of everything that has happened

11 Q After April 24th, was Lawton Junior the same kind
12 of person he was before?

13 A No

14 Q And how did it change him? In what respect?

15 A He just -- he just -- I don't want to say recluse,
16 but he kind of separated himself from everybody I would
17 call him up, Do you want to go grab a beer?

18 No, I don't feel like it Okay

19 You want to go fishing or shrimping, on shrimping
20 season?

21 No, I don't feel like it It's like he didn't
22 have his life Everything was gone

23 Q How long did that kind of state continue?

24 A It's still going on

25 Q It's still going on Have you fished with him

1 lately or hunted with him lately?

2 A I haven't hunted with him in quite a while Last
3 time we went fishing, last spring We didn't go
4 shrimping at all this year I think we might have had a
5 beer after work one time

6 Q Were you concerned about Lawton Junior after the
7 article came out on April 24th?

8 A Oh, yeah

9 MR CISA I don't have any further
10 questions Please answer any questions these other
11 gentlemen may have

12 CROSS-EXAMINATION

13 BY MR LEWIS

14 Q Mr Eager, is that right?

15 A Eager, yes, sir

16 Q And you're the brother-in-law?

17 A Yes, sir, one of them

18 Q And you want to help him, don't you?

19 A Yeah, as much as a brother-in-law could

20 Q And you say that his personality changed after
21 April 24, 2004?

22 A Yes, sir

23 Q Did you read the article that you keep talking
24 about?

25 A I did

1 Q Did you read the RICO complaint that was served
2 the day before the 24th, on the 23rd?

3 A I don't think I did

4 Q Do you know what RICO means?

5 A Sir, I took a business law class at the College of
6 Charleston No, sir I don't know what it is All I
7 know is it has to do with corruption, or something like
8 that

9 Q And so you didn't see the complaint that had to do
10 with corruption

11 A What complaint are you talking about?

12 Q The RICO complaint that was served on the 23rd --

13 A No, I don't think so

14 Q -- on L&L Services

15 A I don't think so

16 Q So you don't know what caused his being different
17 after the 24th, the RICO complaint or the article, do
18 you?

19 MR CISA Objection, Your Honor

20 THE COURT Overruled

21 THE WITNESS Repeat the question Or is
22 that --

23 BY MR LEWIS

24 Q I said you don't know what caused him to change or
25 anything, the RICO complaint about corruption that was

1 given to him on April 23rd or the article on April 24th?

2 MR CISA Objection

3 THE COURT Overruled Answer the question

4 THE WITNESS I can tell you this On the
5 day before my daughter was born, on the 23rd, everything
6 was fine The day of the 24th, my daughter was born,
7 nothing was the same

8 BY MR LEWIS

9 Q And you don't know the cause of that, do you

10 THE COURT Mr Hood?

11 CROSS-EXAMINATION

12 BY MR HOOD

13 Q Did you say, that's correct, you don't know the
14 cause, correct?

15 A I don't think I said that

16 Q Did you answer his question?

17 A I answered the first one I thought the last part
18 was a comment

19 Q And you don't know the cause, do you?

20 A The cause of what, sir?

21 Q The cause of his condition, whatever it is?

22 A I'm not a doctor

23 Q Exactly And whether it wasn't until the 24th
24 that he actually read the RICO lawsuit, you don't know
25 that either, do you?

1 A Sir, all I know is this --

2 Q Just answer my question

3 MR CISA He's trying to answer it, Judge

4 THE COURT Answer the question If you need
5 to explain your answer, you can explain your answer

6 THE WITNESS Would you mind repeating your
7 question one more time, please

8 BY MR HOOD

9 Q Whether he read the RICO complaint on the 24th,
10 you don't know

11 A Well, the 24th was the day everything changed, so
12 I guess so

13 Q And the RICO complaint made some very strong
14 allegations against your brother-in-law and your
15 father-in-law, didn't it?

16 A I guess so

17 Q And the company you worked for?

18 A I guess so

19 Q And you had been reading the articles, a series of
20 articles, that were in the Post & Courier before the 24th
21 and after the 24th about your employer, L&L Services
22 There were a lot of articles, weren't there?

23 A There were I didn't read them all, though

24 Q But they dealt with subjects like the employment
25 of illegal aliens, correct?

1 A I think so

2 Q The housing of workers?

3 MR CISA Objection

4 THE COURT Overruled

5 BY MR HOOD

6 Q And substandard housing?

7 A I could have read some of those articles

8 Q Not paying overtime, not having workmen's

9 compensation?

10 A I don't recall

11 Q Not having a business license, like most normal

12 bills

13 MR CISA That's not true, Your Honor

14 BY MR HOOD

15 Q In fact, they didn't have a business license in

16 North Charleston, Charleston, or anywhere else, did they?

17 A Sir, I don't have any idea

18 Q Did they get fined for that, do you know?

19 A That, I don't know

20 Q And the housing authority in North Charleston, how

21 much was their fine, over \$10,000?

22 A I don't know

23 Q Did you ever go up to that housing and see how

24 many people they had in one rooms or two rooms living?

25 A No

1 Q You never went?

2 A No, at that point in time --

3 Q I thought you were driving

4 A I was, part-time, and at that time I didn't go up
5 to North Charleston to deliver anything

6 Q When you were working, how many would you pile
7 into a van to take to a job?

8 A Six

9 Q And they each paid \$15?

10 A No, sir

11 Q They got a free ride?

12 A They didn't pay me, no, sir

13 Q They didn't pay you

14 A No, sir

15 Q We heard earlier today that they paid \$15 for a
16 ride Did you ever take them any other place other than
17 the job site?

18 A Yeah

19 Q Where you would take them?

20 A Grocery stores, pharmacy, I would take them to the
21 doctors, to the flea market all the way up in Ladson

22 Q There were only two workers that the got free
23 medical care, weren't there, out of the hundreds?

24 A I don't recall any names, but I remember taking at
25 least three to the doctor

1 Q And there was a controversy about those They got
2 fired that went to the doctor?

3 A No One of them had chlamydia, and the other one
4 hurt his ankle on a tree

5 Q Have you testified in any of those other cases?
6 Is there testimony under oath by you in a case?

7 A No, sir

8 REDIRECT EXAMINATION

9 BY MR CISA

10 Q Mr Eager, are you familiar with the operation of
11 L&L Services? Were you employed there?

12 A Yes, I was employed there

13 Q Did L&L Services lose any customers because of
14 overtime pay, to your knowledge?

15 A Did L&L Services lose any customers due to
16 overtime pay? No

17 Q Did you lose any employees because of overtime
18 pay?

19 A No

20 Q Did L&L Services lose any customers because of a
21 workmen's comp error?

22 A Not that I'm aware of

23 Q Did you lose any employees because of a workmen's
24 comp issue?

25 A Not that I'm aware of, not

1 Q Are you aware of any hiring of illegal immigrants?
2 A No, sir
3 Q How long were you there?
4 A From '99 to April 24, 2004
5 Q Did L&L Services lose any customers over housing
6 issues?
7 A No, sir
8 Q Did they lose any employees over housing issues?
9 A No, sir
10 Q When did L&L Services get shut down?
11 A April 24, 2004
12 Q After the newspaper article came out?
13 A Yes
14 Q Do you know what happened to the RICO complaint?
15 A No, sir
16 Q You weren't involved with that?
17 A No
18 MR CISA Okay Nothing further Thank
19 you, sir
20 THE COURT Recross?
21 MR LEWIS No, sir
22 MR HOOD No, thank you
23 THE COURT All right Step down
24 MR CISA Your Honor, I call Richard Holmes
25 MR LEWIS Your Honor, may we approach the

1 bench?

2 THE COURT Sure

3 (Discussion held at sidebar)

4 THE COURT I'm going to preserve an
5 objection he's asked, and we'll talk about the details
6 during the break

7 MR JAMIE HOOD And that is for both of us

8 THE COURT Okay All right I'm sorry

9 RICHARD B HOLMES

10 having been first duly sworn,
11 was examined and testified as follows

12 DIRECT EXAMINATION

13 BY MR CISA

14 Q How old are you, Mr Holmes?

15 A I'm 41 years old

16 Q Where do you reside?

17 A I live in Seabrook Island

18 Q What do you do for a living?

19 A I'm a CPA, certified public accountant I
20 specialize in tax work for individuals, corporations, and
21 also specialize in business valuations, business sales
22 and acquisitions

23 Q Okay What is your educational background?

24 A Through high school, undergraduate, BA in
25 economics from UNC Chapel Hill, and then I have graduate

1 work in accounting, specializing in tax from the College
2 of Charleston and passed the CPA exam back in the
3 mid-'90s, and my professional background other than that
4 has been in accounting and tax -- and in business
5 valuation

6 Q Could you tell us your employment history, I
7 guess, since graduating from the College of Charleston
8 when did you graduate from College of Charleston?

9 A Undergrad, from 1990 from UNC Chapel Hill, started
10 my accounting profession in '94 I went to work for
11 national firm called McGladrey and Pullen and did audit
12 tax and business valuation work from '95 through '97
13 Then I went to work for a smaller CPA firm specializing
14 again in tax and business valuation work, and then I went
15 to work for a small mergers and acquisitions firm, based
16 out of Philadelphia, Pennsylvania, specializing in health
17 care companies

18 We sold independently owned privately held
19 companies to larger conglomerates, larger development
20 roll-up groups, so I was involved in valuing these small,
21 independently owned companies and then representing them
22 to the larger conglomerates And then after that, I went
23 to work on my own in '99 and specialized in selling,
24 brokering, doing small mergers and acquisition deals for
25 companies based throughout South Carolina And then

1 after that, I purchased a CPA practice here in town back
2 in '03 and just carried on my practice in a larger
3 location

4 Q When you say business valuations, what type of
5 businesses are you valuing?

6 A I valued and sold, represented to sell, industrial
7 staffing companies, employment staffing companies I've
8 sold all kinds of specialty contractor companies such as
9 cabinet manufacturers, roofing companies, and small
10 distributors, retail concerns primarily around
11 Charleston, South Carolina and throughout the state

12 Q Since finishing -- starting your career, have you
13 also taken seminars about valuing businesses?

14 A Yes As a CPA, we are compelled to have 40 hours
15 per year of continuing education to keep our license
16 current, and at least eight of those hours per year are
17 related to small mergers and acquisitions of business
18 valuations in addition to corporate tax and individual
19 tax

20 MR CISA Your Honor, I would tender
21 Mr Holmes as an expert in the field of business
22 valuations

23 THE COURT Any objection, or do you wish to
24 voir dire?

25 MR JAMES HOOD We'll reserve

1 THE COURT All right Well, he wants to
2 qualify him right now

3 MR JAMES HOOD We're going to reserve or
4 questions as to his qualifications as to
5 cross-examination now

6 THE COURT He wants to right now offer him
7 as an expert for the purpose of eliciting an opinion If
8 you want to voir dire -- I'm going to decide whether or
9 not to qualify him as an expert now, not later on during
10 the cross-examination

11 MR JAMES HOOD I understand that

12 THE COURT So if you want to ask him any
13 questions, we'll break his examination off to let you
14 voir dire him on his expertise qualifications

15 MR JAMES HOOD I have a lot of questions I
16 want to ask that also deal with methodology that you're
17 not going to deal with here that we'll deal with at
18 cross-examination I think it will be clear at that
19 time

20 MR LEWIS What we're saying is, he may be
21 an expert, but when we cross-examine, we're going to find
22 out if he did it the right way

23 THE COURT Okay But as to whether or not
24 he is an expert --

25 MR LEWIS He's a CPA that can evaluate

1 businesses, that's true, if he does it the right way

2 THE COURT Folks, normally when somebody
3 testifies, they only testify about what they saw, heard,
4 touched, felt, smelt, their observations, that sort of
5 thing We don't normally let them come in and give their
6 opinion about things

7 There are some exceptions, and you've heard
8 some of those exceptions already, but normally they don't
9 get to talk about their opinions, but the law says when
10 somebody has education or experience in a field and it
11 rises them up to the level of expertise in that field, we
12 recognize them as an expert and allow them to testify in
13 the form of an opinion and give the reasons for their
14 opinion

15 This witness has now been qualified as an
16 expert in the field of business valuation, and he will be
17 allowed to testify and give his opinion and state the
18 reason for those opinions You're not required to give
19 his testimony any greater weight simply because he's an
20 expert You decide how much weight to give his testimony
21 based on all of the evidence that you'll hear throughout
22 the trial

23 You may continue

24 BY MR CISA

25 Q Before we get into the business valuation we're

1 here about, do you know Lawton Limehouse Junior?

2 A Yes, sir

3 Q Do you know his father?

4 A Yes

5 Q Are you familiar with the company they ran, L&L
6 Services?

7 A Yes

8 Q Have you had been doing tax work for that company
9 in the past?

10 A I have, yes

11 Q When did you start doing tax work for that
12 company?

13 A For the year 2000 tax year on through 2005

14 Q Okay

15 A Before the company was shut down

16 Q What did you -- what type of business was L&L
17 Services?

18 A L&L Services is a limited liability company, taxed
19 as a partnership in the State of South Carolina

20 Q Okay Did Lawton Limehouse Junior own half of it?

21 A He did

22 Q And did his father own the other half?

23 A Yes

24 Q Did I ask you to formulate an opinion of value of
25 L&L Services as of April 24, 2004?

1 A I did

2 Q Okay Have you done that?

3 A Yes

4 Q Could you explain to the ladies and gentlemen of
5 the jury how you went about valuing L&L Services as of
6 April 24, 2004

7 A Okay Without getting too technical and going on
8 and on about different types of models of valuation, I
9 valued this company on a resale value based on a
10 discretionary cash flow model which means that how much
11 cash flow did this business generate in order for a
12 non-compelled buyer to make an educated decision to
13 purchase the company

14 In my experience in selling companies, buyers,
15 most buyers of small privately held companies, look at
16 the amount of cash flow the company is generating in
17 order to make a conscious decision in order to buy, so we
18 use a discretionary cash flow model, which is based upon
19 how much income the company is producing with an add-back
20 of certain noncash items, such as depreciation to the net
21 income and any other seller add-backs or owner benefits
22 to the bottom line

23 This company, through the end of April 2004, per
24 its tax return, showed a net income just for the first
25 four months of 2004, showed a net income of \$96,000 on

1 its bottom line We then took the \$96,000 and I analyzed
2 it to come up with a year-end net income had the company
3 been continuing on its concern through the end of the
4 year So to annualize it just in simple terms, we would
5 divide that figure by four to come up with a monthly rate
6 and then multiply that times 12 That is a simple
7 annualization of that income, and to that product which
8 is \$288,000, we added back annual depreciation to this
9 figure, plus interest income, to come up with an EBITD
10 numbers, earnings before interest, taxes, depreciation
11 and amortization That gives you a net cash flow number

12 How much is this business generating in cash flow?
13 How much can a buyer expect to obtain from this business
14 in cash flow in order to finance the business or in order
15 to purchase the business? And from that figure of net
16 cash flow of \$334,992, we take a multiple to determine
17 its goodwill or going concern value

18 So the multiple that I used was based on a sale of
19 a very similar company, or comp, that I personally sold
20 two years prior to this It was an industrial staffing
21 company out of the upstate in South Carolina They
22 provided Hispanic and all kinds of labor to meat packing
23 plants, primarily unskilled labor, to meat packing plants
24 in the upstate of South Carolina, and they were the
25 employee staffing company that I sold in January of 2001

1 I took the selling price of that company and
2 divided it by the discretionary cash flow to determine
3 this multiple, and I used the same multiple because it
4 was an actual comp of one I sold, and I have experience
5 in selling these companies and know that with this kind
6 of cash flow this is typically what they would sell for,
7 to determine that going concern or that goodwill value

8 So I used the multiple 3 72 times \$334,992 in
9 discretionary cash flow to come up with a goodwill value
10 of \$1,246,170, and to that I added fair market value of
11 reasonable value of all the hard assets L&L Services
12 owned a bunch of trucks, equipment, vans, that was worth
13 well over \$345,000, that you can vouch to the tax return
14 depreciation schedule Given a value, fair market value
15 of \$125,000 reasonably, I add that to the goodwill value
16 to come up with a fair market value for that time of the
17 year in 2004 of \$1,371,170

18 Q Okay So what was the value of L&L Services as of
19 April 24, 2004?

20 A 1,371,170

21 Q As far as you know, did L&L Services continue to
22 operate past April 24, 2004?

23 A No

24 Q Based upon your tax work for L&L Services, was
25 this a growing company?

1 A It had hit that point of growth, very diversified,
2 customer based, and had turned the corner in revenues,
3 based on my analysis of its transaction detail I
4 noticed this company, unlike another company --

5 THE COURT Do you have an objection?

6 MR LEWIS This is far beyond what he's been
7 qualified for and I object

8 THE COURT Overruled

9 THE WITNESS I have a contract with a
10 similar company You guys can use it as evidence, if you
11 want It's a similar company based on cash flow, with
12 similar type of terms This company had a very
13 diversified customer base, as opposed to the other
14 company that I sold just a few years prior, that had a
15 heavier concentration of its economic base with just a
16 couple of customers

17 BY MR CISA

18 Q When you said diversified customer base --

19 A We had more customers doing less, or there was a
20 couple of customers with this company that did a great
21 deal of its revenue base with L&L Services

22 However, there were a lot of other smaller
23 companies that did a lot of other revenues or business
24 with this company as well, so you had a pretty good
25 revenue base It was growing with L&L, and based on

1 prior year figures, the revenues were, you know, well
2 over those figures from the year before

3 MR CISA I don't think I have any further
4 questions at this time Please answer any questions
5 anyone else may have

6 THE WITNESS All right

7 CROSS-EXAMINATION

8 BY MR LEWIS

9 Q I understand your did their tax work

10 A I did

11 Q And did you do a tax return for 2003?

12 A I did

13 Q And if you used the tax return for 2003, you
14 wouldn't have had to extrapolate to get your numbers
15 You would have had actual numbers, right?

16 A I do have actual numbers

17 Q For 2003?

18 A Yes

19 Q What is that number you called the main number?

20 A Discretionary cash flow number?

21 Q Yeah For 2003, what was it?

22 A The 2003 is in the tax return, and that number is
23 using an add-back and depreciation, and I would have to
24 get that file for you I can bring all that in detail,
25 but I look at the annual cash flow for 2004 to come up

1 with my current discretionary cash flow I didn't
2 average 2003

3 Q That is what I'm asking you You had 2003?

4 A Yes

5 Q All the numbers were real numbers

6 A They're real and, you know, I used the numbers in
7 '04 because this was a development stage enterprise

8 Q All I'm asking you, Mr Holmes, if you had 2003,
9 you had the real numbers?

10 A Yeah

11 Q In 2004, they weren't the real numbers They were
12 an extrapolation?

13 A They were the real numbers through April 24th,
14 2004

15 Q And then you extrapolated up to December 21th?

16 A I annualized it

17 Q You call it annualization?

18 A Correct

19 Q And is that is a division of the first four
20 months, and then you multiply it times 12, and that gives
21 you the estimated number?

22 A Correct

23 Q And in 2003, you had the real number?

24 A I do

25 MR LEWIS Thank you

1 CROSS-EXAMINATION

2 BY MR JAMES HOOD

3 Q Good afternoon You are a CPA?

4 A Yes

5 Q And in this case you were engaged to estimate the
6 value of a business?

7 A Yes

8 Q And in this case you prepared to testify as your
9 conclusion of value?

10 A Yes

11 Q And you're not an objective independent CPA;
12 you're the retained CPA by the plaintiff who has done
13 their work, right?

14 A Correct

15 Q Now, as a CPA, are there certain -- first of all,
16 I didn't understand, did I hear you say you're a member
17 of the American Institute of Certified Public
18 Accountants?

19 A Yes

20 Q Are you a member of any other organizations?

21 A Yes, SCAPA

22 Q Did you bring your CV with you? I just haven't
23 seen it

24 A No, I'm not an ABV

25 Q What does ABV mean?

1 A Accredited in business valuation I'm accredited
2 in business sales, and I'm accredited by the American
3 Business Brokers Association I'm not making myself out
4 to be in the ABV or CBV

5 Q What does CBV mean?

6 A Certified in business valuations

7 Q Okay So you got accredited in business
8 valuations, certified in business valuations Are there
9 any other credentialed business --

10 A Other designations through other associations
11 that -- there are certainly several different letters
12 that you can obtain, but I'm not an accredited -- I'm not
13 an ABV or CDV I actually sell companies, so I've got
14 real world experience in selling companies, just like
15 this one

16 And when we value these companies, we value these
17 companies on real terms, based on cash flow It's not
18 any theory There is not Shannon Pratt stats or any
19 other models more so than how much can this company
20 generate in cash flow in order for somebody to make a
21 conscious decision to buy and afford to buy it based on
22 that net income

23 Q Did you understand my question?

24 A Yeah

25 Q Do you remember what the question was?

1 A Yeah Am I an ABV No

2 Q Thank you ABV means that you're accredited in
3 business valuation, right? That is your national
4 organization's accreditation for the people that that
5 organization wants to tell the public, These people have
6 done what we require CPAs to do to be considered
7 credentialed business valuation experts, right?

8 A That's one of many

9 Q You don't have any of them, do you?

10 A I don't have ABV, no

11 Q Or any of the expert credentials in business
12 valuations?

13 A I have an ABI, which is an accredited business
14 intermediary from the Association of Business Brokers of
15 America

16 Q As a member of the American Institute of CPAs, I
17 mean, are you familiar with any types of standards that
18 govern your work?

19 A I am

20 Q Tell me what they are

21 A I know several of the standards that govern my
22 work, but I'm not an accredited business valuator in this
23 situation Some of these standards have to do with
24 certain types of models, whether it be cash flowing
25 models or other types of value models, are irrelevant

1 My opinion of the value of this company is based on this
2 discretionary cash flow, the one that I've sold exactly
3 like it two years prior

4 Q Sir, my question to you is, what are the standards
5 that you're familiar with?

6 A I'm familiar -- as far as the ABV is concerned?

7 Q No, the American Institute of CPAs They have
8 professional standards, do they not?

9 A Yeah

10 Q Okay Tell me what those are

11 A The standards that are related, SARS statements
12 auditing and review services, GAP, generally accepted
13 accounting principles, but, you know, that's irrelevant
14 for valuating the company --

15 Q Sir, I'm not asking you about your opinions yet,
16 I'm just going through qualifications You come in here
17 and tell this jury that you're an expert, and I want to
18 know what the standards that your national organization
19 imposed on you to make sure the information that you're
20 communicating is reliable So please tell me what those
21 standards are

22 A I just told you

23 Q Okay Do you have any general guidelines, perhaps
24 section 201 of the general standards ring a bell?

25 A Yes, ethics

1 Q Okay And what does the professional competency
2 standard say?

3 A They would have to continue on in our continuing
4 education each year and that we have to abide by these
5 rules each year by having at least 40 hours We have the
6 continuing education within that field, but I'm not
7 making myself out to be an ABV

8 Q Okay So you're not coming in here being a
9 business guy --

10 A I'm not claiming to be an ABV I'm claiming to be
11 somebody with real word experience in selling companies
12 like this

13 You know, just because I'm not an ABV doesn't
14 necessarily mean that I'm not an expert in this field
15 I'm an expert in this field because I've actually sold
16 companies like this one There aren't too many other
17 ABVs out this that have actually sold these companies

18 Q Did you sell this company? How much did you get
19 for the sale of this company?

20 A I sold a company like this --

21 Q That's not my question Please answer my
22 question

23 A I did not sell this company This company was
24 driven out of business

25 Q Did you tell this company, sir?

1 A No, I didn't sell it

2 Q Thank you

3 A This company was driven out of business

4 MR JAMES HOOD Your Honor, I would move to
5 strike and ask the witness be instructed to answer the
6 question and refrain from making these extra comments,
7 please

8 THE COURT Yes, sir You only ask the
9 questions that are asked of you If you need to explain
10 your answer, you can explain your answer, but, again,
11 they was very specific in his question

12 THE WITNESS Okay Sorry

13 BY MR JAMES HOOD

14 Q You mentioned the approach that you took What is
15 the name of the approach that you took -- you didn't do a
16 business valuation, you did a business sales analysis?

17 A I did a business evaluation based on resale It's
18 the discretionary cash flow model

19 Q And then you used the rule of thumb method?

20 A I did I used the rule of thumb from actual comp

21 Q And rule of thumb method is a term that's used in
22 your industry that describes the published indices where
23 experts in business valuations can go look to see what a
24 general rule of thumb for a given industry would gain for
25 goodwill across the board?

1 A Correct, and those rules of thumbs are based on
2 sales, actual comps

3 Q So the rule of thumb is an index where you go to
4 compare what your business valuation is to make sure that
5 you're sort of in that correct range, correct?

6 A Correct

7 Q Did you tell us which index you went to?

8 A Yeah

9 Q What index?

10 A An actual sale

11 Q Is that an index?

12 A Yeah, it sure is

13 Q Where do I find that in this?

14 A Right here I have a contract I mean, you're
15 welcome to use it, but I have confidentiality agreements
16 on this contract for an actual sale of a very similar
17 company, industrial staffing company I didn't have to
18 refer to a theoretical list of indexes This is a
19 privately help company It's not a publicly held
20 company, and the rule of thumb -- or this rule of thumb
21 is based on an actual sale

22 Q Let me ask you, the rule of thumb that you used is
23 from some sale that you performed, right?

24 A Correct

25 Q All right Now, you come in here to testify and

1 explain to everybody what the value of the company is
2 You know all we can do is cross-examine you, right? Your
3 lawyer has told you that, right?

4 A Yes

5 Q I can't put up an expert to rebut what you say,
6 you know that, don't you?

7 A That's right

8 Q And you know the purpose of my cross-examination
9 is to try to figure out if your numbers are accurate and
10 they fairly depict what it is that you have testified to,
11 correct?

12 A Yes

13 Q And that's the whole purpose of this examination?

14 A Yes

15 Q The purpose is to find out if your information is
16 correct, if you're a credible witness, and if your
17 testimony is biased That is why we're here, right?

18 A Yes

19 Q And so to find out if the information that you
20 said is correct, tell me where I can go to check the
21 methodology that you employed in this case?

22 A You know, Shannon Pratt publishes an index for
23 rules of thumb

24 Q Did you use that?

25 A I did not I didn't have to I used an actual

1 comp from somebody here in South Carolina I'm sure
2 Pratt's stats have used them before on other business
3 valuations and my business valuations are predominantly
4 performed for sellers of companies and buyers of
5 companies to determine what's reasonable, what's a
6 reasonable cash flow number

7 Q How can I check your work?

8 A You can check it right here If you want to look
9 on how I came up with this value and you want to
10 double-check my math on an actual sale that I did, I
11 don't know any other better way to value a company than
12 one that was actually sold, of one that was in the same
13 market doing practically the same thing If you want a
14 theory on something else, I can, but that's not
15 practical

16 Q Sir, if you're an expert witness, we need to be
17 able to recreate what it is you testified to, you
18 scientific method, you agree to that?

19 A We can do that

20 Q Okay Let's do that

21 A Okay

22 Q Tell me where I go to find out, using the rule of
23 thumb, if the evaluation is appropriate? Tell me an
24 index, a treatise, any type of publication that says that
25 is appropriate

1 A Like I just said, Shannon Pratt publishes rules of
2 thumb They're called Pratt's stats within our industry
3 There are other bench marks that you can use within the
4 industry You know, I'll look at supply and demand, I'll
5 look at different terms of companies

6 Q Can you tell me the name of the single tax
7 treatise or other --

8 A I've just told you That is the best one on the
9 market within our industry

10 Q And what does he say about the use of the rule of
11 thumb?

12 A They use different rules of thumbs for different
13 methodologies When they're doing a full business
14 valuation, I'm not doing a full business valuation I
15 did a limited scope discretionary cash flow analysis,
16 which is the same way I valued the other company to come
17 up with a reasonable purchase price

18 Q Why didn't you do a full business valuation?

19 A I wasn't asked to do that I was asked to give my
20 valuation through April 24, 2004, based on my best
21 opinion possible They didn't ask me how -- I wasn't
22 instructed on the different types of methodologies to use
23 or any particular methodology There are ten different
24 types of methodology that you can use This one was one
25 that was based on the most reasonable analysis for resell

1 and that is cash flow

2 Q We're not talking about resale, are we?

3 A Yes, we are I'm talking about resale I'm
4 talking about a value for a company If this company
5 were to continue as a going concern, I'm talking about a
6 value for resale There are values for estate tax
7 purposes There are different types of methodology
8 This one was for resale

9 Q Using your analysis, what was the value of this
10 company on February 11, 2004?

11 A I don't know about February 11

12 Q How about December 31, 2003?

13 A I couldn't tell you that right now

14 Q How about December 31st, 2002?

15 A I didn't do that This company had just -- bear
16 with me for a minute The company started back in '99,
17 '98 It was still a development stage enterprise with a
18 lot of debt on its books because they had to finance the
19 hard assets, so it was paying down its debt, and now it
20 turned corner in revenues to a point where it was
21 starting to show a going concern value, and had it
22 continued on through the end of the year, this is how I
23 came up with the value It's an annualized -- it's on an
24 annualized basis for 2004

25 Q Let's just make it perfectly clear Did the

1 company ever make any money prior to 2004?

2 A Not with the depreciation expense

3 Q So not using the method you used in this case,
4 would you be able to demonstrate a positive value unless
5 you've used the four months that you used? Is that fair
6 to say? Using the methods that you used

7 A I would have come up with a cash flow because you
8 add back depreciation, which is pretty typical to come up
9 with a EBITDA number, if anybody heard about the EBITDA
10 calculation, you're adding back You have earnings
11 before interest, taxes, and depreciation, and then to
12 come up with the cash flow numbers you're adding back
13 depreciation and amortization This company had such a
14 large depreciation write-off that It was not showing a
15 net income for tax purposes, however, it was generating
16 positive cash flow

17 Q Can you tell us where that depreciation was routed
18 through?

19 A Not without pulling up the tax return

20 Q Do you have that with you?

21 A I've got '04 I can tell you -- bear with me one
22 second I can tell you what the accumulated depreciation
23 is for the company, just to give you an idea of how much
24 the depreciation was I actually have a depreciation
25 schedule here, and through the end of 2004, the

1 accumulated depreciation was 288,693, so that is a pretty
2 big depreciation number

3 Q One of the authors who talk about the rules of
4 thumb, there are basically these people, three sort of
5 godfathers of this subject, and that is Mr Pratt, this
6 guy Hitchner, and Trummels?

7 A Pratt's the man, yeah

8 Q Those three sort of define how you -- the
9 published version of how y'all go about valuing
10 businesses

11 A He definitely published the most common index,
12 correct

13 Q Now, the rule of thumb, technically not a
14 valuation method, some valuation analysts use a rule of
15 things or industry benchmark indicators in valuation and
16 engagement Do you agree with that?

17 A Yes, sir

18 Q A rule of thumb is typically a reasonableness
19 against other methods used and should not generally be
20 used as the only method to estimate the value of the
21 subject interest

22 Do you agree with that statement?

23 A Yes

24 Q That's the only method you used?

25 A I used an actual method from the actual sale

1 That's the best comp you can get The others are all
2 theory

3 Q Sir, did you use a rule of thumb?

4 A Yes, based on -- I didn't use Shannon Pratt I
5 used my own I used one of a sale of a similar company
6 You can't ask for a better comp You don't base it on
7 theory, you base it on actual sales

8 Q I'm going to state again, rules of thumb are so
9 badly misused that I'm going to state it here A rule of
10 thumb is nothing more than a sanity check for many hours
11 that you will spend performing a valuation assignment

12 A I agree with that It's a sanity check

13 Q So tell me how much hours you spent doing the
14 valuation before you did the sanity check?

15 A I got probably a good 16 hours in the evaluation
16 itself

17 Q What method did you use? Did you use the market
18 approach, income approach?

19 A Yes, market

20 Q Okay And tell me --

21 A I used the discretionary cash value and I used a
22 market for resale You can't get any better value than
23 that

24 Q So when you use that market approach, just like
25 your godfathers say to do and you use your sanity check,

1 let's see the thing that you checked What is that
2 number?

3 A What do you mean?

4 Q Where did you come up with your valuations, using
5 your other methods that you used the reasonableness
6 check?

7 A The reasonableness check is based on the actual
8 cash flowing that I've used based on other types of
9 terms

10 Q We're missing each other

11 A All right

12 Q And you use the rule of thumb as a sanity check
13 for all the above hours you spend?

14 A Yes

15 Q Hang on Bear with me That's a sanity check,
16 rule of thumb So I want to see what it is you came up
17 with, your valuation here, so that I can see whether it
18 falls in your rule of thumb, so we can do the sanity
19 check Have you done that?

20 A Yeah, the sanity check is based on all the other
21 companies I've sold

22 Q No, the valuation of L&L Services, where is that
23 that you did separate from the rule of thumb?

24 A I valued it based on discretionary cash flow on
25 the market approach I didn't come up with a bunch of

1 different types of values, I came up with one that's
2 based on an actual sale, and that is as simple --
3 different methodologies, it took me a while to do my
4 valuation, to do the calculations and to pull the numbers
5 up and make sure the sanity check was primarily based on
6 reasonableness of numbers within the P&Ls I don't have
7 another valuation method that I use because this is the
8 main valuation that I did

9 Q Would it fair to say, Mr Holmes, that you didn't
10 do another business valuation, you just used the rule of
11 thumb?

12 A I used the discretionary cash flow model with a
13 multiple from an actual sale

14 Q Thank you You did not do a separate business
15 valuation, did you?

16 A I didn't have to

17 Q The other sale that you talked about, tell us a
18 little bit about that Who owned it?

19 A Well, it was an LLC out of the upstate I've
20 signed a confidentiality agreements I'm not going to
21 share this with the public

22 Q Fair enough I'm not going to ask you to disclose
23 something that is confidential

24 A I'll be happy to show it to --

25 Q Tell me about the business What did they do?

1 A They supplied industrial staffing to meat packing
2 plants

3 Q How many employees do they have?

4 A They had 400 to 600 at one time

5 Q So call it roughly 500?

6 A Yes

7 Q And they were charging what?

8 A They charged more than L&L did They charged
9 around 12 bucks to their customers

10 Q And what were they paying?

11 A And then they paid them -- they were a little bit
12 more skilled, so they paid them higher, around 7 75, 8
13 bucks

14 Q And how long had that business been in existence?

15 A Ten years, before I had sold it

16 Q Before you sold it, how many years had that
17 business been profitable?

18 A For the past five

19 Q And how profitable was it, you know, I guess in
20 relation to each year? Was it consistent? Was it
21 improving?

22 A It was definitely was on an upward trend

23 Q And it had five years demonstrated profitable
24 years?

25 A Yes I used the past three Most buyers want to

1 see the past three years

2 Q Did you use the past three years with L&L?

3 A I did In looking at the depreciation schedule, I
4 did not value it based on 2001, 2002, 2003, I based it on
5 current numbers

6 Q When you did the one in the upstate,-- and that
7 sold in '01?

8 A I based it on current numbers Buyers look at
9 history They're going to want to see the history, but
10 the valuation of the asking price that I determined was
11 based on the current numbers It was based on the most
12 current P&L

13 I didn't average the past four or five years I
14 didn't average at all I used the current numbers, and I
15 present the past history, or the past four years, in
16 offering a memorandum

17 Q And that offer in memorandum had all your math,
18 all the data, et cetera? It was a full on report?

19 A Yeah

20 Q You didn't do it here?

21 A I didn't do it, because I'm not presenting or
22 authorizing memorandums for somebody who is going to buy
23 the company I did a similar model, though, for the
24 current year I didn't put together a history because
25 I'm not presenting this company for sale, but I did come

1 up with the value the same way I did for the company that
2 I sold

3 Q The company that you sold, it's 500 people You
4 told us how much they would make They have been in your
5 business for ten years, profitable for five years Was
6 it an LLC, flow through, S corp?

7 A S corp

8 Q Did they have any publicity issues?

9 A They've had some bad press, absolutely

10 Q What kind of bad press?

11 A Ten years prior they did have a raid on their
12 facility It was one of their main customers That
13 wasn't a raid on them, but one of their main customers, a
14 meat packing plant in the upstate, had helicopters that
15 flew over and deported some of the employees

16 Q And what year was that?

17 A That was back in '99, '98

18 Q When did you sell it, in '01?

19 A In January of '01

20 Q And did you have any publicity issues?

21 A Not to my knowledge

22 Q And when you're doing your due diligence there,
23 whatever you call it to come up with your sales number,
24 do you factor that in under the good will?

25 A Certainly a good buyer would, yes I did not

1 factor the publicity -- it was a bad reflection on the
2 company It's a bad event It's an extraordinary event,
3 but I didn't calculate that into my going concern value,
4 because I was using more current numbers

5 Q Explain that to me I don't think I understand
6 that

7 A Okay I didn't take bad press or a story that had
8 happened to the company that I sold and value it, or
9 factor that into my valuation and come up with an asking
10 price

11 Instead I used how much the company was making,
12 how much the company was making in that income to come up
13 with a value because it was generating enough cash flow
14 to be very attractive to a prospective purchaser And
15 the buyers were able to overcome that type of bad press,
16 and it, again, was not necessarily reflected on the
17 company as much as it was us, the customer

18 Q All right So you're familiar with the bad press
19 we're talking about?

20 A Yeah Bad press can affect value, it can

21 Q You know from their business that L&L had
22 contracts with its customers, right?

23 A Yes

24 Q And they were diversified?

25 A Yeah, yeah

1 Q And the diversification, tell me, the folks out of
2 Kiawah, what percentage of their business was out there?

3 A I'll tell you in one second And I haven't done
4 any percentage breakdown, but if you look at the
5 transaction detail just first the four months of 2004,
6 the company had every golf course at Kiawah, the two at
7 Seabrook, miscellaneous golf courses throughout the area
8 and different types of restaurants, but, you know, I
9 would have to take some time to figure out exactly how
10 much value was Kiawah alone because I didn't bring that
11 with me

12 Q If you don't know the answer, just tell me you
13 don't know

14 A I don't have a breakdown It could be easily
15 obtained from these exhibits, though

16 Q The reason I asked you about publicity is you
17 because you mentioned the name goodwill earlier That is
18 sort of one of those things you're putting a number on?

19 A Right

20 Q You took four months of the company's profit You
21 multiplied that by three You get 12 Divided that by
22 12, you get monthly, right?

23 A Yeah I came up with an annual rate

24 Q So then --

25 A A cash flow

1 Q So then you added some depreciation back in, and
2 that is the 300 and change, and then you used the
3 multiplier which reflects goodwill?

4 A Yes

5 Q The multiplier that you used is based on the rule
6 of thumb that I can't find except for your business
7 valuation in Spartanburg, and that is the goodwill that
8 was calculated after your extensive business evaluation
9 in Spartanburg?

10 A Correct

11 Q The goodwill here in Charleston County would be
12 based on customer's appreciation for the work that was
13 being performed and the reputation of the company,
14 correct?

15 A That's part of it

16 Q Ad do you know as far as back as February 11,
17 2004, there was news coverage about L&L Services that was
18 not favorable, correct?

19 A Correct

20 Q And they were -- leading up to 4/24/04, there was
21 a series of nine articles in the paper that dealt with
22 L&L Services, do you know that much?

23 A Yes

24 Q And none of them were favorable, were they?

25 A No, bad press

1 Q In each one of the issues that was raised in that
2 bad press dealt with the very factors that L&L had
3 promised to assure were accurate in his contracts,
4 correct?

5 A Correct

6 Q So if a customer were to be reading that series of
7 articles during this two months or three months, there
8 would be concern that L&L was providing the service and
9 the lawful service they contracted for, right?

10 A Correct

11 Q And that would have, of course, affected the
12 goodwill of the company, would it not?

13 A It could, yeah

14 Q If you're a customer like Kiawah and you're
15 worried based on the staffing agency's failure to comply
16 with the contract, you're not going to continue to do
17 business with someone like that, are you?

18 A I don't believe they did

19 Q And if you're concerned about a company not
20 complying with the law, you're not going to continue to
21 do business with that company, are you?

22 A I'm not concerned about that personally I mean,
23 I'm not as an evaluator, because I could not prove, and I
24 could not rely on the Post & Courier's or our local
25 press's unsubstantiated facts It had not been proven to

1 me This was not press I couldn't rely on

2 Q I'm not arguing whether it was true or not In
3 fact, you would be an idiot to believe what you read in
4 the Post & Courier?

5 A You can be, absolutely

6 Q That's not my point My point is if that news is
7 out in the public sphere, then as a customer of a
8 staffing agency, I've got to scratch my head and say, Can
9 I continue to do business with it?

10 A I'm not disagreeing with that

11 Q Is there a way to -- I know you didn't do it in
12 this case, but if you are so inclined, would be there a
13 way to factor that in in performing your business
14 valuation?

15 A It's difficult to measure goodwill I mean, the
16 main factors that determine the value of a company is
17 demonstrated profits Now, if they're earning profits
18 illegally, then absolutely that is going to affect
19 goodwill value, the value of the company, but in this
20 case they were not, and I don't have -- I didn't have any
21 reason to believe that they were

22 Q And I'm not asking this

23 A But I hear what you're saying, and I would agree
24 with you that bad press can affect value, but in this
25 case, I did not rely on any bad press that was coming in

1 through the local newspapers

2 Q Likewise, you're not here to say that the press is
3 the reason why the business is out of business You're
4 just here to tell us what your opinion of value is,
5 right?

6 A That's right

7 Q I did not get -- I didn't ask you initially You
8 were retained as an expert witness in this case?

9 A Yes

10 Q And you're being paid for your services?

11 A Yes

12 Q How much are you being paid per hour?

13 A It's \$250

14 Q You already agreed upon that? You're looking at
15 Mr Cisa

16 A It's the same thing as it has been before I
17 believe it's 250 It's in the computer

18 Q Are you just billing an open account for your
19 service?

20 A Yes

21 Q This isn't like a new engagement, you're their
22 CPA, and they asked you to come forward and give us a
23 number?

24 A Correct

25 Q Now, when I look at your information, the

1 statement for value and services -- and you're familiar
2 with the American Institute of Certified Public
3 Accountants, their statement on standards? You're
4 familiar with that?

5 A Yes

6 Q In number 39, they say rule of thumb, although
7 technically not a valuation method, some valuation
8 analysts use rule of thumb Rule of thumb is typically
9 reasonableness check

10 You're aware of that?

11 A I didn't catch that

12 Q You're aware of that, that the rule of thumb is a
13 reasonableness check?

14 A Yes

15 Q And doing the evaluation, your industry suggests
16 that -- it explains why it does this It says, Given the
17 increasing number of members of the organization who are
18 performing business valuations, the executive committee
19 has written standards to improve consistency and quality
20 in the practice among members and the members will be
21 required to follow this standard when they perform
22 engagements for estimating value and culminated in an
23 expression of conclusion of value or calculated value

24 That's what you did

25 A Yes

1 Q All right Did you follow their standard?

2 A I did not follow -- I followed my standards of
3 actual sales This was not an ABV valuation It's a
4 statement of value based on market approach for an actual
5 sale that I did for an identical company

6 Q It's not identical?

7 A It's pretty close

8 Q One has got 200 employees, one has got 500

9 A One has got 400 to 500 They do exactly same
10 thing They're outsourced labor

11 Q You would agree with me we're just taking your
12 word for that, though?

13 A We can debate that

14 Q I don't want debate that I just want the data

15 A In my opinion, they're very similar companies

16 Q Okay Do you have the data? Can we have that?

17 A The data, what type of data?

18 Q Whatever it is you rely on

19 A I'm relying on the type of work that the employees
20 perform for their customer is practically identical

21 Q Subject of interest, that means what you're
22 valuing, right?

23 A Yes

24 Q So you look at the nature of the subject of
25 interest, you look at the scope, you look at the

1 valuation date, intended use, applicability of standards,
2 those are the type of thing you look at, right?

3 A There are some things I take into consideration,
4 yes

5 Q Then you look at non-financial information,
6 nature, background, and history, right?

7 A Yes

8 Q Facilities, organizational structures, economic
9 environment, product services?

10 A Yes

11 Q Business, risks?

12 A Yes

13 Q You have to look at that

14 A You do

15 Q And what we're talking about business values, when
16 you're talking about sales, it's just an allocation of
17 risk, right?

18 A It can be You got to measure the risk, right

19 Q When you're saying bad press may affect, value
20 it's whether someone is willing to take the risk for that
21 number?

22 A Correct

23 Q Okay And so to turn around, pretend like you're
24 not selling the company, that you're the buyer, tell me
25 how you would expect this valuation to be compensated

1 A If I'm a buyer first, the thing I want to do is
2 vouch income I would want to vouch revenues I would
3 want to compare, you know, with what they're reporting to
4 what they're actually depositing in the bank That's the
5 first thing I would do, and then I value -- then I look
6 at the customer base, and then I look at their
7 liabilities, both contingent and actual liabilities, the
8 contingent liabilities being those type of risks that --
9 are they in compliance with the law?

10 As a buyer, I'm going to do my due diligence and
11 make sure that they are complying with the law and that
12 they are earning the income that they stated that they
13 have

14 Q All right And so the best part of the due
15 diligence?

16 A Part of due diligence

17 Q Correct And you know that there was a labor
18 issue, right? You had a labor issue?

19 A Yeah They've had a labor issue, I think, as it
20 related to overtime

21 Q Right

22 A Correct

23 Q And they had to pay -- unpaid, I think it was,
24 \$10,000 overtime hours, approximately?

25 A But I calculated the overtime in this model I

1 have paid overtime in this model, though

2 Q I just asked you if that was a good number

3 A It's actually 39,000

4 Q 39,000 hours?

5 A No, \$39,000 worth of overtime I don't know how
6 many hours

7 Q Is that the number you used to calculate? You
8 didn't use the 66,000?

9 A No I've got 39,000 because that's what was paid
10 up through my analysis

11 Q Did you -- in valuing the company, did you take
12 the reduced value of the company by the fines that were
13 levied against it?

14 A No, I did not

15 Q Did you --

16 A It was not part of that income How about the
17 fines that were paid -- fines in this case are
18 extraordinary, nonrecurring items These are items that
19 are not normally part of your operating expense, and in
20 doing evaluations to determine discretionary cash flow,
21 you typically add back nonrecurring extraordinary items
22 And, you know, there were no fines that were expensed
23 through the company, there were no penalties that it had
24 to pay

25 Q The \$2,500 fine, you saw that one You are the

1 one that had to clear the check, right?

2 A Yeah, yes

3 Q And then the \$66,000 to the Department of Labor?

4 A That was not written out of the company There
5 was not a \$66,000 check that was written out of L&L
6 Services I mean, I've got the detail here

7 Q When you're wearing sort of your seller's hat or
8 your buyer's hat or you're evaluating those business
9 risks, thing like Department of Labor violations, housing
10 violations, all those things are those risks that you're
11 talking about?

12 A That would be something for concern, absolutely,
13 if I'm the buyer of the company, but that was not
14 factored into this equation for this evaluation It was
15 not factored in at the time, and had it -- because it was
16 not an expense of the company, number one It was an
17 expense that was paid somewhere outside of the company by
18 maybe Mr Limehouse personally, out of another fund

19 Q Do you know that?

20 A I don't know -- all I do know is I valued the
21 company and there were no checks written out of the
22 company's checkbook to the Department of Labor We
23 definitely paid overtime out of the company, though

24 Q But at the end of the day, the goodwill
25 calculation that you came up with that you borrowed from

1 the effort that you did out on Sumter, or Spartanburg,
2 that didn't take into consideration any of these business
3 risks that the buyer of the business would be concerned
4 about?

5 A No, it did not

6 MR JAMES HOOD Thank you

7 THE COURT Any redirect?

8 MR CISA No redirect

9 THE COURT We'll take a break right now for
10 about ten minutes, let y'all stretch, use the rest room
11 and don't begin deliberations, don't discuss the case
12 If anybody needs to smoke a cigarette or anything,
13 they'll take you downstairs and get you some fresh air
14 We'll see you in about 15 minutes Okay?

15 (In open court, jury not present)

16 MR LEWIS Prior to the testimony of
17 Mr Holmes, I had a bench conference and brought my
18 objection to the Court that he's been doing a business
19 valuation and there is no business that is a plaintiff
20 and that the losses to the business, which is still in
21 existence and in good standing, belong to the business,
22 and this testimony is totally inappropriate Among the
23 many other things I have reserved, that one now was
24 reserved from the beginning, and I again bring it up and
25 move to strike his testimony for the same reasons as is

1 improper in this case

2 THE COURT And I overruled his objection and
3 did not strike it, but he did make that in his bench
4 objection

5 MR LEWIS And we get to have all of our
6 objections like we have when we started this morning and
7 now they continue through without us having to jump up

8 THE COURT They're still continuing on
9 through not only this afternoon but through the remainder
10 of the trial

11 MR JAMES HOOD Judge, we'll join in that
12 I mention I have an issue with the methodology that the
13 witness used It's clear as mud, but what he did is he
14 used his own method He based it on another sale

15 THE COURT That is something can you argue
16 to the jury

17 MR JAMES HOOD I've got a CPA here to
18 proffer to show what the proper standards are and why
19 what he used is an improper authority

20 THE COURT Maybe we'll put him on at the end
21 of the day, but I want to get the jury processed through
22 here You want to put him in on an affidavit?

23 MR JAMES HOOD I think it would be better
24 for to you hear him because I'm going to ask you under
25 104 to strike the testimony based on unreliability

1 THE COURT We'll get to it a little bit
2 later As long as we've got the jury here, I'm not going
3 to have them delayed any longer

4 (Recess taken)

5 (In open court, jury present)

6 THE COURT We're going to start with the
7 next witness

8 Mr Cisa, are you ready?

9 MR CISA Yes We call Steve Wagenlander
10 STEVE WAGENLANDER,

11 having been first duly sworn,
12 was examined and testified as follows

13 DIRECT EXAMINATION

14 BY MR CISA

15 Q Mr Wagenlander, how old are you, sir?

16 A I'm 43

17 Q Where do you currently reside?

18 A 2341 Salt Wind Way in Mount Pleasant

19 Q Are you currently employed?

20 A I am, sir

21 Q Where are you employed?

22 A I work for the Evening Post Publishing Company

23 Q How long have you worked for the Evening Post
24 Publishing Company?

25 A Ten years, sir

1 Q And what is your current position with the Evening
2 Post Publishing Company?

3 A My title is director of audience development

4 Q What was your previous title?

5 A Corporate director of circulation

6 Q And were you the corporate director of circulation
7 during what years, do you remember?

8 A From 200 -- let's see, that would be from 2002 to
9 2007

10 Q Did I ask you to come here today with information
11 concerning the amount of newspapers sold by the Post &
12 Courier on April 24, 2004?

13 A Yes, sir

14 Q Did you bring that information?

15 A I did, sir

16 Q How many -- is that information that would be
17 within your knowledge and control with your position with
18 the Post & Courier?

19 A Yes, sir

20 Q How many newspapers were sold by the Post &
21 Courier for the publication that went out on April 24,
22 2004?

23 A 99,147

24 Q All right Now, do you also have a readership
25 statistic?

1 A Yes, sir

2 Q Okay Can you explain to us what readership is,
3 what that readership statistic is

4 A We have people that purchase the paper every day,
5 either getting the paper brought to their home or go to a
6 convenience store, buy it out of a vending machine, but a
7 lot of times the people who purchase the paper are not
8 the only people that read it If you happen to be at the
9 doctor's office, a couple folks may look at a copy, and
10 we pay an outside research company once a year to come in
11 and measure how many reader per copy we have, and they do
12 that on an unbiased nature so we can support our
13 advertising revenues to the folks that buy that from us

14 Q Can you tell us what your readership was for the
15 edition of the Post & Courier that was published on April
16 24, 2004?

17 A I can, sir

18 Q Okay What was it?

19 A 246,876 people

20 MR CISA Thank you, sir I have no further
21 questions Please answer any questions anybody else may
22 have

23 CROSS-EXAMINATION

24 BY MR LEWIS

25 Q Is it Steve?

1 A Yes, sir

2 Q Do you mind if call you Steve?

3 A No, sir Not at al

4 Q That sure saves me I'm interested in a couple
5 things, these numbers, 99,00, 147, and 246, 876?

6 A Yes, sir

7 Q Do those numbers vary -- say, for April 24, 2004
8 going back to February 2004, would each day be about the
9 same?

10 A It depends on your definition about The
11 circulation, obviously, is not the same every day but
12 there's not wild fluctuations Over the course of a
13 year, we'll see 2 to 3 percent variance on any given day,
14 so on 100,000 we may see a variance of 2,000 in any given
15 day, just based on the number of people that walk up and
16 put machine money in machines on that given day

17 Q So if there was an article published on April 24,
18 2004, it would be in a paper that supposedly was read by
19 246,876?

20 A Yes, sir

21 Q If they wanted to read that article

22 A Yes, sir

23 Q And if there were articles published all the way
24 back to February 11 of 2004, you say the same thing?

25 A Yes, sir

1 Q Now, your paper, and I don't know exactly what
2 your new job is, but it sounds good, when they publish
3 and have some -- I call them exposes, you know, some
4 particular story that they're going to develop, is that
5 what y'all call them?

6 A I don't work on the news side We keep a real
7 strict separation between the folks that gather the news
8 and put it in the paper and those of us that work on the
9 business side, so we don't ever find ourselves with a
10 conflict of interest when it comes to dealing with
11 advertisers and so forth

12 Q So you don't know anything about what someone puts
13 in the paper, where they put it, why they put it?

14 A No

15 Q You don't know anything about this, all you're
16 here to say is that from the 1st of January 2004 on
17 through the year it's about 99,147, 246,876, and that
18 might vary 2 percent depending on when you do it?

19 A Yes, that's correct

20 MR LEWIS Thank you

21 THE WITNESS You're welcome

22 THE COURT Mr Hood?

23 CROSS-EXAMINATION

24 BY MR JAMES HOOD

25 Q Judge, Steve, you mentioned the readership number

1 of 246?

2 A Yes

3 Q Has that number changed or is that just a fixed
4 number?

5 A It is not Every six months we pay that research
6 company to come in and update our readers per copy so
7 readers per copy changes every six months and then that
8 factor is multiplied whatever the page circulation is for
9 that day For example, on the day I'm citing you, our
10 readership during those six months was 2 49, I believe,
11 2 49 readers per copy So to figure out what the
12 readership is, you just take the number of copies that day
13 times the readership

14 Q You've previously been asked what the readership
15 number was, and you previously testified it was 237,952
16 is that modification as you explained?

17 A As I explained to Mr Cisa, that readership varies
18 every six months, and when I came the last time, because
19 of when the case was, I was using the number from the
20 previous six months, because it hasn't been updated The
21 2 49 is for that time period that was covered by April 4
22 of -- or whatever the date was during 2004

23 Q The date the -- the number that has come up for
24 the circulation number, is that sort of for Saturdays
25 during that time frame?

1 A No, sir That is that specific day

2 Q And do you know what the readership was for
3 February 11, 2004?

4 A Not off the top of my head, no, sir

5 Q What about February 12, 2004

6 MR CISA I note an objection

7 THE COURT What is the relevance of those
8 dates?

9 MR JAMES HOOD These are the dates when the
10 other articles were published about L&L Services

11 MR CISA Your Honor --

12 THE COURT They're sustained Not they're
13 not relevant in this Go ahead

14 BY MR JAMES HOOD

15 Q Sir, when you talk about the amount of newspapers
16 that are sold and how many are read, all that math is
17 done so y'all can still advertise?

18 A That is how we justify our ad rate, yes, sir

19 Q So you tell them, If you advertise in this section
20 of the newspaper, this many people see your ad, so you
21 should pay us this much money?

22 A Yes, sir

23 Q Y'all get paper trend reports, right? These sort
24 of things that explain different --

25 A I'm not familiar with that, no, sir

1 Q You're not familiar with it?

2 A No, sir

3 Q Now, you know that there are analyses of who reads
4 what portions of the paper, and, for example, the front
5 page news section is read by 52 percent of the adults
6 over 18, right?

7 A Are you asking me if that is correct for our
8 newspaper?

9 Q Yes, I am

10 A No, that's not correct

11 Q Okay Let me ask you this way What is the
12 readership for front page news for adults over 18?

13 A I didn't bring that information with me That is
14 part of a research study

15 Q Does 52 percent sound consistent with --

16 A I don't -- without having the record in front of
17 me, sir, I don't know

18 Q You get sort of the pie graphs and that from the
19 Post & Courier that shows the readership numbers? Is
20 that the stuff you're talking about?

21 A I'm sorry What is your question?

22 Q Is this the type of information that you get?

23 A No, that's not the report I'm speaking of I have
24 a report on my desk that details the section of
25 readership by days and so forth

1 Q How many people can you tell us would have seen
2 the front page on the date you looked at it?

3 A We had the potential for 246,876 folks to have
4 read any part of paper that day

5 Q Okay But I'm talking about the front page

6 A I don't know the answer to that

7 Q There is an answer though

8 A There is an answer, yes, sir, there is an answer

9 Q Just like we can say how many people would have
10 read the sports page?

11 A Absolutely

12 Q And there is -- on the circulation number, you
13 from to 99,000 to 246,000 That is sort of assuming that
14 two and a half people read every paper that is
15 circulating?

16 A 2 49, during that period

17 Q And do you maintain numbers on -- you know, series
18 of articles, like, how many people have read a particular
19 series?

20 A No, sir

21 Q Is that not something that is recorded?

22 A No, sir

23 Q But all we would be able to look at is what
24 portion of the paper is read on a given date?

25 A Yes, sir, that's correct

1 Q And the biggest number you got is the circulation
2 number, right?

3 A Biggest number would be the readership number

4 Q You're right The biggest number is readership
5 number The smaller number is circulation number, and
6 the even smaller number is the actual number of people
7 that would read that portion of the paper?

8 A It could be smaller I mean, it's not likely that
9 100 percent of our readers read 100 percent of the paper
10 on any given day

11 Q That's right, so what you're talking about is the
12 readership?

13 A Yes, sir

14 MR JAMES HOOD Thank you

15 THE COURT Redirect?

16 MR CISA None, Your Honor

17 THE COURT You can step down Thank you
18 Your next witness?

19 MR CISA Yes

20 MR LEWIS Your Honor, may we approach the
21 bench?

22 THE COURT You may

23 (Discussion held at sidebar)

24 BERNADETTE DeWITT,

25 having been first duly sworn,

1 was examined and testified as follows

2 DIRECT EXAMINATION

3 BY MR CISA

4 Q How old are you, ma'am?

5 A Forty

6 Q Where do you currently reside?

7 A Mount Pleasant

8 Q Are you currently employed?

9 A Yes

10 Q Where?

11 A Bank of America

12 Q How long have you been employed with Bank of
13 America?

14 A A little over ten years

15 Q What is your current position with Bank of
16 America?

17 A Banking center manager

18 Q Are you assistant vice president?

19 A Yes, sir, I am

20 Q Good for you Where is you office currently
21 located?

22 A It's on Coleman Boulevard in Mount Pleasant

23 Q Did I ask you to come here today to bring records
24 concerning the financial statement of Paul Hulsey?

25 A Yes

1 Q Okay And did you, in fact, bring that financial
2 statement with you?

3 A Yes

4 Q Okay Could you just explain to the ladies and
5 gentlemen what a financial statement is

6 A Basically, a financial statement is given to the
7 bank telling us what your net assets are and your net
8 worth

9 Q And did Mr Hulsey submit a financial statement to
10 the Bank of America for the purpose of obtaining a loan?

11 A Yes

12 Q And do you have that financial statement in front
13 of you?

14 A Yes

15 Q Okay And what is the date of the financial
16 statement?

17 A It has May 17, 2006 and it's signed on the same
18 day

19 Q Okay And is it signed by Mr Paul Hulsey?

20 A Yes

21 Q If you would, would you read for me the -- it's
22 the first paragraph on the first page at the bottom of
23 the page, right before he signed his name Do you see
24 that?

25 A Okay You want the first paragraph, not the one

1 above his name, correct?

2 Q Right

3 A Okay The undersigned herewith submit to private
4 bank this financial and supporting schedules which
5 constitute my personal financial statement This
6 statement is submitted to you for the purpose of inducing
7 you to extend or maintain credit to me whether as direct
8 obligor or indirectly as guarantors or other indirect
9 obligors of credit extended to others

10 I hereby certified that this statement presents a
11 true, complete, and correct statement of my financial
12 condition as of the date shown and does not omit any
13 pertinent information I understand that misrepresenting
14 information on this statement is a criminal offense under
15 federal law

16 Q Okay Now, does the personal financial statement
17 submitted by Paul Hulsey, does it show what his net worth
18 is?

19 A It does

20 Q Okay And is his net worth on the second page of
21 the financial statement?

22 A Yes

23 Q And what is Mr Hulsey's net worth as of 5/17/06?

24 A 81,556,986 51

25 Q Now, to get to that net worth, does he show total

1 assets?

2 A Yes

3 Q And what total assets does he show?

4 A \$88,057,112

5 Q And then he shows total liabilities?

6 A Yes

7 Q And what was his total liabilities?

8 A \$6,510,215 49

9 Q Okay so to get to his net worth, you just subtract

10 the total liabilities from total assets?

11 A Yes

12 Q Okay Now, on his financial statement, does he

13 show that he owns any vehicles?

14 A He did include an attachment for automobiles

15 Q And what did he show that he owned as far as

16 automobiles?

17 A A 1997 Ferrari 365 Spider, a 2000 Land Rover, Item

18 Z, 2001 Chevrolet Corvette, 2001 Ferrari F360 Spider

19 Q What did he show the value of the 2001 Ferrari

20 F360 Spider to be?

21 A \$280,000

22 Q And then you show what next?

23 A 2002 Astin Martin DB7 Coupe

24 Q What was the value of that?

25 A \$155,000

1 Q What is the next vehicle he shows?

2 A 2003 Astin Martin DB7 vantage convertible

3 Q What is the value you put on that?

4 A \$170,000

5 Q What was the next vehicle?

6 A 2004 Lhamborghini Gallardo

7 Q What value did he put on that?

8 A \$175,000

9 Q What was the next vehicle he put down?

10 A 2004 Porche Cayenne, 53,000

11 Q Okay The next vehicle?

12 A 2005 Porsche Carrera GT, 450,000

13 Q And lastly?

14 A A 2006 Mercedes SLR, 525,000

15 MR CISA Thank you, ma'am I have no
16 further questions

17 THE COURT All right Mr Lewis?

18 CROSS-EXAMINATION

19 BY MR LEWIS

20 Q Good afternoon

21 A H1

22 Q You were looking at a document, is that right?

23 A Yes

24 Q And that was for a loan that was some document
25 people give for loans?

1 A Yes

2 Q And were you the loan officer for a loan?

3 A Not for this loan, no

4 Q So all you're doing is bringing in a piece of
5 paper and reading off of it?

6 A I am bringing in the documents that he submitted
7 to Bank of America

8 Q And he submitted it to a loan officer?

9 A Yes, sir

10 Q And they discussed it and determined what -- how
11 to put things on it and so forth They would have sat
12 there together and that loan officer does due diligence,
13 doesn't he?

14 A I have no idea what they discussed

15 Q Okay All right Now, you are what, assistant
16 vice president?

17 A Assistant vice president, banking center manager

18 Q That's great Now, you wouldn't loan any money on
19 that statement today, would you?

20 A I wouldn't know because I'm not the one that makes
21 decisions on these

22 Q But isn't it too old?

23 A Any time you do a new loan we do get new
24 documents

25 Q So what you're saying is that wouldn't support a

1 loan today because it's so old

2 A No He would have to submit a new one

3 Q Yes And what is the date of that?

4 A May 17, 2006

5 Q And since 2006, things have been a little rocky,
6 haven't they?

7 A They sure have

8 Q And you don't know if that is the total of the
9 cash over a period of years or that is present day value?
10 You don't know that?

11 A No, I do not

12 Q And it doesn't say on there where that money is
13 coming from?

14 A No He's listed -- he has a statement here from
15 Citigroup He's also listed on here some deposit
16 accounts for Bank of America, some deposit accounts for
17 Smith Barney, and he's got some life insurance and
18 annuities on here and some deferred compensation and
19 retirement plans on here as well

20 Q Okay Where does the -- does it show where the
21 large number comes from?

22 A Reviewing it, it looks like he has the bulk of his
23 money in his assets that he has His bank accounts, at
24 that time, he noticed on here that he had 151,000 in Bank
25 of America then he had one million with Smith Barney

1 Q Smith Barney and Bank of America They've had a
2 tough time, haven't they?

3 A We weathered the storm

4 Q Yes, you have I'm trying to think, maybe I just
5 don't understand I'm sorry You said there was a
6 large -- that his net worth was a large amount of money,
7 81 million?

8 A Yes, sir

9 Q Where is the bulk of that money? Where does it
10 say it is?

11 A He has -- in his assets he has in this bank he's
12 listed 250 marketable 1,032,837 his primary residence
13 alone is \$6,500,000 Other real estate that he has is
14 worth \$9,800,000 His deferred compensation and
15 retirement plans is \$67,846 --

16 Q And that is the number -- you don't know if that
17 is present day value or not, do you?

18 A No, I sure don't

19 Q And if it wasn't present day value, that number,
20 present day value, would be much less, wouldn't it?

21 A I have no idea I don't have any current
22 financial statements

23 Q And so if you made a loan today, you would need a
24 current one, wouldn't you?

25 A Yes, sir

1 Q But what I'm saying is, if you have a number that
2 is paid out over time and you add it up over time and you
3 bring it back to present day value, it's much less than
4 the adding up of all the numbers

5 A I don't know, because he could have done different
6 things throughout to earn more money because I have no
7 idea without looking at a current financial statement

8 Q I'm asking just in present day value Do you know
9 how to do a present day value?

10 A Yes, sir I don't know what his present day value
11 is because I don't know what his holdings were at that
12 time I have no idea

13 Q I'm just asking you generally how you do a present
14 day value

15 A Basically, the customer would give us a statement
16 with all of his items on it and we would see that I
17 don't do any determination on what their value is I
18 basically fax up documents to the people that actually
19 look at those and make those determinations

20 Q Okay. So you don't make determinations

21 A No, I do not, huh-uh

22 MR LEWIS Okay Thank you

23 CROSS-EXAMINATION

24 BY MR JAMES HOOD

25 Q Ms DeWitt, the present day value is sort of like

1 the lottery There is a 500 million power ball You can
2 get 250,000 a month for the rest of your life or you
3 could go ahead and get 100 million?

4 A Yes

5 Q You understand that concept?

6 A Yes

7 Q Can I see, Ms DeWitt, the documents you brought
8 with you?

9 A Sure

10 Q And this is all one year?

11 A I don't know You would have to look at the dates
12 on there It should be for 2008 I don't know what date
13 is on

14 Q I don't mean to stand overtop of you

15 A You're okay

16 Q It looks like it's all 2006 Now, Mr Cisa had
17 sent you a subpoena That's where you came up with those
18 records, right?

19 A Yeah This subpoena was sent to us back before
20 the first case

21 Q All right And he also -- you produced to him the
22 '07 financial statements too, didn't you? That is from
23 your bank, right?

24 A Let's see It has private bank on here I don't
25 know if this came from Bank of America because I do not

1 have the subpoena where it was subpoenaed from, so I
2 would have to have something stating that it did come
3 from us

4 Q Well, it's marked as confidential, and it was
5 produced to us in connection with the documents you
6 produced in compliance with your subpoena

7 A Yeah

8 MR CISA Objection If he's attempting to
9 introduce evidence --

10 MR JAMES HOOD I'm not I'm sorry

11 THE COURT What are you attempting to do?

12 MR JAMES HOOD I'm attempting to show this
13 witness has access to the next year's financial statement
14 which is markedly different and she's only brought with
15 her one of them

16 MR CISA I object to this, Judge

17 THE COURT Again, you're not allowed to
18 introduce evidence during this trial

19 BY MR JAMES HOOD

20 Q Ms DeWitt, if you would please look at the
21 deferred compensation form there There is a -- you see
22 the asterisk? It's the first schedule

23 A Uh-huh

24 Q All right That document says, this is a vested
25 partnership interest in attorney's fees paid quarterly to

1 Ness Motley by the tobacco industry as a result of the
2 master settlement agreement between the industry and the
3 attorney generals of the participating states Such fees
4 are paid quarterly for 25 years, and Hulsey's individual
5 interest is the \$67,150,000 paid over 25 years

6 A Right

7 Q That makes it abundantly clear that the number
8 there is not reduced to present value That is a value
9 paid over 25 years, correct?

10 A Correct

11 Q That doesn't mean that Mr Hulsey has \$67 million
12 available to him, does it?

13 A No it It just means he's going to be receiving
14 this over 25 years and does not state the date it's going
15 to start, nor does it state the date it's going to end
16 either

17 Q And it doesn't indicate whether he can borrow
18 against it or he can assign it or he can sell it,
19 anything like that?

20 A No

21 Q And it doesn't indicate whether he can advance
22 payment under it, does it?

23 A No

24 Q And all of those are things you sort of need to
25 know so you can really evaluate someone's financial

1 condition, right?

2 A I don't know, because like I said before, I'm not
3 in the lending area The lending area makes those
4 decisions on these kinds of things

5 Q Tell me what you did to comply with the subpoena
6 that was sent to you

7 A All I did was basically show up and bring the
8 documents that were subpoenaed back at the time these
9 were subpoenaed

10 Q And do you have that subpoena with you?

11 A I have my subpoena for appearing this year This
12 is my original subpoena for this year

13 Q What records did you bring with you in connection
14 with that subpoena?

15 A I brought these records right here

16 Q What else do you have? What is that other clip?

17 A This is from the first time we appeared in court

18 Q Could I see that? I just want to see if it's got
19 one or two of them Do you have the original subpoena
20 that you produced the documents in connection with these?

21 A No Our legal department would have that because
22 I had to forward up the originals for that

23 MR JAMES HOOD Just a minute, Your Honor
24 Your Honor, I want to show you what I'm talking about

25 (Discussion held at sidebar)

1 BY MR JAMES HOOD

2 Q So that \$67 million, that huge number you came in
3 to talk about, is based on Mr Hulsey's deferred
4 compensation for putting tobacco companies out of
5 business and stopping kids from smoking, is that right?

6 A Yes

7 Q And the numbers that you have don't reflect the
8 charitable contributions that he contributes to the --

9 A No, that's not listed anywhere on these documents

10 Q Does the financial statements indicate any of the
11 things that he does for the community?

12 MR CISA Your Honor, I note an objection
13 He's trying to introduce evidence I would note an
14 objection to this

15 THE COURT He can ask that question He
16 cannot go any further, but he can ask that question

17 THE WITNESS No, the financial statement
18 does not ask about charitable contributions

19 BY MR JAMES HOOD

20 Q It's not listed?

21 A No

22 Q And, Ms DeWitt, in order to use the financial
23 statements to demonstrate somebody's ability to pay,
24 don't you need to know what their current financial
25 statements are?

1 A Yes

2 Q Yeah You don't loan money on it, you don't make
3 financial decisions based on four-year-old data, do you?

4 A No, we don't

5 MR JAMES HOOD Thank you ver much, ma'am

6 MR CISA Just one question

7 REDIRECT EXAMINATION

8 BY MR CISA

9 Q Ms DeWitt, what did Paul Hulsey represent his net
10 worth to be to Bank of America on May 17, 2006?

11 A \$81,556,986 51

12 MR LEWIS Objection

13 THE COURT Overruled

14 BY MR CISA

15 Q That is his number, not the bank's number?

16 A Yes, and he signed the statement stating it was
17 true

18 MR CISA Thank you, ma'am No further
19 questions

20 THE COURT Recross?

21 MR JAMES HOOD Before the witness is
22 excused, we just want to --

23 MR LEWIS Excuse me, Your Honor

24 RECROSS-EXAMINATION

25 BY MR LEWIS.

1 Q I just want to make sure, you weren't the loan
2 officer?

3 A No, sir, I wasn't

4 Q And you don't know what Mr Hulsey and the loan
5 officer talked about, do you?

6 A No, sir, I do not

7 MR LEWIS Thank you

8 THE COURT Do you want to ask anything else,
9 Mr Hood?

10 MR JAMES HOOD Not at this time, Your
11 Honor, but we would ask the witness to stay

12 THE COURT All right I need you just to
13 stay a little bit before we finish up the end of the day
14 I'll tell you what Why don't we send the jury out for a
15 few minutes You can ask whatever you need to deal with
16 her and send her on her way

17 So let me let y'all go out for just about ten
18 minutes, and we'll have you back in just a few and we'll
19 decide when we're going to break for the day

20 (Recess taken)

21 (In open court jury not present)

22 THE COURT What did you want to proffer with
23 her?

24 MR JAMES HOOD During the course of this
25 case, Mr Cisa had requested financial statements that

1 were objected to He received an order from the Court
2 requesting production of certain information related to
3 the financial statements

4 (Newspaper article marked for identification
5 as Court's Exhibit No 2)

6 The information that was produced to Mr Cisa
7 included two financial statements from this lady's bank,
8 5/17 or 06 and 6/06 of 2007, both of which were signed by
9 Paul Hulsey The one that the witness has testified to,
10 I'm going to mark as the next Court's exhibit, which I
11 think is No 3, and the other one, Your Honor, is a year
12 later, the same bank, it's been produced in this case,
13 and it demonstrates the net worth of \$32,800,000, or
14 802,776 27, so the difference is in one year a financial
15 statement goes from demonstrating \$81 million in net
16 worth to \$32 million

17 The reason for that is the description of the
18 deferred compensation is contained in it In there it
19 says the deferred compensation, the current value of that
20 stream of income that we've alluded to is valued at \$18
21 million, so the difference is the \$18 million as opposed
22 to the \$65 that she has testified to

23 THE COURT Why did it become so much less in
24 value?

25 MR JAMES HOOD Because you reduced it to

1 present day value

2 THE COURT Okay

3 MR JAMES HOOD So what we have is an
4 opportunity under Rule 55 to make the inquiries we think
5 is necessary to prove the truthfulness, the ability to
6 pay the defendant when you're talking about paying
7 punitive damages Our Court United States Supreme Court
8 said the Court must be extra cautious to assure that due
9 process is afforded, and what we're having here is
10 selective use of documentation when more pertinent and
11 more timely records are available that would depict for
12 the jury a more truthful condition of the defendant's
13 ability to pay

14 Now, we believe that the issue of ability to
15 pay is improper We don't think it should be submitted
16 to the jury I understand there is a footnote in a case
17 that addresses that I think it was noted and it wasn't
18 objected to I believe the United States Supreme Court
19 jurisprudence indicates the ability to pay should not be
20 factored into it, and I would urge the Court to adopt
21 this rationale Assuming that you're not, I think it
22 will be a fraud on the Court to let this jury think that
23 the defendant in this case, Mr Hulsey's ability to pay
24 is \$81 million when the produced information in the case
25 shows the next year, just the next year, the total net

1 worth to be \$32 million, and so I would offer the second
2 financial statement dated 6/6/07 as the second next
3 Court's exhibit

4 (Financial statements marked for
5 identification as Court's Exhibit No 3 and 4)

6 THE COURT Mr Cisa, why don't you want to
7 have the jury know about that?

8 MR CISA Because I filed suit on April 19,
9 2006 Mr Hulsey filed a financial statement with the
10 Bank of America about a month later on May 17, '06 saying
11 he had a net worth of \$81 million Then when I go to
12 Court to get an order, all of a sudden he's monkeyed with
13 his financial statement and he's cut it by more than half
14 as a result of the Court order

15 He signed a financial statement saying they
16 was worth \$81 million a month after I filed suit, and
17 then he wants to monkey around with the financial
18 statement I don't buy that, in response to a Court
19 order I submit this is the financial statement that was
20 in existence at the time that the lawsuit was filed, and
21 Mr Hulsey signed it under penalties of perjury Nothing
22 has changed between the financial statements except he's
23 reduced his net worth, and I think it's improper

24 Now he comes into Court and says, Oh, now
25 that I'm being sued, my net worth is not \$81 million

1 anymore I want to redo it

2 Well, I submit that's not proper, Judge
3 This was the financial statement a month after I had
4 filed suit, and I don't want to put anything else into
5 evidence, and I submit they're not entitled to put
6 anything in evidence

7 THE COURT All right I'll sustain his
8 objection to your introduction of the evidence You've
9 had the opportunity to discuss the present day value with
10 the witness She's not able to compute it

11 It doesn't sound like, but you certainly have
12 the ability to argue to the jury that, you know, that
13 number is something less than what it appears to be

14 All right Is that all we needed this lady
15 for?

16 MR JAMES HOOD You said you sustained my
17 objection?

18 THE COURT Well, I guess -- you offer it,
19 Mr Cisa objects to it, so I'm sustaining his objection
20 It's a proffer

21 MR JAMES HOOD I just want to make sure --

22 THE COURT I'm sustaining his objection to
23 your introduction to it

24 MR JAMES HOOD And what I'm asking the
25 Court to do is independently evaluate Mr Hulsey's

1 ability to pay under Rule 55 to prevent there being an
2 injustice in awarding punitive damages on information
3 that has been demonstrated to the Court --

4 THE COURT I'm going to allow you to argue
5 to the jury that there is evidence was presented that he
6 is worth \$67 million but that is -- you can try to
7 explain to them why that number is not a real number
8 Obviously, you're hamstrung on being able to put in
9 something on what it is because there has been no
10 evidence about what, in fact, the present day value of
11 that is, but you can argue that it's worth less than \$67
12 million that appears

13 Okay? Because that evidence is before the
14 jury, so you can make that argument I will not hinder
15 your ability to make that argument Okay?

16 MR LEWIS Your Honor, also, I don't think
17 being in default allows them not to comply with Rule 45
18 and give us the subpoenas that they used We didn't get
19 them

20 MR JAMES HOOD Join

21 MR LEWIS I don't think can you do that
22 Being in default doesn't mean we don't get rights under
23 the rule

24 MR CISA We had this come up at the last
25 trial, and you denied their motion, but when they asked

1 me about this a moment or so ago, I wrote them and said I
2 read Rule 45 I don't see where it says I copied you
3 with subpoenas, and I invited them to point out the
4 language in Rule 45 to me at that time I cannot find
5 anything in Rule 45 that says I need to copy them with
6 subpoenas, and I invited them to point out where I erred
7 and heard nothing in response

8 I don't see it in Rule 45, Judge There is
9 nothing in Rule 45 that says that documents produced by a
10 witness have to be given to the other side, okay? They
11 had this financial statement I took Ms DeWitt's
12 deposition at which time she produced it and it was an
13 exhibit to the deposition I see nothing in Rule 45 that
14 requires me to -- whether you're in default or not that
15 requires one party to serve another party with a
16 subpoena

17 THE COURT I agree Do we need this lady
18 for anything any further?

19 MR CISA No, sir

20 MR LEWIS Would you like me to read you the
21 rule that says that?

22 THE COURT What has that got to do with this
23 witness, whether you got a copy of her subpoena?

24 MR LEWIS You could say that all the time
25 about lots of witnesses When we get them it helps us

1 plan It helps us know what is going on

2 THE COURT You had a whole trial before
3 It's not like there is a whole lot of surprise about what
4 this lady was going to say

5 MR LEWIS I know, but the rule is here
6 This is what it says, and we could have done it a lot
7 differently if we would have known everything

8 THE COURT The fact that they subpoenaed
9 here? How would that --

10 MR LEWIS What documents did they subpoena?

11 MR CISA They had the document It was
12 attached to her deposition How can they complain?

13 MR LEWIS I'm just pointing out it's in the
14 rule To say it's not in the rule, he needs to read the
15 rules

16 THE COURT I really don't see how it makes a
17 difference in this trial She's testified one time
18 before The fact that she got a subpoena, I don't really
19 see what that does to change the outcome All right Do
20 we need her for anything else?

21 MR JAMES HOOD Only if you let me ask her
22 questions about the other financial statements

23 THE COURT So she can be dismissed

24 MR JAMES HOOD Unless she just wants to
25 stay for fun

1 THE COURT You're free to go All right
2 (In open court, jury present)

3 THE COURT Okay, folks what we've decided to
4 do is just break for today since it's getting late and we
5 will resume Thursday morning at 9 30 If you come
6 tomorrow, it's just going to be a frustrating experience
7 for you tomorrow morning to try to get into this
8 courthouse because the county celebrates veteran's day so
9 they're closed So I'm going to send you home now
10 tonight We'll resume Thursday morning at 9 30

11 Again, go home tonight Don't talk about
12 this case Don't try to find out anything about it,
13 don't discuss it with anybody, including other jury
14 members, none of you, your impressions, none of your
15 discussions certainly don't go to try to find out
16 anything on the Internet

17 I know you've heard discussions about web
18 sites and newspapers, all of which are freely available
19 on the Internet, but just don't do it We don't -- you
20 know, you violate a direct Court order if you go on the
21 Internet and try to find out something about these
22 cases -- this case, so just go home, enjoy the rest of
23 your evening, enjoy your day off

24 You can go to work if you want or wherever it
25 is you need to do tomorrow, but come back Thursday

1 morning, and we will resume promptly at 9 30 Okay? See
2 you later Thank you for your patience

3 (Jury recessed)

4 THE COURT All right You wanted to proffer
5 a witness, so let's call him

6 MR JAMES HOOD At this time we would call
7 Barry Gumb

8 MR LEWIS It's just get my little objection
9 that we didn't get on present day value I objected
10 She was going to testify and it had to be in present day
11 value You said you could cross-examine her I did It
12 isn't present day value and I now moved to strike her
13 testimony because it has to be, and I think there is a
14 case on it and I'll find it for you over the next day

15 MR JAMES HOOD And I join in that

16 THE COURT Okay

17 BARRY GUMB,

18 having been first duly sworn,
19 was examined and testified as follows

20 DIRECT EXAMINATION

21 BY MR JAMES HOOD

22 Q Would you tell the Court what your background is
23 and what you do

24 A I'm a certified public accountant I've passed
25 the CPA exam in 1973 had to work two years, became

1 certified in 1975 Graduated from the Citadel with a
2 BS in business administration in 1968 Then I was in the
3 army for a few years and then I went to the University of
4 South Carolina and got -- graduated with an MBA in 1973
5 I've been practicing as a CPA sin then

6 Q Have you been qualified as an expert witness in
7 state and federal courts all over South Carolina?

8 A Yes, I have

9 Q You've never been excluded from testimony, not
10 being qualified to testify?

11 A No, sir

12 Q And part of your job is litigation support?

13 A I do some litigation support Probably about 30
14 percent of my time would be in that, the rest would just
15 be in general practice of being a CPA

16 Q In this case I asked you to review the opinion of
17 present value, the methodology, the approach you heard
18 Mr Richard Holmes testify to, and I would like for you
19 to explain to the Court why that approach and that
20 methodology is not accepted by CPAs

21 A Well, what Mr -- I -- one thing I didn't mention
22 is the American Institute of CPAs is our governing body
23 and I am a CPA I have a further accreditation as an
24 accredited in business valuation, which is referred to as
25 ABV

1 That certification is a test and experience
2 certification that I attained in 1999, and so I've been
3 practicing in business valuation for many years, but the
4 point is to testify or to talk about business valuation
5 You don't have to be a CPA, nor do you have to be an ABV
6 if you hold yourself out as a CPA and you're going to
7 testify as to valuation, then also CPAs are governed by
8 these standards

9 And these standards require you to have
10 professional competence, they require you to have
11 sufficient relevant data upon which to base your opinion,
12 and then they require you to have address the valuation
13 methodology in a certain manner

14 And that manner that is spelled out in here, we
15 could go into it, is not the way that -- I'm sorry, I
16 forgot his name

17 Q Richard Holmes?

18 A Mr Holmes did his work, and I believe he even
19 stated that, but I think he was under the misnomer that
20 these rules only apply to ABVs, which is not correct

21 Q The organization you're referring to is sort of
22 like the American Bar Association?

23 A Yes I mean, the American institute of CPAs is
24 our governing body

25 Q And when you say governing, you mean that the

1 standards that they publish, you must comply with in
2 order to do your job as a CPA?

3 A If I don't, then I have problems, yes

4 Q Think you find somebody like Mr Lewis who might
5 sue you?

6 A I didn't know that is what Mr Lewis did, but, I
7 don't plan to get to know him

8 Q Let's tell the judge what methodology the
9 CPA organization requires you to utilize in order to
10 testify to business valuation

11 A Well, there is more than one methodology

12 Q What are they?

13 A Well, the first thing you have to do is determine
14 the valuation date, which he did do, the standard of
15 value, fair market value, and then you have to address --
16 usually there is three different methods that you address
17 in your valuation, and you have to go through each of
18 those methods and you state in your conclusion of value
19 what weight you placed on each method

20 Those methods are essentially the asset method,
21 which would be net asset value, the fair market value
22 less your liabilities That is usually used more for
23 companies that have valuable assets on their balance
24 sheet, not a service business such as he was talking
25 about here

1 The second would be income approach, the third one
2 would be market approach. The most important thing about
3 the market approach, what I think Mr. Moore was trying to
4 use, is that the comparable companies to which you derive
5 your market, have to be comparable, and so what went
6 through my mind is when he was speaking that, first of
7 all, there wasn't sufficient relevant data supplied for
8 him to give his opinion as to how these two companies
9 compared in terms of -- we did talk -- he did talk about
10 their employees but he didn't talk about their revenues.
11 He didn't talk about their expenses. He didn't talk
12 about the entries that would have been added back in the
13 valuation that he said he did for that, when it was sold
14 in the upstate.

15 So he didn't provide sufficient relevant data to
16 prove that those two companies were comparable. And he
17 quoted Shannon Pratt. Shannon Pratt does not publish a
18 book of rules of thumb. Pratt stats is a database that
19 gives you certain data upon which you may go forward with
20 evaluation, the point being is that what concerned me the
21 most when I listened to it is that the standards that
22 apply to CPAs when you testify to evaluation and these
23 standards apply in litigation matters, I'll just read
24 that to you very quickly, are included in here, and one
25 of the examples in here, for an illustration, it says,

1 illustration 3 If a startup business is destroyed, is
2 the economic damage competition within the scope of this
3 statement?

4 Conclusion There are two common measures of
5 damage, loss of profits and loss of value If a
6 valuation analyst performs an engagement to estimate the
7 value to determine the loss of value of a business or
8 intangible asset the statement applies

9 So basically it says that it does apply to exactly
10 what he's doing as a CPA Now, it would take sometime to
11 go through all these standards, but --

12 Q Tell me about the rule of thumb Is that an
13 appropriate methodology to utilize as a CPA in forming
14 the valuation, like you testified?

15 A A method -- a rule of thumb is not a method of
16 valuation

17 Q What is it?

18 A A rule of thumb is a rule of thumb Somebody once
19 told me that the rule of thumb was derived in ancient
20 history being the rule in which there was -- you know,
21 had something to do with law and ancient history

22 Q How does it apply in your field?

23 A In our field rules of thumb I usually call a
24 cocktail table talk, but a rule of thumb is not a market
25 comparable A rule of thumb, you might say you go

1 through all this work and a lot of times when you go
2 through this work you get bogged down you think, oh,
3 well, it's scientific methodology, but it isn't It's an
4 inexact science, so you have to sit back and say, well is
5 my valuation reasonable?

6 Well, sometimes you might look at a rule of thumb
7 or you might look at other transactions and see if the
8 valuation, the value you came up with, is reasonable, but
9 just in turn, if all you use is a rule of thumb, then you
10 have nothing to check to see if it's reasonable, because
11 you haven't gone through any of these other steps

12 Q Would it be fair to summarize that the rule of
13 thumb is what you have come to utilize to check your
14 work?

15 A Most -- well, I wouldn't use a rule of thumb I
16 would go with Mr Truggins book as published by the
17 American institute of CPAs that you quoted, but at best a
18 rule of thumb is to check for reasonableness, and the
19 biggest breakdown was if you're going to refer to the
20 comparable company, then you need to build your data to
21 prove that they're comparable

22 The Ashley River bridge is a bridge And the
23 Cooper river bridge is a bridge, but they are aren't
24 comparable They're two different kinds of bridges and
25 so, you know, to try to compare those without building

1 such -- provides the information to do so it not
2 appropriate

3 Q Has the utilization of the rule of thumb, and the
4 methodology that Mr Holmes testified to and explained
5 what he did, been published in any type of peer review as
6 an acceptable technique for the purpose that he offered
7 it here today?

8 A No Rule of thumb is not even mentioned in the
9 standards

10 Q Is the methodology utilized by Mr Holmes in this
11 case an appropriate application of the method, the rule
12 of thumb, to this type of evidence? Is that even
13 appropriate?

14 A I'm not sure I follow that question

15 Q Okay Is using the rule of thumb like he did
16 here, is that appropriate?

17 A No, because he used it as a method of valuation

18 Q Which it is not?

19 A It is not

20 Q Were there any quality control procedures utilized
21 to ensure his number being reliable?

22 A No, because he didn't go through the methodology
23 that is required by the standards

24 Q And the methodology set forth in the standards
25 that you're referring to, are those what he specifically

1 testified to not utilized?

2 A Correct

3 Q So given that, his opinion has no indicia of
4 reliability?

5 A Well, I only know what I heard, but it sounded to
6 me like he thought these standards only applied if you
7 are an ABV, if you had an accreditation in business
8 valuation That is not correct If you hold yourself
9 out at a CPA in a setting such as this, you must abide by
10 these standards

11 Q Okay And utilization of the approach that he
12 used, however you want to characterize it, that
13 methodology is not consistent with any recognized
14 CPA laws or procedures, is that correct?

15 A No, it's not contained in our standards

16 Q In short, there is no way for us, the defendants,
17 to learn upon which Mr -- what Mr Holmes is relying
18 upon in formulating his opinions?

19 A That's correct There was not sufficient relevant
20 data

21 Q You also reviewed the tax returns and the
22 information that was available

23 A Yes, sir

24 Q And what, if anything, did you learn from that?

25 A As to what?

1 Q As to ownership

2 A Pardon me?

3 Q As to ownership?

4 A According to the tax return, Mr Lawton Limehouse
5 owns a 10 percent interest in the profits, a 10 percent
6 interest in the profits and loss, and according to the
7 tax return a 50 percent interest in the capital, however,
8 when the capital is being distributed, which is shown on
9 the tax return

10 The capital is not being distributed 50/50, it's
11 being distributed much closer to the 90/10 profit loss
12 distribution, but in reality, the tax return itself, if
13 you look at how it was handled on the tax return, it
14 would be closer to 09/10, 90 percent for the other
15 Limehouse I'm not sure --

16 Q Senior?

17 A -- and 10 percent for Lawton Limehouse

18 Q So then based --

19 THE COURT They're both named Lawton
20 Limehouse We're dealing with Junior here today

21 THE WITNESS All right Junior

22 BY MR JAMES HOOD

23 Q So based upon the data Mr Holmes testified to,
24 would it be fair to characterize Mr Lawton Limehouse
25 Junior's ownership interest in L&L Services as 50 percent

1 and him earning 50 percent of the profits of that
2 company?

3 A That's not the way that it's been handled
4 historically on the tax return, no, sir

5 Q And the person that does that is Mr Holmes?

6 A He did it every year except in 2000 it appeared
7 there was another CPA

8 MR JAMES HOOD Thank you, Mr Gumb I
9 apologize to you for sitting here

10 THE COURT Do you want to ask a question?

11 MR CISA I don't think so, Judge

12 THE COURT Did you have any questions you
13 want to ask, Cam?

14 MR LEWIS No, sir

15 THE COURT All right Thank you

16 MR LEWIS I thought he did very well

17 THE COURT All right We'll see y'all

18 Thursday morning

19 MR JAMES HOOD I just renew the 104 motion
20 I can argue that Thursday

21 THE COURT Okay

22 (Proceedings recessed)

23 - - -

24 (Whereupon, the proceedings were concluded)

25 - - -

1 (Thursday, November 12, 2009)

2 (In open court, jury not present)

3 THE COURT All right Mr Hood, what did
4 you need to bring to my attention?

5 MR HOOD I don't know whether they're going
6 to call Mr Limehouse Senior or not, but at the last
7 trial, Your Honor --

8 MR CISA I'll tell you, Judge, I'm not
9 going to call Mr Limehouse Senior That takes care of
10 that

11 MR HOOD That does take care of that We
12 had -- I think he's going to call the plaintiff's sister
13 She made a reference to having a miscarriage or something
14 before, when she testified, just volunteered that They
15 have a normal healthy baby, and she attributed it to this
16 newspaper article That has nothing to do with anything
17 in this case

18 It's extremely prejudicial, so I would just
19 ask you to instruct her when she comes in, outside the
20 presence of the jury, the delivery of her child has
21 nothing to do with this man's damages There are
22 actually four things in our motion in limine, the birth
23 of her daughter premature, referring to her newborn
24 daughter being in a body brace, friends of the plaintiff,
25 the family, who are African American or other ethnic

1 descent as trying to cull favor with the jury, has
2 nothing to do with Lawton Limehouse Junior, and
3 Mr Hulsey's statement tarnished the reputation of any
4 member of the family other than the plaintiff -- I mean,
5 that has nothing to do with this lawsuit

6 You've got a motion in limine on your desk
7 from us on that subject, from her, with the attached
8 testimony last time from her, which really was extremely
9 prejudicial, in talking to the jury afterwards It sunk
10 into them big time

11 What else?

12 MR JAMES HOOD I think that is mom and
13 sister

14 MR HOOD They applies to the mother and the
15 sister We're dealing with Junior's case only, and I
16 don't know how you want to deal with this K-1 gave him 10
17 percent and the tax returns show he has 10 percent He's
18 testified to 50 percent, but the truth here, in sworn
19 documents filed with the IRS, and --

20 THE COURT I don't see that I have to do
21 anything with it That information came in through a
22 proffer

23 MR HOOD Yes, and I can't put in evidence,
24 but we know now the truth and we have Rule 55 on fraud on
25 the Court and so I think we need to do something with it,

1 you and me and them

2 THE COURT As I recall, even under the
3 proffer it was a 50 percent ownership, but they just
4 split the profits different, so I don't really know that
5 it's untruthful testimony

6 And as I recall, and I can go back and look
7 at it, your accountant, during his proffer, says yeah, It
8 says they get 50/50, but they just align who got what on
9 profits differently I don't know that he testified to
10 anything different than that

11 MR HOOD He said he owned 50 percent of the
12 business

13 THE COURT And I think that is what your
14 accountant said He didn't dispute that He said he
15 owned 50 percent He just said if you look at the tax
16 return, one of them is getting 90 percent of the profit
17 or loss and the other is getting 10 percent, but I think
18 your guy said, and I'd go back and look at it, that the
19 documents do, in fact, say a 50/50 ownership, so he
20 didn't lie, if that is what he said

21 MR HOOD All right, sir

22 THE COURT You want to be heard on this
23 motion in limine about the witnesses?

24 MR CISA Sure, Judge I am going to call
25 Amy Limehouse and probably Jean Limehouse also

1 MR LEWIS I join in those motions

2 THE COURT Okay

3 MR CISA Judge, I think you're going to
4 charge the jury that Lawton Limehouse, part of his actual
5 damages would be mental anguish and suffering What he's
6 relating is I think, Amy Eager, who is the sister of
7 Lawton Limehouse, the day this publication came out, she
8 had premature labor

9 We're not trying to pin that on Lawyer
10 Hulsey It's a fact of what happened, but I think part
11 of the damages that Lawton Limehouse Junior has suffered,
12 his mental suffering and his mental anguish and his
13 anxiety, is seeing close family members react to this
14 slanderous statement that impacted him, and I think that
15 is clearly relevant to damages

16 For him to know that he can't provide for his
17 children, that certainly is an element of his damages
18 that causes him mental anxiety

19 THE COURT He wants to have her not talk
20 about having a premature baby and the baby was born in a
21 body brace, so off the top of my head, I cannot see how
22 that is relevant to his damages

23 MR CISA Well, it may not be

24 THE COURT Okay Then let's not have her
25 talk about it All right?

1 MR CISA Okay And I understand what your
2 ruling is I'm not arguing with you Jean Limehouse is
3 going to say that she remembers the day very clearly
4 because of what happened She was very concerned when
5 she read the article

6 First thing she did was call Amy, who was
7 pregnant, and went over to her house to console her I
8 think that is all relevant Lawton Junior knew about
9 that, knew that everybody was congregating at Amy's
10 house, and, as a result, he wouldn't even go to the
11 hospital to see the newborn baby

12 I think that is part of his mental anguish
13 and mental suffering I'm not trying to suggest to the
14 jury in any way --

15 THE COURT I think that is fine, to say,
16 Well, he was so upset that he didn't go to the hospital,
17 but to get into the details about the fact that the baby
18 was premature, which, you know, if she was a party, you
19 might want to try to argue that induced the baby to come
20 early, if you could get some medical testimony in that,
21 but I think that is just too much of a leap to say -- at
22 this point, without some substantiation between the
23 premature delivery and his mental anguish is a little bit
24 of a leap, to say he was so upset to say she went into
25 delivery that same day

1 I don't know that it's necessary to get into
2 the fact it was premature, but I think if he was so upset
3 that he didn't even go to the hospital to see the baby,
4 that's fine The fact that the baby later needed a body
5 brace, I don't see how that is relevant at all

6 MR CISA I don't think it is, Judge

7 THE COURT So we'll have her not talk about
8 that either What about the fact that the friends -- it
9 looked like she just kind of volunteered that there was
10 other family members or friends that are African
11 American

12 MR CISA I think what she was talking about
13 is a couple of the statements in the complaint related to
14 the article were that it set the community back 150 years
15 and he engaged in a blatant case of indentured servitude
16 I think it has racial overtones, and that is part of the
17 slander in this case, and Amy was simply pointing out
18 that, you know, I've got Afro-American friends They've
19 eaten dinner at my table when my brother was there and my
20 father is there I think that's relevant

21 THE COURT Suppose it is relevant You
22 could have asked him about it I don't know what -- her
23 mindset is what I'm getting at in that statement What
24 has it got to do with her mindset? She's not a
25 plaintiff

1 MR CISA I understand that I'm just
2 saying that she is -- what she's responding to is that
3 those statements in that article, that is just -- it was
4 done with, we think, actual malice intentionally and
5 reckless disregard for the rights of others, and I think
6 those kind of statements, to say, This is not true, we
7 are not a racial family, we had Afro-American friends,
8 it's not true

9 THE COURT Well, again, if you wanted to get
10 into that aspect of it, you could have gotten into it
11 with Lawton Limehouse Junior testifying I don't really
12 know what the point is -- again, it looked like she
13 volunteered it

14 MR CISA I think she did

15 THE COURT So I'll direct her not to talk
16 about that

17 MR CISA All right

18 THE COURT What about -- tarnished members
19 of the family other than the plaintiff This is the last
20 point, allegations of Mr Hulsey's statement tarnished
21 the reputations of any members of the plaintiff's family
22 other than the plaintiff

23 MR CISA I think it's already in Lawton
24 Junior testified the Limehouse name is just down the
25 tubes

1 THE COURT I'm not really so upset about
2 that Again, you didn't solicit the question, she just
3 volunteered it, but I don't really --

4 MR CISA It is a damages hearing, Judge

5 THE COURT It doesn't concern me as much

6 MR CISA I do understand that, and, you
7 know, it's really a before or after, but it's hard to get
8 before or after without some testimony about why you
9 remember the article and what happened after

10 It's pretty easy for the Limehouse family to
11 remember because the baby was born, Amy's first child was
12 born, on April 24th But I'm not suggesting to the Court
13 that I'm seeking recovery because the baby was in a brace
14 or the baby was born prematurely, although I think that
15 has an impact on my client

16 THE COURT Well, babies are born premature
17 for a lot of different reasons

18 MR CISA I agree

19 THE COURT If she were a party, then maybe I
20 would allow it, but it's a sister-in-law, so I'll
21 instruct her not to talk about that

22 MR CISA If it pleases the Court, Your
23 Honor, when I -- before we get into testimony, maybe
24 through Jean Limehouse and Amy Limehouse, if you would
25 instruct both of them what you're talking about

1 THE COURT Okay Are they being -- are one
2 of the two of them first witnesses?

3 MR CISA I'm going to call Tony Daniel
4 first, and then I think I'm going to call Amy Eager, who
5 is Lawton Junior's sister, and then I think I'm going to
6 call Jean Limehouse

7 THE COURT Okay We'll take a little break
8 then All right

9 What else do we need to deal with?

10 MR CISA Judge, we're going to have to deal
11 with the charge a little bit, but I don't know whether
12 you want to deal with it later

13 THE COURT We'll deal with it later

14 MR JAMES HOOD I just have that 104
15 proffer We'll deal with that later

16 THE COURT The 104 proffer of what?

17 MR JAMES HOOD About the expert testimony,
18 the methodology?

19 THE COURT Something different than what --
20 I'm not following what you're talking about You have
21 another witness that you want to proffer?

22 MR JAMES HOOD No, Your Honor Now that
23 you've heard the proffer, I would like to make my 104
24 objection to that evidence being reliable, such that the
25 jury should consider it

1 THE COURT Is this something you want to put
2 on the record in addition to what you put on the record
3 the other day?

4 MR JAMES HOOD That's all

5 THE COURT We'll deal with that -- here is
6 my next point is the other day when we were qualifying,
7 one of the jurors said, Oh, I have a real estate closing
8 on Thursday Got to refinance my house, can't refinance
9 it, yada yada

10 And I told him, well, if you get picked on a
11 jury, and by God out of 200 jurors he's on the jury, so
12 he's got house closing at noon Luckily he was able to
13 do it at lunch We have to break at 11 30 so he can do
14 his house closing at lunchtime, so we need to take a
15 break about 11 30 today, a little bit sooner than we
16 would

17 MR CISA Just so you know the schedule, I
18 kind of described what you were talking about yesterday
19 I don't think it's going to take me long to finish up I
20 got three short witnesses I was really thinking we
21 could argue and charge before lunch, but whatever you
22 want to do

23 THE COURT We're not going to be able to do
24 that, but if you could finish up your witnesses, then we
25 could have our charge conference during lunch, come back

1 and charge after lunch That would be great That
2 avoids the problem is one of the other jurors has a
3 funeral tomorrow at noon

4 MR CISA And I think that's what I'm going
5 to do, depending on what happens, but I think that's all
6 I'm going to do, Judge, try to get it over with

7 THE COURT Okay All right Anything else
8 we need to take up? All right Bring the jury in

9 (In open court, jury present)

10 THE COURT All right Welcome back, folks
11 We're going to resume now where we left off with the
12 plaintiff calling the next witness

13 MR CISA Thank you, Your Honor Plaintiff
14 would call Tony Daniel

15 ROBERT ANTHONY DANIEL, JR ,
16 having been first duly sworn,
17 was examined and testified as follows

18 DIRECT EXAMINATION

19 BY MR CISA

20 Q You go by Tony Daniel?

21 A Yes, I do

22 Q Okay Mr Daniel, how old are you, sir?

23 A I'm 58

24 Q Where do you currently reside?

25 A I live west of the Ashley

1 Q Are you married?

2 A Yes, I am

3 Q Do you have any children?

4 A Two children

5 Q What is your educational background?

6 A I went to St Andrews High School and I went to

7 the Citadel, graduated from there in 1972

8 Q Have you served in the military?

9 A Yes I retired as a lieutenant colonel I was in

10 the Army Reserves transportation corps

11 Q For how long?

12 A Twenty-eight years

13 Q Are you currently employed?

14 A Yes, I am

15 Q And where are you employed?

16 A Southcoast Community Bank

17 Q What do you do for Southcoast Community Bank?

18 A I'm the senior lending officer

19 Q How long have you been in the banking business?

20 A Thirty-seven years

21 Q Do you know Lawton Limehouse Junior?

22 A Yes, I do

23 Q And when did you first meet him and how did up

24 first meet him?

25 A I think his father introduced him to me in

1 probably the early '90s

2 Q Did you have occasion to do banking business with
3 Lawton Junior and his father?

4 A Yes, I do

5 Q For how many years?

6 A Well, I met Lawton Senior in probably the early
7 '80s and I know his son in probably the early '90s, and
8 we did some transactions

9 Q What type of businesses were they in when you
10 first met them?

11 A Mostly personal type things, and it wasn't until
12 1999 that we got involved in the business deal, L&L

13 Q Okay So did you do banking business for L&L
14 Services?

15 A Yes, I did

16 Q Okay Now, do you recall the article that came
17 out in the Post & Courier on April 24, 2004 when
18 Mr Hulsey said Mr Limehouse engaged in a classic
19 racketeering scheme, that his conduct set the community
20 back 150 years, that he engaged in a blatant case of
21 indentured servitude, and created the perfect
22 racketeering enterprise just like Tony Soprano?

23 A Yes, I so

24 Q Do you recall when you first heard about that?

25 A Yes I was -- we have loan meetings at that time

1 around 4 00 in the afternoon --

2 MR LEWIS Your Honor, I object to anything
3 that is told to him in a meeting by a third person as
4 being hearsay

5 MR CISA I'll try to straighten it out

6 THE COURT He hasn't said anything about
7 that yet

8 MR LEWIS He's about to

9 BY MR CISA

10 Q When I'm asking you questions, what he's saying is
11 he doesn't want you testifying to what somebody else told
12 you You can testify to what you personally observed and
13 that type of thing You kind of understand?

14 A Yes We were sitting in the loan meeting going
15 over loans --

16 Q What day was this?

17 A This was on a Monday

18 Q Is this the Monday following the Saturday
19 publication?

20 A Correct

21 Q Okay

22 A And I had not seen the newspaper article at that
23 time, and I was sitting in the loan meeting and we were
24 going over loans People were presenting loans that they
25 wanted to make, and we were doing that sort of thing, and

1 I was facing the door And I could see out, and I saw
2 the president of the bank sort of coming towards the
3 room, and he had a newspaper in his hand, and he came on
4 in

5 Q What was the expression on his face?

6 A It wasn't good So he asked who was lending money
7 to --

8 MR LEWIS Your Honor, he's saying what the
9 man said

10 MR CISA All right

11 THE COURT Depends on what it's being
12 offered for

13 MR CISA It's not offered for the truth of
14 the matter asserted, it's offered to show what he did
15 next

16 THE COURT Or why he did what he did next?

17 MR CISA Why he did what he did next

18 THE COURT All right Go ahead

19 THE WITNESS Well, there was nowhere for me
20 to hide, so I said I was the one that was lending money
21 to L&L, and he said, well -- the newspaper article was
22 there, and he said, Have you read the newspaper article?

23 And I said no, and he said you better read
24 it --

25 MR LEWIS Your Honor, I object This is

1 going right at this case

2 MR CISA I'll move on

3 THE COURT Overruled

4 MR CISA It's overruled Go ahead

5 THE WITNESS So I said I would read the
6 article, and, basically, we had to collect the money

7 BY MR CISA

8 Q What were your marching orders as a result of that
9 meeting?

10 A Collect the money

11 Q Why were you having to collect the money?

12 A Well, they were out of business

13 Q Okay When I say you, I mean Southcoast Bank
14 What kind of loans did you make to L&L Services prior to
15 that time?

16 A They provided transportation for their workers,
17 and I think we had approximately 15 of these 15 passenger
18 vans financed We also had a line of credit, and I think
19 that was about it

20 Q Do you know of your own personal knowledge what
21 happened to L&L Services on that Monday following the
22 publication?

23 A Well, after I read the article and the meeting was
24 over, I called Mr Limehouse and, you know, asked him
25 what was going on, and he basically told me at that time

1 that he didn't have any more clients, the clients
2 wouldn't use his service anymore, so I said, well --

3 MR LEWIS Your Honor, this is the same
4 hearsay objection Could I have a continuing -- he's
5 always telling what other people said And this is --

6 THE COURT Again, it depends on what purpose
7 it's being offered

8 BY MR CISA

9 Q What did you do to try to collect your money, Mr
10 Daniels, or the money that was owed to Southcoast Bank?

11 A Well, Mr Limehouse and I got together, and we
12 tried to figure out how we were going to dispose of the
13 assets because they weren't needed anymore, and try to
14 collect the money

15 Q What did you do about the vans? Do you remember?

16 A Well, we put them up for sale There was a
17 company that was in the same sort of line of business,
18 and they bought some of them and then some of them were
19 just sold on the market

20 Fortunately, it was a better economy and they were
21 able to move, and as far as the other loan, he was able
22 to sell some personal assets that he had and take care of
23 that, and we're still carrying some of it, so --

24 Q Are you working with him?

25 A Yes, and there is no danger of the bank losing any

1 money or anything like that, so --

2 Q All right

3 A But we had to work it out We had to work with
4 people

5 Q As far as you know, did L&L Services do any
6 business after that Monday?

7 A Not that I'm aware of, I don't think so

8 Q Okay Now, can you describe for us Lawton
9 Limehouse's personality and demeanor prior to April 24,
10 2004? What was he like? What kind of person was he
11 like?

12 A Well, I would say that he was in a pretty good
13 disposition, sort of happy, you know A fellow -- he
14 could accept adversity He was a farmer and things were
15 up and down over time, as far as that is concerned, but
16 he seemed to spend a lot of time with his children, and
17 he did things for people and he was a good, reliable
18 individual

19 Q Did you observe any change in his personality and
20 demeanor after that April 24, 2004 newspaper article was
21 published?

22 A Well, I think both of them were crushed, you know,
23 about these accusations and then they lost their business
24 and had to scramble to pay off debt and, you know, they
25 had 125, so many people that were out of work The rug

1 had been pulled out from under them They were out of
2 business They had to find something else to do, so I
3 think Lawton Junior worked with the other fellow that
4 sort of took over a lot of things, you know, and sort of
5 transitioned some things to that company, and I think he
6 was let go from that

7 Q Have you had conversations with Lawton Junior
8 since April 24 article came out?

9 A Yes, I have

10 Q Have you ever had a conversation in which he
11 cried?

12 MR LEWIS Your Honor, that is leading

13 MR CISA You don't know --

14 THE COURT Rephrase

15 BY MR CISA

16 Q Have you ever seen Lawton Junior cry after April
17 24, 2004?

18 A Yes, I have

19 Q Do you know why he was crying?

20 MR LEWIS Your Honor, he had no idea why
21 someone else is doing something

22 THE COURT He might be able to say If you
23 don't know, you don't know

24 BY MR CISA

25 Q Do you know?

1 A Yeah I think if I had my -- if I didn't have a
2 job and couldn't pay the bills and didn't have money,
3 couldn't support my family, I think I might be crying
4 too I think it's a terrible thing and a lot of people
5 facing that now, and, you know, the employment means a
6 lot to people, and he has had it rough

7 MR CISA Thank you, Mr Daniel Please
8 answer any questions these other gentlemen may have

9 THE COURT Who is going first, Mr Lewis?

10 MR LEWIS If you want me to

11 CROSS-EXAMINATION

12 BY MR LEWIS

13 Q Good morning

14 A Good morning

15 Q How are you?

16 A Fine

17 Q As I understand it, Lawton Junior still owes some
18 money to the bank?

19 A Lawton Junior, L&L, or who?

20 Q All of them, any of them Do they still owe you
21 money?

22 A Yes

23 Q And I believe -- preserving all my objections, I
24 don't think I have to do that anymore, I've been around
25 when you had to -- I think you said your boss was mad,

1 came in here to collect the money

2 A That's correct

3 Q Is he still yelling at you to collect the money?

4 A Not right now He's yelling at me for other
5 things

6 Q Yes, sir And I think you have already said you
7 didn't do anything different with Mr Limehouse than with
8 a normal customer that had a change in business
9 circumstances

10 A We tried to work with him and tried to collect the
11 money

12 Q And you said -- I think your testimony was, I
13 didn't do anything different with Mr Limehouse than with
14 a normal customer that had a change in business
15 circumstances, is that correct?

16 A I don't remember saying that, but, you know, I
17 only know how to collect money one way, and that is to
18 work with the customer

19 Q Okay Now, does your bank make loans based upon
20 three-and-a-half-year-old financial statements?

21 A We try to get current financial statements and tax
22 returns on all of our customers At certain times in
23 history, the bank is looser than other times Right now,
24 they're not very loose

25 Q Well, right now, knowing what the last

1 three-and-a-half years have been like --

2 A Right now you have to have current financial
3 information

4 Q And did you know how the profits and losses were
5 split in the company?

6 A No Once the business loan was made, I didn't get
7 any tax returns or financial statements after that for
8 quite some time Although we had asked for them, we just
9 didn't get them, but we had security and the loans were
10 paying, so --

11 Q And you talked about this article on April 24 that
12 your boss carried in Did you look at it?

13 A After he pointed it out and laid it down for me, I
14 did

15 Q And the big headline of that article is lawsuit
16 targets staffing agency

17 MR CISA Your Honor, I object on the same
18 basis I have objected before He's interjecting
19 evidence

20 MR LEWIS That doesn't go to this man, the
21 admissions He came in here, what he says I get to ask
22 about He said this article, he showed -- his boss
23 showed it to him or he showed it to his boss and that
24 opens the door

25 MR CISA I would like to approach, Your

1 Honor, for a minute

2 (Discussion held at sidebar)

3 THE COURT All right Continue

4 MR LEWIS Can I ask him what he remembered?

5 THE COURT Ask him what he remembers? I

6 suppose so Again, I'm limiting you to reference to the

7 article, not to anything contained within the article

8 That is not in evidence

9 BY MR LEWIS

10 Q How much is owed?

11 A From L&L?

12 Q Yeah

13 A It's less than \$100,000 It's 70 some thousand,
14 something in there I can't remember

15 Q And that is what your boss is mad at you about?

16 A It's the boss's right to be mad at whatever he
17 wants to be mad He's not mad about L&L anymore We had
18 15 or so vans We had this line of credit, and then
19 there was this newspaper article, and he wasn't very
20 happy and wanted to know who was lending money to L&L and
21 that was me, so I had to provide an explanation It was
22 a very natural occurrence in the banking business for the
23 president to want to know what was going on with their
24 customers

25 Q And there were six other articles before that,

1 weren't there?

2 MR CISA Objection Again, Your Honor,
3 same grounds that we've gone over

4 THE COURT You can refer to the fact that
5 there were other articles, nothing about what was
6 contained in them

7 BY MR LEWIS

8 Q There were six other articles prior to that one,
9 wasn't there?

10 A Yes, sir, there were There were other articles,
11 but none of them were as inflammatory as --

12 Q I didn't ask you that

13 A Okay Okay

14 Q I appreciate that

15 A Thank you

16 Q You just wanted to volunteer that? Thank you

17 A I was just trying to answer your question, sir

18 MR LEWIS Thank you

19 CROSS-EXAMINATION

20 BY MR HOOD

21 Q As you analyzed the loan you made and looked at
22 the tax returns, did you see how much money from the
23 company Mr Limehouse Senior got and how much money
24 Limehouse Junior got?

25 A Mr Hood, when we made the loan to L&L, it was a

1 startup business There weren't any tax returns --

2 Q Later on, in other tax returns

3 A We didn't get any tax returns and there weren't
4 any other loans made They were all made to help get the
5 business started

6 Q Can you get the K-1s to see what your income was
7 from the business?

8 A No, sir

9 Q So whether Lawton Limehouse Junior had a 50
10 percent ownership in the business and got 50 percent of
11 the income, do you know one way or another?

12 A No, I don't

13 Q So he could have gotten 1 percent, 10 percent, you
14 just don't know?

15 A No, I don't know My impression was, and I think
16 they were 50/50, but -- in the business, but how they
17 split up the money, I don't know

18 Q Didn't you see some of the tax returns, '00, '01,
19 '02 and wasn't it 90 to daddy and 10 to the son?

20 A I didn't see any tax returns They didn't do the
21 tax returns They were delinquent in doing the tax
22 returns

23 Q Do they still owe the IRS money?

24 A Not that I'm aware of, no

25 Q In your due diligence, making your boss happy at

1 the bank, you hadn't gotten the tax returns, ever?

2 A Well, the loan was a startup loan, and then they
3 didn't provide the tax returns We requested the tax
4 returns, and I think their CPA died, someone else took
5 over the files, and, you know, didn't have the tax
6 returns, but the loans were already made

7 Q In your due diligence, did you look at the public
8 filing in federal court, the RICO lawsuit? Did you look
9 at that complaint?

10 A No, I didn't, but I don't think there was any
11 complaint when the business hadn't even started up and we
12 were making the loans

13 Q I see But then you keep making loans as the
14 business went along?

15 A No

16 Q You just made one loan in '99 and that was it?

17 A We made a series of loans to purchase these vans
18 so that they could get started and transport these
19 people, and we provided them a line of credit because
20 they were going to be providing a service in getting an
21 account receivable and they would have to collect the
22 account receivable, so they needed money to move forward,
23 but we didn't make any loans after that

24 Q So if they were employing illegal immigrants, if
25 they were violating laws --

1 MR CISA Objection

2 THE COURT Sustained Sustained There is
3 no basis for that question

4 BY MR HOOD

5 Q You said you read the earlier articles Did they
6 affect your decision about lending money?

7 A The money had already been loaned It was already
8 out the door

9 Q Did they ever come back and update financial
10 information or borrow additional money after the initial
11 loan?

12 A No, they did not

13 Q So everything you are telling this jury is based
14 on what you knew and what you did in 1999? Is that what
15 you're saying?

16 A What I'm saying is I meet with them in 1999 We
17 talked about the business that they wanted to open, we
18 talked about the legality of it, how they would do it,
19 how they would ensure that it would be illegal

20 Q I didn't ask you other than that Other than
21 1999, have you done any other information, gotten any
22 other information, about the financial ability of Lawton
23 Limehouse Senior, Junior, or L&L?

24 A Since the loans were made?

25 Q Yes

1 A No, I don't think I have

2 MR HOOD Thank you That's all

3 THE COURT Any redirect?

4 MR CISA No redirect, Judge

5 THE COURT All right You can step down

6 Thank you Who is your next witness going to be?

7 MR CISA Amy Eager, Your Honor

8 THE COURT Folks, I need to take up a matter
9 with the lawyers, just about a five-minute matter, so I'm
10 just going to ask you to step into the jury room for a
11 minute

12 Don't discuss the case, and we'll have you
13 back in just a couple minutes

14 (Recess taken)

15 (In open court, jury not present)

16 THE COURT Which of you is Amy Eager, and
17 you're Jean? One thing I just need to go over with you
18 is that you don't refer during your testimony -- since
19 this motion pertained to the both of you, during the
20 first trial, one of the two of you, or maybe both, made
21 reference to the fact that Amy's daughter was born
22 prematurely and that she ended up needing a body brace

23 I have made a ruling that the fact that the
24 baby was born prematurely and later needed a body brace
25 is not relevant to what we're doing, so I'm instructing

1 you both to not mention that the baby was premature

2 I know there is going to be a question about
3 the newspaper article coming out on the same day she was
4 born, and that is fine, but no reference to the fact that
5 the baby was premature or to the fact that later the baby
6 ended up needing to be in a body brace, and also, I
7 believe, one of the two of you, maybe both, made
8 reference to the fact that you have African American
9 friends or family members, and I'm instructing you not to
10 mention that as well

11 AMY EAGER May I ask you a question as well?

12 THE COURT Sure

13 AMY EAGER If I'm asked about having a
14 daughter, what her date of birth is, may I say her date
15 of birth and she was born before her birthday?

16 THE COURT You can bring out her birth date,
17 but it's really one of those things that is not relevant
18 to the issue of what we're dealing with here today And
19 I've made a ruling that the jury might construe that the
20 baby was born prematurely as a result of the newspaper
21 article, but we don't have any evidence of that

22 Babies are born prematurely a lot of times
23 for lots of different reasons, so I said it might be
24 prejudicial to try to make that link

25 AMY EAGER Yes, sir

1 THE COURT I'm instructing you to not talk
2 about the baby being born prematurely Ms Limehouse, I
3 need you to go out, and, Ms Eager, you can come up to
4 the witness stand

5 Yes?

6 MR LEWIS Could I make my offer of proof
7 now?

8 THE COURT About what?

9 MR LEWIS The article

10 THE COURT Sure Go ahead

11 MR LEWIS All right I wanted to question
12 the witness about the article of April 24 and what the
13 headline was and so forth, and the reason is, is that he
14 brought the article up on direct examination The guy
15 referred to the article Even when he wasn't asked a
16 question, he said that it was inflammatory, and I'm not
17 allowed to ask him what part of the article was
18 inflammatory

19 The headline is lawsuit targets staffing
20 agency, and I think that once he says that, I do not
21 think that -- he saw it and he read it and he reacted to
22 it There is no reason I can't get into what the article
23 says, and it's been opened up by his testimony And Your
24 Honor overruled it, and I make that offer of proof as to
25 what I was going to do, and I would mark this exhibit as

1 a Court's exhibit for the record, if that is all right
2 with you

3 THE COURT All right That is fine

4 MR LEWIS It is the article about which I
5 was going to question her

6 THE COURT Okay I think we're abundantly
7 clear on that, and because the article is not in evidence
8 I limited you to being able to refer to the article and
9 not its contents

10 MR HOOD I join in

11 THE COURT Okay Anything else before we
12 bring the jury back in?

13 MR CISA Not from the plaintiff, Judge
14 (Court's Exhibit 5 was marked for
15 identification)

16 THE COURT Just in case that comes up with
17 any of the other witnesses, you --

18 MR LEWIS Can we have a continuing
19 objection to that ruling?

20 THE COURT Yes

21 (In open court, jury present)

22 MR CISA I next call Amy Eager

23 THE COURT All right

24 AMY LIMEHOUSE-EAGER,
25 having been first duly sworn,

1 was examined and testified as follows

2 DIRECT EXAMINATION

3 BY MR. CISA

4 Q How old are you, Ms Eager?

5 A I am 41 years old

6 Q Are you married?

7 A Yes, sir I've been married nine years

8 Q Do you have any children?

9 A I have a daughter

10 Q Okay Who is your brother?

11 A My brother is Lawton Limehouse Junior

12 Q What is your educational background?

13 A I graduated from St Andrews High School, here in
14 Charleston, I received a BA in social sciences from
15 Flagler College, which is a liberal arts college down in
16 St Augustine, Florida, I also earned a master's in
17 psychology from the Citadel along with an EDS in school
18 psychology from the Citadel, and I currently sit on their
19 board for the school of humanities and social sciences as
20 well

21 Q Did you grow up with your brother?

22 A I did

23 Q Do you have any other brothers and sisters?

24 A I have an older sister Lawton is older than I
25 am, and then we have a younger sister

1 Q What was it like growing up with Lawton Junior?

2 A Fun He was a great guy There were times that
3 we were actually in schools together, because if you grew
4 up here, you know, you went to your area elementary
5 school, middle school, and high school

6 We spent all of our summers together, because my
7 dad would take us sailing, just the kids We grew up
8 playing on my granddaddy's farm, hunting and fishing, and
9 I was much more of a tomboy back then We spent a lot of
10 time together We would go to concerts together when we
11 got older

12 Q Do you have a close family?

13 A We do We spend probably too much time together
14 We do all holidays anything important My five-year-old
15 daughter had a performance Tuesday night after court, and
16 there we all were, front row, regardless, you know, of
17 what was going on We're very tight knit

18 Q Do you remember the Post & Courier article that
19 came out on April 24, 2004 where Lawyer Hulsey made
20 statements about your brother, that he had engaged in a
21 classic racketeering scheme, that his conduct set the
22 community back 150 years, that he engaged in a blatant
23 case of indentured servitude and he created a perfect
24 racketeering enterprise just like Tony Soprano?

25 A I remember that quite clearly That was the same

1 day my daughter was born

2 Q Now, prior to that newspaper article coming out on
3 April 24, 2004, can you describe for us your brother's
4 personality and demeanor, what kind of person he was?

5 A He was a happy, regular guy I mean, he would go
6 to work every day He had good friends He would go to
7 concerts with family and friends He would go to NASCAR
8 races with his wife, his children

9 His youngest son actually raced cars, these little
10 go-cart cars, and they would do that circuit He would
11 go to church He often came over to our house just to
12 sit in the back yard and have a beer with my husband,
13 just a regular guy who went to work every day, who did
14 his best to provide for his family and to be good to his
15 neighbors

16 He volunteered at his middle son's high school
17 He has a severe disability, and so he would spend a lot
18 of time at school with him, just a family man

19 Q Can you describe his personality and demeanor
20 after this April 24, 2004 article came out in the Post &
21 Courier? Was there a change?

22 A There was a dramatic change He was a totally
23 different man It destroyed him

24 Q What did you observe about his mental health?

25 A He became socially withdrawn He cried He was

1 embarrassed He didn't even come to the hospital that
2 night to see -- you know, to see me and the baby He
3 just felt humiliated

4 It took us weeks, months, actually, to get him to
5 even get off the sofa I mean, he would not eat He
6 would not leave -- he couldn't -- well, he couldn't keep
7 his diabetes in check We couldn't get him out of the
8 house, let alone off the sofa

9 He felt worthless He felt like the situation was
10 helpless, hopeless, everything that he had worked for,
11 everything that he had dreamed for was gone in one day
12 Instead of his son going off to college, he was in Iraq
13 for two years at war

14 Instead of his middle son being able to get the
15 services that he needed, speech therapy and therapeutic
16 horseback riding and anything else that he paid for out
17 of pocket, stopped His youngest son couldn't finish his
18 education at the school he was attending, first of all,
19 because he couldn't pay for it, second of all, he was
20 asked to leave after April 24 2004

21 MR LEWIS Your Honor, we object That is
22 totally hearsay

23 THE COURT Sustained Jury will disregard
24 the last statement

25 BY MR CISA

1 Q Was Lawton Junior depressed?

2 A Yes

3 Q Had you ever seen him depressed prior to April 24,
4 2004?

5 A No, sir This was something -- it's so hard to
6 even put into words because it was such an -- has been
7 and still is such a nightmare It makes me very sad to
8 say that there were days that I didn't think he was going
9 to make it I had to send my husband over there to make
10 sure he wasn't going to hurt himself

11 Q Have you had to loan him money?

12 A I've had to loan him money, my younger sister has
13 had to loan him money, my husband has had to loan him
14 money, friends have had to loan him money, and this is --
15 you have to remember, a man who was born and raised here
16 He worked here all his life He has always done
17 something positive to provide for his family, whether it
18 was farming, clearing lots, selling Christmas trees, L&L
19 Services, he did what he was supposed to do, what a good
20 man does, and in one day, all of that was gone, like
21 that

22 Q How much money have you loaned him?

23 A I can't even tell you There has been so many
24 occasions, and it hasn't been for -- well, it's been for
25 big things, but it's always been for -- just to be able

1 to put enough gas in his car to get to the grocery store,
2 and my sister, the same situation

3 Q Is he doing better now? I mean, is he doing
4 better?

5 A Better is relative No I mean, I think he has
6 better days, but he's still depressed He still feels
7 like his sense of self has just -- I mean, he would say,
8 you know, I'm worthless I can't get a job My
9 reputation has been ruined, and I know, because I put his
10 resumes together

11 I helped him with his resumes I submitted them
12 They were jobs that he was well qualified for People
13 didn't even bother to call him back His reputation was
14 ruined He felt ashamed to be at church People that he
15 did social things with all his life he didn't even want
16 to be around because he felt like he had been vilified

17 I mean, he was subject to public ridicule and
18 vilified, and how any one person could think that that
19 would not ruin a man's reputation, affect his mental
20 state, his physical state, and his ability to care for
21 his family is appalling

22 MR CISA Okay Thank you very much
23 Please answer any questions these gentlemen may have

24 THE WITNESS Gladly

25 (Discussion held at sidebar)

1 THE COURT All right So you have no
2 question for this witness at this time on cross?

3 MR LEWIS No, sir

4 THE COURT All right You may step down

5 THE WITNESS Thank you, sir

6 THE COURT All right Call your next
7 witness

8 MR CISA I call Jean Limehouse, Your Honor
9 JEAN LIMEHOUSE,

10 having been first duly sworn,
11 was examined and testified as follows

12 DIRECT EXAMINATION

13 BY MR CISA

14 Q Don't take offense to this question, but how old
15 are you?

16 A Seventy

17 Q Where do you reside?

18 A I reside with my husband, West Ashley

19 Q Are you married?

20 A I am married

21 Q Okay

22 A Fifty years

23 Q Fifty years Do you have children?

24 A I have four children

25 Q Is Lawton Limehouse Junior your son?

1 A He is

2 Q Can you describe for us your relationship with
3 Lawton Junior

4 A Yes Lawton Junior has been a major part of my
5 life since he was born We've always lived in
6 Charleston He lives in Charleston He grew up in the
7 same area that his father and I grew up in He's in and
8 out of our house all the time, as an adult My mother
9 still lives where she lived, close to 70 years now, West
10 Ashley

11 She's in his house all the time His children are
12 in our house all the time We have a very close
13 relationship I guess it's a large family I guess you
14 would say we have are tight That usually means that
15 everybody minds everybody else's business, but when
16 somebody is attacked, we all feel the pain

17 Lawton Junior is a loving son He is kind and
18 generous, and you see the same traits with him, with his
19 children, with his grandmother, my neighbors I have
20 never had anyone say an unkind word about Lawton Junior

21 Q Are you familiar with his work history, what he's
22 done during his adult life?

23 A Yes

24 Q What has he done?

25 A Lawton, when he graduated from high school, which

1 was St Andrews High School, same school that I graduated
2 from, all his siblings, his father He went to school in
3 Tifton, Georgia, ABAC, it's called It's an agriculture
4 college, part of the University of Georgia

5 And it wasn't in Charleston, so he stayed one
6 semester and came back home He took courses at Trident,
7 some courses at Clemson experimental station, and he
8 eventually ended up right back into what his daddy does,
9 was farming, and he farmed for 20 years

10 When farming wasn't good -- and if any of you are
11 associated with farming, you know that there is not but
12 maybe one out of 20 years that is good He and his boys
13 would cut firewood, they would sell it, they would
14 deliver it He also had a lot, Christmas tree lots, and
15 he would sell Christmas trees

16 He did everything possible, not in a high-style
17 fashion, Lawton has never driven anything but a truck,
18 pickup truck, and to put food and give them a little bit
19 of what I call a normal Lowcountry lifestyle

20 In addition to working, he did a little fishing
21 He did a little hunting His boys got older, a little
22 water skiing That was our life That was his life
23 That is how he was raised

24 Q Do you remember the article that came out in the
25 Post & Courier on April 24, 2004 in which Lawyer Hulsey

1 said that Lawton Junior was engaged in a classic
2 racketeering scheme, that his conduct set the community
3 back 150 years and he engaged in a blatant sense of
4 indentured servitude and he conducted a perfect
5 racketeering enterprise, just like Tony Soprano?

6 A Absolutely

7 Q Where were you when you were made aware of the
8 article?

9 A I was in bed It was early Saturday morning My
10 husband came in with the coffee, my coffee and my
11 newspaper, and handed it to me, and said that the article
12 was in there and that it was very bad

13 Q Can you tell me what type of personality Lawton
14 Junior had prior to the article being published on April
15 24, 2004

16 A Kind, loving, compassionate, happy to spend time
17 with his family, happy to maybe go to a movie, associate
18 with his sisters and their families He's a wonderful
19 uncle Nothing elaborate, Mr Cisa, just what I call a
20 normal lifetime He had a good life

21 Q After the article came out on April 24, 2004, did
22 his personality and demeanor change?

23 A Like night and day I think when he -- first, we
24 were kind of shell shocked at these allegations, these
25 words, that were just put out for everybody to see They

1 worked hard on Monday, trying to figure out what they
2 were going to do with all the people who were now
3 unemployed, and they felt a great deal of responsibility
4 to these people

5 So that day was just frantic, trying to get the
6 business that ended that day, getting the people and the
7 employees in the office, getting everybody as situated as
8 he could After that, the realization that there was no
9 money, there was no insurance, there was no way to
10 provide for his family started sinking in, and he went
11 from being in my house all the time, talking on the phone
12 all the time, to staying home and spiralling down, down,
13 into a depression where he ended in the hospital

14 It was like night and day The thought that he
15 could no longer take care of his children, provide them
16 with an education, feeling responsible for one of them
17 being out and having to go to Iraq for a year with a
18 bulletproof vest and a gun on his shoulder He felt
19 responsible for that

20 The fact that he cannot provide therapies that we
21 had all tried for 15 years to see that his special needs
22 son got, all that was over, and I don't know if you can
23 understand, I'm not talking about just those things, I'm
24 talking about the fact that there was no money to put gas
25 in a car or gas in a truck to take them to where they

1 needed to go

2 Q Was Lawton Junior depressed?

3 A Yes I was depressed Yes, he was depressed He
4 felt responsible for not being able to take care of his
5 family This is something he had done all his life

6 Q Prior to April 24, 2004, of your own personal
7 knowledge, had Lawton Junior ever been treated for
8 depression?

9 A No, not that I'm aware of

10 Q Did you see him cry?

11 A I saw him cry in my kitchen when he told me he had
12 let his oldest son, Elliotte, down He could not send
13 him to college I'm not talking about Ivy League
14 colleges, I'm talking about College of Charleston We
15 were looking at CSU, we were looking at Trident, and when
16 he announced that he was joining the Army to take the
17 pressure off of his family, I saw Lawton cry and tell me
18 he had let this child down

19 Q Prior to April 24, 2004, was life good for Lawton
20 Junior and the Limehouse family?

21 A Was life what?

22 Q Good?

23 A It was very good It was what I call perfect, in
24 the sense that you got up, you went to work, you took
25 care of your family, you went to church, you put good

1 values in their lives, did a little fishing, did a little
2 hunting It was good

3 Q After April 24, 2004, was Lawton Junior still
4 fishing and hunting and engaging in those activities?

5 A No It was as if a sadness was over his life It
6 was over his life It was sad There was no more
7 camaraderie, there was no more events with the boys It
8 was all over

9 He had lost his business He had no way to
10 support his family He had no way of taking care of his
11 own medical conditions There were days when he didn't
12 have insulin He's been a diabetic since he was 35 He
13 borrowed syringes from his father Doctors were very
14 good in most cases and would give him samples There
15 were times when he could buy three pills at a time

16 Q Do you know if he tried to find work after April
17 24, 2004?

18 A He did try to find work, and he eventually went
19 with my husband over to Georgia to work, and he worked
20 over there, and I can't tell you exactly how long that
21 meant that his children were home by themselves without
22 their father It was very, very emotional and very
23 distressing to him to have to do that

24 Q Do you know what his reputation was like after the
25 April 24, 2004 article came out?

1 A I know that he felt that people were looking at
2 him, and there was always a question, always a question
3 in his mind. The words that were spewed out in that
4 April 24 Tony Soprano article were devastating to Lawton.
5 He was a kind and gentle man. His ability to take care
6 of his family was utmost in his mind at all times.

7 It just stayed with you. It stays with you. It
8 hangs over you. You don't go to church because you think
9 people are thinking, well, you know, there is that
10 article that says he's a mobster. He's involved in
11 prostitution. He's a murderer.

12 MR. HOOD: If the Court please, those are
13 improper. It's not in the complaint.

14 THE COURT: Sustained. Jury will disregard
15 that last statement.

16 MR. CISA: Ms. Limehouse, please answer any
17 questions either of these gentlemen have.

18 THE WITNESS: I will.

19 CROSS-EXAMINATION

20 BY MR. HOOD:

21 Q Did you work in the business?

22 A I worked when I was called upon to. I have gone
23 in and interviewed a few people for office work. I
24 answered a phone when it was necessary, but I did not
25 work from 9 to 5 every day.

1 Q And going to work was a room in your house where
2 you live That is where the office was?

3 A No I went out to the other office when they
4 moved The business became larger, and they moved out of
5 the office in my house I did go out and interview a
6 couple of employees for office work, but, no, I didn't
7 work as a 9 to 5 employee

8 Q Did you prepare the contract that was used with
9 customers, the written contract?

10 A No

11 Q All right Do you know what it provided with
12 regard to L&L Services --

13 A No

14 Q -- what its obligations was?

15 A No

16 Q Whether or not it had to comply with employment --

17 MR CISA Your Honor --

18 THE WITNESS No

19 BY MR HOOD

20 Q Do you know those?

21 A No

22 MR CISA Objection She said she doesn't
23 know anything about the contract

24 THE WITNESS I don't know about --

25 THE COURT That seems to be abundantly

1 clear You want to move on to the next subject

2 BY MR HOOD

3 Q The income that your husband brought home from the
4 business was 90 percent of the income of L&L Services,
5 correct?

6 A I have no idea

7 Q And your son got 10 percent?

8 A I have no idea

9 Q Did you see your husband's tax returns?

10 A No, I did not

11 Q Did you see the K-1s that he got from L&L Services
12 that laid out his income?

13 A No, I did not

14 Q Did your son ever say, I ought to get more than 10
15 percent?

16 A No, he did not

17 MR HOOD Thank you

18 THE COURT Mr Lewis, any questions?

19 MR LEWIS The only questions I would have
20 would be ones that we've talked about

21 THE COURT All right Do you have any
22 redirect?

23 MR CISA No, Your Honor, I don't

24 THE COURT All right You can step down
25 Thank you

1 All right Do you have another witness?

2 MR CISA No, Your Honor I have no further
3 witnesses

4 THE COURT What we're going to do now is
5 you've heard all the evidence you're going to hear in the
6 case, and so we're going to prepare so that we have
7 arguments and charges after lunch

8 Since one of you has to leave shortly to go
9 to a real estate closing, I'm going to send you out right
10 now, and we'll break for a while for a long lunch Now,
11 obviously, we've ordered you lunch, and because the
12 weather is bad outside and it's inclement, you're welcome
13 to go and come back or wait until your lunch gets here

14 I think it's supposed to be around 11 30,
15 12 00 I would say go sit out in the park, but it
16 doesn't look like a good park day, so I'm going to send
17 you back to the jury room You're welcome to stay back
18 in the jury room, if you want to, or you're welcome to go
19 browse around town for a little bit

20 I figure if you got a real estate closing at
21 12 00, it's going to take you, assuming everything is
22 done, 12 30, 1 00 is probably the soonest you can get
23 back Who is it that has the real estate closing? Okay

24 So let's aim to be back here at 1 00, and if
25 you can't make it by then, well, we'll wait on you, but

1 we're going to go ahead and break early now

2 Now, the fact that you have heard all of the
3 evidence does not mean you can start discussing the case
4 or begin your deliberations It is still improper
5 because you haven't heard the arguments and, most
6 importantly, I haven't charged you on the law that
7 applies to these facts

8 It is improper for you to begin deliberations
9 or discussions about the case, so while you may be back
10 in the jury room with each other for an extended period
11 of time, you can talk about anything on the planet other
12 than this case and what you've heard in this courtroom
13 Okay?

14 So let's aim to be back here in the jury room
15 by 1 00, and we will go ahead and do what we normally
16 would do at this point, have you back in about 30
17 minutes, but since we need to break in about 30 minutes,
18 we won't do that We'll be ready to start back at 1 00
19 and if you're back at 1 o'clock, we'll start If not,
20 we'll wait on you Okay? See you folks at 1 00

21 (In open court, jury not present)

22 THE COURT Just for the record, just before
23 Mr Lewis was going to have a cross-examination of
24 Ms Eager and Ms Limehouse, we had a bench conference
25 where he would state that he -- the only questions that

1 he intended to ask her were to bring out the newspaper
2 article, that there was no actual reference to the name
3 Lawton Limehouse Junior, and I told him that I was not
4 going to allow him to refer to any of the contents
5 contained within the actual article since that was not in
6 evidence and we were going to -- that would, of course,
7 in my opinion, go to the merits of liability, which,
8 again, he's not allowed to do on a default damages
9 hearing

10 So we preserved those records That was his
11 objection joined in by Mr Hood for both of those
12 witnesses, and I believe I've stated that correctly, but
13 if you want to put anything more on at this point, you
14 can

15 MR LEWIS We wanted to go into the article
16 more than just the fact that Mr Lawton Junior's name
17 wasn't in there, but all the other stuff in there that
18 could cause someone to be upset or inflamed and they
19 picked one little sentence and the whole article has
20 other things in it, and we think that was very important

21 THE COURT All right

22 MR LEWIS We also want to reemphasize again
23 Rule 552(b)2, where it's the Court's duty to establish
24 the truth of any averment by evidence, and we don't think
25 that that has happened by these limitations that you've

1 put on us That rule has been violated
2 THE COURT Okay
3 MR LEWIS That is our position
4 MR HOOD And, Your Honor, I join in that,
5 and, also, I would like the jury to hear that the article
6 captioned is Lawsuit Targets Staffing Agency Six
7 laborers sue L&L Services, and I would like the jury here
8 to know what is in the article about the allegations of
9 the RICO lawsuit because everyone has testified that it
10 is this article that put him out of business
11 This article is about the RICO lawsuit It
12 is a litigation privilege It is quoting from a lawsuit
13 in Federal District Court that it's privileged to state
14 in Court pleadings whatever the party wishes to state
15 without the fear or concern of getting sued, like we're
16 getting sued right here
17 And then to take one sentence in an
18 explanation to the author of this article of what a RICO
19 lawsuit is about and to say that it is a perfect
20 racketeering enterprise, all that is being done is
21 explaining a privileged document that is in Federal
22 District Court, a complaint against L&L Services
23 The name Lawton Limehouse Junior is nowhere
24 in any of the words of this article The article starts
25 on the front page and goes to page 9-A is most of that

1 page, or a good part of it, and I think that for us not
2 to be able to tell a jury just that and for the plaintiff
3 to be able to tell a jury that is what the defendant said
4 about Lawton Limehouse Junior is an absolute fraud on the
5 jury and Your Honor to not allow us to put it in the
6 proper context of what the truth is from the words of the
7 article, not to put it into evidence, just did you read
8 this article and did it say such and such and it's
9 referring to what is in the complaint in federal court

10 Thank you

11 MR LEWIS I join in that

12 THE COURT Okay Mr Cisa, technically, I
13 guess that would be your objection, so do you want to
14 state anything?

15 MR CISA The only thing I would state is
16 paragraph 19 of the complaint alleges that the defendant,
17 Mr Hulsey's, defamatory statements as set forth in the
18 complaint caused the plaintiff, Lawton Limehouse Junior,
19 to lose his business

20 Liability and causation is established under
21 our case law, and therefore they shouldn't be allowed to
22 get into any of that, as I think the Court has ruled for
23 a bunch of different reasons, and that is really all I
24 want to say, Judge

25 THE COURT Okay Well, I have, I guess,

1 sustained his objection, so you've put on the record the
2 basis for it So you've closed, or rested Do you have
3 any objection, or motions, that y'all want to make?

4 MR HOOD Yes, Your Honor We would also
5 like to make a tender of proof If we were allowed to
6 call witnesses, we would like to put in the record what
7 those witnesses would say, if they were allowed to
8 testify in this case I don't know what time you want us
9 to do that

10 THE COURT Well, I'll tell you what Why
11 don't we take about a ten-minute rest room break right
12 here, let my court reporter rest her fingers We'll come
13 back, you can do that, and we'll have a charge
14 conference

15 I think I e-mailed you the transcript
16 yesterday of what we charged the last time, so if you've
17 got anything you want to talk about with those, we'll
18 talk about it

19 (Recess taken)

20 THE COURT Okay You wanted to put a
21 proffer on the record?

22 MR HOOD I have personally talked to the
23 three people and would summarize what they would say if
24 they were in the courtroom Buddy Darby, or Charles
25 Darby, he thinks that they probably quit using L&L --

1 rather than calling them and firing them, he just did not
2 make any more calls to use their workers, mainly because
3 of the potential of having something happen that could
4 embarrass his company, which is Kiawah Island Resort
5 They had not been using L&L Services that much anyway
6 He would have made the same decision no matter what words
7 were used, and it was not the fact that there was any
8 reference to Tony Soprano by itself that caused him to
9 make that decision L&L was doing something that was
10 illegal and he did not want his company to be a part of
11 it

12 Also, I talked to P O Mead He is in the
13 landscaping business, and there was no newspaper article
14 that he read that had any bearing on his use of L&L
15 Services He received a call from Lawton Limehouse who
16 told him that he had some issues and he would get back to
17 Mr Mead Mr Limehouse never got back to him There
18 was nothing that he read in the paper that caused him not
19 to use L&L Services He would use them again if he
20 needed their services The last time he used them was in
21 2005, which is after the article at issue

22 I talked to Roger Warren He is the current
23 CEO of Kiawah Island Resort that owns the ocean course,
24 and in 2004 he was the director of golf at Kiawah Resort,
25 including the ocean course and the other courses they

1 own He had heard that L&L Services were using illegal
2 workers, and he did not want to be affiliated with any
3 business that was potentially not operating properly
4 within the law He wanted to have workers who were legal
5 working for his company He never saw any newspaper
6 articles, only reference to L&L Services' business like
7 the article at issue in the case There is no article in
8 the paper that had any influence, including the article
9 referencing Tony Soprano, that affected his decision not
10 to use L&L Services

11 Then I have typed up a tender of proof of
12 what the following people would say James Scott, the
13 author of the article at issue in the case, Isaias
14 Flores, Maximina Flores, Susan Rosen, an attorney in
15 Charleston, Maximo Flores, and I'll just give those to
16 the court reporter, or Your Honor, however you would like
17 me to do that without actually reading them It would
18 take a while

19 THE COURT Why don't we just mark them, you
20 give them to the court reporter

21 MR HOOD Then finally, if we were allowed
22 to call Mr Hulsey, he would explain the income that he
23 receives and what his present day value is really worth,
24 and he would answer and explain his conversation with
25 Mr Scott over the telephone, wherein he would say that

1 he used, in explaining the RICO suit he had filed in
2 federal court, the analogy of Tony Soprano to the
3 newspaper reporter so he would understand what a RICO
4 lawsuit is

5 And I thank you for letting me put those on
6 the record, and I'll give these others to the court
7 reporter

8 MR LEWIS Those would be proffers to my
9 side too

10 THE COURT Very well

11 (Newspaper article and proffer were marked
12 for identification as Court's Exhibit Nos 6 and 7)

13 MR HOOD We would like to have marked as
14 Court's exhibits all of the articles that are at issue
15 involving L&L These are all of the articles which we
16 would ask to be Court exhibits, Your Honor, and if
17 Mr Hulsey were allowed to testify, he would explain the
18 web site

19 The web site has no reference to Lawton
20 Limehouse Junior, nor does the newspaper article, but the
21 way it's come in is extremely prejudicial to Mr Hulsey
22 It's as if he has said something derogatory about
23 Mr Limehouse Junior on his web site for several years,
24 and, in fact, the truth is the web site does not have any
25 reference to his name It's a vanilla explanation,

1 really, of the RICO lawsuit, and then if anyone would
2 like to go beyond what's on the web site and go to the
3 newspaper article, they could click on it, and I've
4 already told you that the newspaper article was really in
5 the nature of a litigation privilege reference to a
6 lawsuit that had been filed in Federal District Court,
7 and the whole article deals with the substance of that
8 complaint in federal court

9 THE COURT Very well

10 MR HOOD And here are memos in support of
11 what I've just argued, Your Honor, and will you please
12 mark the RICO complaint as an exhibit also

13 (Class action complaint marked for
14 identification as Court's Exhibit 8)

15 MR HOOD Last time you told the jury they
16 had a duty to award punitive damages I do think that's
17 not correct I think they have to weigh the evidence,
18 the higher standard that applies to punitive damages, and
19 it's within their discretion on whether they want to
20 award -- it's on page 395, middle of the page

21 THE COURT I don't have page 395 I have
22 what I sent you last night Okay Let's go ahead and
23 type up the charges since you handed me up the memo on
24 that Other than your objection to my charge on punitive
25 damages --

1 MR HOOD Yes, sir, Your Honor, and we will
2 file -- we'll argue a joint motion for directed verdict
3 based on this brief right here

4 THE COURT All right Let's deal with that
5 in a motion Let's do the charges since my mind is on
6 that right this minute

7 MR CISA Yes, sir

8 THE COURT Frank, you got anything about the
9 charges that you want to talk about different from last
10 time?

11 MR CISA Yes, Your Honor There are three
12 different places in the charge It's on page three I
13 don't know what you're looking at, mine is numbers where
14 the four is, right above it, where you say starting with
15 the paragraph I will remind you again that the posture we
16 are in this case

17 You said defendants did not respond in the
18 time the rules allow Defendant admitted rules of the
19 complaint, but I want you to add liability has been
20 conceded, and the basis for that, Judge, is that the
21 law -- and I'm reading right out of the South Carolina
22 Supreme Court court decision of Roche vs Young Brothers,
23 1998, which the Court, Supreme Court, says it is well
24 settled that by suffering a default, the defaulting party
25 is deemed to have admitted the truth of the plaintiff's

1 allegations and to have conceded liability, and then they
2 go on to cite the Howard vs Holiday Inn case and the
3 Schenck vs National Healthcare, which I've handed up

4 So I think the law is that the allegations
5 are admitted and liability has been conceded So I ask
6 that you put in there after the defendant has admitted
7 the allegations of the complaint that you put in, And
8 liability has been conceded because that is the law And
9 if you were trying this case, that is the standard that
10 you would apply, without a jury

11 And I'm asking it to be inserted in that
12 spot, Judge, and also again when you talk about it again
13 on page -- let me find it -- on page six where you say,
14 again -- and it's line 13 on my copy, but, again, the
15 plaintiff does not have to prove the elements of
16 defamation or libel or slander They are deemed to be
17 admitted, and I would like you to say, And liability has
18 been conceded And I submit to you that's the correct
19 proposition of the law

20 Judge, the only other thing I have -- I think
21 it was a typo Let me find the typo On page -- what
22 page is it? It's at the bottom of page five, Judge, and
23 it's line 21 on my -- line 23 on my sheet Where you
24 start on line 21, you say, I'm charging you that
25 defamation was actionable per se and therefore actual

1 damages is presumed That is, and then you say, The
2 defendant does not have to meet the burden of showing the
3 Court there was actual damages I think that should be
4 plaintiff instead of defendant

5 THE COURT I don't know if that was a typo
6 or a mistake

7 MR CISA I think it should say plaintiff

8 THE COURT Okay

9 MR CISA And other than that, Judge, I have
10 no objection to the charge at all

11 THE COURT All right How about from the
12 defense?

13 MR LEWIS We have a packet for Your Honor
14 with a bunch of suggested charges in there, and they go
15 to -- I'll just tell you what they're about The first
16 one is defamation in a default case, it goes through what
17 we say you should consider, the section next, it finds
18 actual malice, if one of your charges has malice in it,
19 and we redefine malice, nominal damages, it has -- I know
20 one of your charges talks about nominal damages, tells
21 what they are, actual damages, tells what they are, there
22 is a charge on mental anguish, because that's one of the
23 elements that we ask you to review that

24 There is no charge number six and seven that
25 we request, number eight is business damages You've

1 ruled and, of course, we make a directed verdict on the
2 fact that you've let the individual sue for business
3 damages, which belong to the businesses, and we have
4 charges on those But to be fair, you have already ruled
5 on those, and if you're going to change your mind, we're
6 going to be very happy and accept a directed verdict, or
7 mistrial, because business damages simply are not proper

8 Number nine is business damages again, number
9 ten is the rule where you can't contact a party if
10 represented by a lawyer If you remember, they blurted
11 out that Mr Hulsey did not even apologize He couldn't
12 apologize, even if he wanted to

13 The next one is -- and this is one that we
14 really think we should get -- the unexplained failure to
15 call a material witness or submit evidence under a
16 party's control raises adverse inferences If this isn't
17 the perfect example of having total control over the
18 witnesses and the evidence and not calling them, I don't
19 know of a case, and therefore, even though it doesn't --
20 if you look up the case, it's not in a default case, it
21 certainly meets the qualifications of when you get the
22 adverse inference, and we would ask for that

23 The next ones are charges on what RICO is, as
24 RICO has come up, and it is a legal term and we ask
25 charges on those Those are the ones you have before you

1 for us, Your Honor And the only thing else, final thing
2 we have, is a Rule 50, directed verdict

3 THE COURT Let me go through this first

4 MR HOOD We join in the request

5 THE COURT As to the jury charges the
6 defendant has proposed, I'm denying the first five of
7 them because I think they're adequately covered in what I
8 have proposed to charge from the last trial I don't
9 think it really adds anything that is not already
10 covered, and six and seven, business damages for nine and
11 ten, I'm not going to charge those because I know where
12 you're coming from, and that goes into the issues raised
13 on your directed verdict

14 As I understand the plaintiff's argument,
15 they are not basing Lawton Limehouse Junior's argument on
16 injury on the loss to the business, but his loss is of
17 the business, and so under that theory, eight and nine
18 would not apply

19 MR LEWIS Your Honor, I'm sorry, but that
20 is not exactly -- what you said is not exactly correct
21 The business damages, to the business, damage to the
22 business, belong to the business, period

23 THE COURT I get what you're saying, and,
24 you know, I may be wrong, but I'm telling you that is
25 what I understand this theory is, and that is why I'm not

1 going to charge nine

2 Ten, contact with a representative party, let
3 me put that aside for just a minute Failure to call a
4 material witness or submit evidence under party control
5 raises adverse inferences, help me understand how that
6 would apply in this case

7 MR LEWIS They have total control of the
8 evidence

9 THE COURT Well, I understand that, but you
10 want to say they should have called who?

11 MR LEWIS Well, they should have put the
12 articles in evidence They should have put the RICO
13 complaint in evidence Those are all things that we ask,
14 and they didn't let it come in

15 There's a lot of things They could have
16 called Mr Hulsey, but anything that we talk about I
17 think that we think would be good they should have called
18 them

19 THE COURT All right Frank, you want to
20 address that?

21 MR LEWIS Current net worth -- I'm sorry

22 MR CISA I don't know if this is a correct
23 proposition of the law to start with, but my complaint
24 establishes liability I don't have to call anybody to
25 testify as to what the defamatory statements were

1 It's in the complaint It's admitted Call
2 Mr Hulsey, he's not under my supervision and control I
3 don't have to call Mr Hulsey for anything I'm not
4 exactly sure what they're saying that I didn't call

5 I don't know if during the trial I could put
6 newspaper articles in They're clearly hearsay I don't
7 think they're admissible period, Judge, but I don't think
8 this charge applies in this case All my well-pled
9 allegations are deemed admitted, liability is conceded
10 The only thing I have to do in this trial, and what I've
11 tried to do, is explained to the jury how my client has
12 been damaged

13 You know, I had people testify to what he was
14 like before and after That was the majority, and I had
15 an expert on the value of the loss of his interest in
16 that business That is all I had to do I don't know --
17 if I left somebody out, I hope I didn't, but I don't
18 think I did, but I got material control over Lawton
19 Limehouse Junior I put him on the stand I just don't
20 think it applies, and I don't know that it's good law

21 You know, I think it may apply to a situation
22 where I'm representing the corporation and they had
23 conversations with an agent of mine and I don't put the
24 agent on it, but they've had no application in this case,
25 so I object to it I don't think it has an application

1 THE COURT How about this charge for contact
2 with a represented party?

3 MR CISA I don't know, Judge You know, it
4 seems to me if Mr Hulsey had wanted to make an apology,
5 he could have given it to Mr Hood and Mr Hood could
6 have given it to me I don't know that it has an
7 application in this case

8 I did ask a question, did Lawyer Hulsey or
9 anybody else call to you apologize? He said no I don't
10 think you need to charge

11 THE COURT Well, if you're going to argue
12 that in front of the jury, then I think the jury might
13 need to know that he was prohibited from contacting the
14 party

15 MR CISA I'm not going to argue that before
16 the jury

17 THE COURT All right

18 MR JAMES HOOD We have to, because the
19 inference is out there

20 THE COURT Well, it's in evidence They're
21 entitled to argue about that All right

22 I'm going to charge -- I will charge their
23 number ten, and certainly you could -- I mean, you asked
24 the question, yeah, you didn't hear from him -- I'm not
25 going to tell you what you could argue It's in

1 evidence, and then if you want to argue it, that's fine
2 If you don't, that's fine, but it's in evidence and they
3 have the right to rebut that

4 MR CISA Judge, are you finished your chain
5 of thought? I don't mean to interrupt you I was going
6 to ask you about my request for changes in your charge

7 THE COURT Oh, I don't have a problem with
8 adding and liability has been conceded, or changing what
9 is either clearly a misstatement or a typographical error
10 on that one part where it said defendant It clearly
11 should have been plaintiff

12 MR CISA Thank you, Your Honor

13 MR HOOD That goes back to one of our
14 motions in limine at the outset of the case For Your
15 Honor to tell this jury repeatedly about our position in
16 the case is prejudicial in and of itself I think you've
17 already told the jury, and I think you can tell them
18 again in your charge that the only issue for you to
19 decide is damages, and I don't think you need to
20 reiterate where we are in this proceeding

21 Because we're going to hear, again, a lawyer
22 thumbing his nose at the system in closing, and that's
23 not true We're two days late in answering a complaint,
24 according to Judge Pieper, and so we're in default And
25 it's just not fair So I would ask you not to do that

1 and just to go right to, This is a trial on damages We
2 don't need all that burden of proof stuff and all that on
3 liability or causation, we just go straight to damages
4 That is what this case has always been about and is
5 about

6 MR CISA Judge, they clearly need to know
7 what the posture of this case is, and Mr Hood keeps
8 saying two days late He needs to add the date They
9 are over 100 late That is an improper statement He's
10 over 100 days late on his answer, but this jury needs to
11 know the posture of this case

12 They need to know because the law clearly is
13 that the allegations in the complaint are deemed
14 admitted I need you to tell them that and liability has
15 been conceded That is crucial to my case

16 THE COURT I'll put that on there One of
17 the reasons I'm not going to change a whole heck of a
18 lot, simply because -- for right or wrong, you know, I
19 don't want to be in the position of saying, you're
20 arguing the case on appeal, which I suppose it's going to
21 go up on appeal no matter what, and him say, well, you
22 know, this is what he did in the first trial, this is
23 what he did in the second trial, and have them come back
24 and say, well, he did it right in one and not the other,
25 so that would be an odd thing So for right or wrong,

1 I'm just going to kind of plow through on the same
2 charge, pretty much I don't see where adding a sentence
3 and liability is conceded really changes a thing

4 MR HOOD It's just overemphasizing it,
5 that's all, because that is what he's trying to get you
6 to do Say it once is fine, but not four times

7 MR CISA It's twice

8 THE COURT It's twice, and if I thought I
9 overemphasized it, I would not do it, but I really don't
10 think it's that big of an issue

11 All right Yes, sir?

12 MR LEWIS I got a little worried here, and
13 I don't know the answer I got a little worried and I
14 don't know the answer

15 In the old charge, you said it is not only
16 the right but the duty of the jury to award punitive
17 damages I don't think that is a correct proposition

18 THE COURT Well, let me see I know he
19 brought that up a minute ago, and I know I typically get
20 these things out of the jury charge book that the state
21 gives me I know a couple weeks ago they reversed
22 themselves on a charge that everybody has been using, but
23 that is a very rare occurrence

24 I'm going to have to look at that a little
25 bit because it's not out of our charge book, so at least

1 it's not jumping up at me in the charge book here I
2 don't know where it came from It doesn't sound like
3 something I would make up, so I'll look at that while
4 we're at lunch break

5 All the issues you've raised in here I think
6 we've dealt with during the trial or in the motions
7 Unless you've got something new that you want to add, why
8 don't I just incorporate your motion for a directed
9 verdict The argument's in here, because I get what
10 you're saying on the distinction between him and the
11 business, but I've told you, I'm letting it go forward on
12 their theory of loss of the business as opposed to loss
13 to the business, and all your other arguments in here,
14 rather than for you just to reiterate them, I'll just
15 deny it and put your arguments -- make this an exhibit
16 and give it to the court reporter

17 MR LEWIS That's fine, Your Honor

18 THE COURT Okay

19 (Brief marked for identification as Court's
20 Exhibit No 9)

21 MR LEWIS But there are two we didn't put
22 into evidence that I'm going to tell you

23 THE COURT What is that?

24 MR LEWIS You're already ruled on them, but
25 this is a directed verdict stage, and I don't want to

1 waive them, and that is we were not allowed full
2 cross-examination because of no discovery, and, second,
3 because you ruled, I think, that we couldn't ask the
4 people about the newspaper when this case is about what a
5 newspaper said and has nothing to do with the truth of
6 the matters asserted in the newspaper

7 It has to do with the words that are on the
8 paper, and we were not allowed to go into those and we
9 were not allowed any discovery, and those, I think --
10 they've already ruled on them, so I've got my little list
11 now in

12 MR HOOD I would join in that and add to it
13 to please charge the higher burden of proof for punitive
14 damages --

15 THE COURT I think I have in my charge

16 MR HOOD Okay

17 THE COURT Clear and convincing

18 MR HOOD Thank you, and explain that, and
19 then there was something else I wanted to bring up, but
20 I've absolutely lost it I'll jump back up when it does

21 MR JAMES HOOD We've got that 104 We can
22 do that while the jury is out -- well, actually, I need
23 to do it now

24 THE COURT What is it?

25 MR JAMES HOOD We want to make a motion

1 under Rule 43(j), the plaintiff, order of closing
2 arguments I think you did that last time

3 THE COURT All right

4 MR JAMES HOOD Just pursuant to Rule 104(a)
5 of the South Carolina rules of evidence, the defendants
6 would argue, Your Honor, that the expert testimony
7 presented by Richard Holmes doesn't meet the necessary
8 standards of liability in order for the jury to consider
9 that evidence

10 It's not competent under our rules of
11 evidence Mr Holmes was offered as a CPA, as an expert
12 in that field to valuate the business and provide
13 business valuation Mr Holmes testified that he is
14 bound by the guidelines of his national organization, yet
15 he did not utilize them He utilized the methodology
16 that is expressly prohibited by his national
17 organization He used the methodology called the rule of
18 thumb, which you heard, which is a reasonableness check
19 It is not a valuation tool, so for a CPA to get on the
20 stand and to do a nonscientific or a nonauthoritative
21 study to come up with a value is completely unreliable,
22 the reasons for those methodologies is to have an
23 objective scientific method type of analysis performed by
24 CPAs so we can check the veracity of those

25 We don't have an opportunity to cross-examine

1 them because his rule of thumb comes from some personal
2 experience over which we have no knowledge He's
3 presented no evidence about that He's not demonstrated
4 that he utilized the same type of publications or peer
5 review techniques as other people

6 In fact, he recognized it to the contrary,
7 that those are all academics and he is a professional and
8 this the way you're supposed to do it, but he never cited
9 one example of a peer review or publication that accepts
10 his technique There has been no evidence of prior
11 implication of that method that he used to ensure
12 reliability, which really is the touchstone of this
13 entire analysis The quality control measures he
14 referenced, he did not use them because the methodology
15 he used is a quality control method

16 He should have used the market approach
17 analysis or one of the other two analyses that he cussed
18 and then used a rule of thumb to check his work, to make
19 sure it fell in that realm of reasonableness and it was
20 reliable Instead, he skipped the science part and went
21 straight to the rule of thumb, and there is no
22 consistency with the method that he utilized, based on
23 any other professional standards or laws that he
24 recognized

25 So for that reason, Your Honor, under State

1 vs Council, we would ask the Court to strike his
2 testimony, instruct the jury that they are not to
3 consider it as it is unreliable

4 I would also point your attention to the
5 recent Ford case which says that the Council factors that
6 I just set forth is applicable, even to nonscientific
7 testifying experts, which Mr Holmes would obviously
8 classify as Reliability is an essential feature here
9 under Rule 702, admissibility and our jurisprudence is in
10 complete accord says State vs White, and Rule 72 makes
11 no distinction between scientific and technical or other
12 specialized knowledge That's what Mr Holmes was
13 testifying to

14 The reliability standard applies to all
15 matters of knowledge, which have become subject of expert
16 testimony, including the CPA on valuation And, Your
17 Honor, if the evidence is admissible under 702, then the
18 trial judge should determine if its probative value is
19 outweighed by its prejudicial effect and that is cited in
20 rule 403, and in this case, I would submit to Your Honor
21 that it is not

22 Mr Holmes' opinion is not based on
23 sufficient facts or data Mr Holmes' opinions are not
24 based on reliable methods or principles Mr Holmes did
25 not apply principles or methods reliably to the facts and

1 conclusions in this case, and for that reason, Your
2 Honor, we would respectfully ask you to strike his
3 testimony and instruct the jury accordingly

4 THE COURT Mr Cisa?

5 MR CISA Your Honor, I tendered Mr Holmes
6 as an expert in the field of business valuations, and
7 they didn't have any objection to it

8 He gave his opinion I didn't think his
9 opinion was -- it made plenty of sense to me It's not
10 rocket science What he did is he took the earnings of
11 the business and then he applied a multiplier, and he
12 applied a multiplier that he said was based upon a
13 comparable sale of a similar business in the upstate I
14 think he was qualified to give the business valuation,
15 and he gave a reasonable explanation as to how he gave
16 it

17 THE COURT All right Well, he used the
18 method he did for the reasons he stated he did The
19 other accountant on the proffer basically said that's not
20 the correct methodology, but, anyway, that's the one that
21 we had, and I don't find that it is -- what is the proper
22 word I'm looking for?

23 I don't find that it is incorrect I believe
24 it's one of those things that he explained what it is and
25 he said it was according to accounting practices, and we

1 don't have the ability to have the jury in this case
2 weigh that so they have what they have

3 All right So that motion is denied

4 MR LEWIS And I join in that motion

5 THE COURT All right

6 MR HOOD So adding to the motion, what I
7 remember, is we're talking about the damage from the loss
8 of the business Okay? The damage to the plaintiff in
9 this case is he lost the business, all right, so this
10 number that they're coming up with is irrelevant It's
11 the business he's lost Whatever the value of the
12 business is is the business's claim, not his

13 And all we have is his bare assertion that
14 he's entitled to half of it, and now we are seeing an
15 argument in closing, newspaper articles like we saw
16 before, and multiplying a factor out, which doesn't take
17 into account the fact that that year, '04, that business
18 really had no profit If they paid the fines, with the
19 96,000 and bought a business license, they would have had
20 zero profits that year

21 So if the damage in this case is the loss of
22 the business, that he doesn't have a job anymore, then
23 it's his damage, not the business's damage, and
24 everything that expert says is irrelevant, and we would
25 move to strike his testimony and the claim of damages

1 from that on that basis as well

2 THE COURT All right Well, that motion is
3 denied

4 MR LEWIS We join in that one

5 THE COURT Noted

6 MR LEWIS One last thing We'll have a
7 bunch more last things Originally, or in the opening of
8 this lawsuit, you said, originally, how this came about
9 is because the defendant, Mr Hulsey, through his law
10 firm, Hulsey Litigation Group, brought a lawsuit against
11 the plaintiff, making some allegations about his
12 employment practices and he filed this lawsuit in another
13 court

14 That is confusing, and we would like you to
15 clarify, make sure however you explain it to them in your
16 charge is that Mr Hulsey brought a lawsuit on behalf of
17 clients He didn't sue them, he sued them on behalf of
18 clients I think that is important

19 MR HOOD I join in that

20 MR LEWIS And that is what is contained in
21 the plaintiff's complaint It says on behalf of certain
22 individuals against the plaintiff So I think I just
23 want to make sure we clarify that there was a lawsuit,
24 that the RICO lawsuit was on behalf of individuals
25 brought by Mr Hulsey and his law firm

1 Thank you, Your Honor

2 THE COURT If I said what you said -- I
3 don't know, I think it would be general knowledge that
4 most people think that you file on behalf of your
5 clients, but if you think I need to clarify by saying he
6 filed it on behalf of his clients instead of on his own
7 behalf, I'll clarify that

8 MR LEWIS Thank you, Your Honor

9 MR JAMES HOOD We join in that and do think
10 that's necessary

11 THE COURT All right Anything else?

12 MR CISA Nothing from the plaintiffs,
13 Judge

14 THE COURT Okay Oh, order of closing, I
15 was looking at 43(j) earlier The first trial, did I
16 say -- you got to go first and they get to close?

17 MR CISA And that is it

18 THE COURT Okay Francie has got to do up a
19 verdict form, but it will be the same as last time
20 Actual damages and punitive damages will be the only two
21 options

22 MR JAMES HOOD We need the second option on
23 the punitive damages to show that they can say yes or no,
24 instead of there's just one line for it You're going to
25 charge them that they have to award at least nominal

1 damages, so there has to be an award of actual damages
2 If they come back with zero you'll send them back If
3 they come back and the verdict form -- it should have an
4 option Do we find that the plaintiff proved by clear
5 and convincing evidence that he's entitled to punitive
6 damage? Yes or no, but if you answer yes, please set
7 forth the amount, so the jury sees that they have the
8 option of saying no

9 Otherwise, what they're left with from the
10 totality of the charge is they've already admitted
11 they're stuck with it, and we've got to give them
12 punitive damages I think the verdict form needs to
13 comport with your charge to prevent any confusion about
14 that issue

15 THE COURT All right I'll have her put
16 down do you find that the plaintiff has met the burden of
17 proof by clear and convincing evidence that he is
18 entitled to punitive damages? Yes, no If so, what is
19 the amount? Okay?

20 MR LEWIS Yes, sir

21 THE COURT Okay Let's meet back at 1 00

22 (Recess taken)

23 THE COURT For the record, I found that
24 language about the duty to assess punitive damages under
25 a proper pleading and proof That came out of Ralph King

1 Anderson's requested charge civil book I knew I got
2 that out of somewhere So under the theory I did it
3 wrong the first time, it will be wrong the second time as
4 well I'm just going to leave it

5 MR HOOD Your Honor, it made it extremely
6 prejudicial, and I don't think it's a correct statement
7 of the law

8 THE COURT I don't know What are your
9 feelings on it, Frank? Will you have heartburn if I just
10 call it the right instead of the duty?

11 MR CISA Right instead of a duty, it seems
12 to me that it we met the burden of proof, clear and
13 convincing evidence as to punitive damages They got a
14 duty to award it if they find those factors

15 THE COURT I'm just saying, I got it out of
16 Ralph King Anderson's book I assume it's been upheld at
17 some point in time or he got it from somewhere He
18 always had a thorough understanding of the law

19 I'm not aware that that language has been
20 thrown out, but they're always changing the law on
21 punitive damages here, it seems like, not in that regard,
22 but they're making changes to it It's in the first
23 trial I don't remember that coming up at the first
24 trial in the charge conference, so I don't know if that
25 is an issue for the first trial or not, but --

1 MR HOOD We didn't know it was coming in
2 the first trial until we heard it, and then it was too
3 late to do anything

4 THE COURT Frank, do you want it?

5 MR HOOD Isn't there a case --

6 THE COURT It is the right of the jury to
7 award punitive damages as opposed to the duty?

8 MR CISA That's fine, Judge

9 THE COURT I'll change it then, the right
10 instead of the duty Everything else will remain the
11 same, and let's see Y'all want to take a look at the
12 verdict form? You got it? Okay Anybody have a problem
13 with the verdict form?

14 MR JAMES HOOD Except for all the reasons
15 we excepted everything else, the jury, if they're
16 instructed to find damages, I think under the law in this
17 case I think the jury should be able to find zero or no
18 actual damages Maybe the way to clarify that, if you're
19 going to charge them that they have to find at least
20 nominal damages, then the conclusion or the solution
21 would be to find actual or nominal damages

22 THE COURT Well, nominal damages is a subset
23 of actual damages, so I'll just leave that Okay
24 Anybody else?

25 MR CISA Nothing from the plaintiff, Judge

1 THE COURT All right Well, let's try to
2 avoid jumping up and down with objections during each
3 other's closing and let us stick to the evidence that
4 came in and not any evidence that did not come in

5 Other than that, how long do you think you're
6 going to need?

7 MR CISA Probably take 20, 30 minutes

8 THE COURT All right Mr Hood?

9 MR HOOD We won't take any longer than he
10 does

11 THE COURT All right Mr Lewis?

12 MR LEWIS Your Honor, every time I give a
13 time, it just knocks me down, so I'm going to give a big
14 time 45-five minutes

15 THE COURT Well, if you feel like you need
16 that much, how about I give you a shout at 30 minutes and
17 you can, say, wind it up

18 MR LEWIS That will be fine

19 THE COURT All right Well, they tell me
20 everybody is back, is that correct? Okay Let's bring
21 the jury back in

22 (Motion and proposed jury charges marked for
23 identification as Court's Exhibit Nos 10 and 11)

24 (In open court, jury present)

25 THE COURT All right Welcome back, folks

1 You've heard all the evidence now that you are going to
2 hear in the trial, and so we're in the stage in the trial
3 where we have the closing arguments and the charge on the
4 law

5 And the closing arguments are just that,
6 arguments The lawyers will now get up, review the
7 evidence that you heard, and make arguments to you based
8 on the evidence that you heard, in an attempt to have you
9 render a verdict on their client's behalf

10 It's important that you remember this is not
11 evidence You have heard all the evidence What the
12 lawyers are saying is not to be considered by you as
13 evidence, it is simply argument about the evidence and
14 the law that I will charge you on

15 Now, our rules provide that when somebody
16 sues somebody, they have the burden of proof, and I told
17 you about that at the beginning of the trial I called
18 it a preponderance of the evidence, and that is the
19 plaintiff's burden of proof

20 Our rules say that when we have a contested
21 trial on liability issues that the plaintiff has the
22 burden of proof so they have the right to go first and
23 last in the closing arguments But our rules
24 specifically say that when the other party does not
25 answer or admits the allegations contained in the

1 complaint, then they get the right to close, so in this
2 case, as I told you, the defendant did not timely file an
3 answer so allegations of the complaint are deemed
4 admitted, and so under the rules the plaintiff will go
5 first, and then you will hear from each of the
6 defendants' lawyers After that, I will then charge you
7 on the law, and then you will retire to begin
8 deliberations and return a verdict

9 So, Mr Cisa, if you are ready, you may
10 begin

11 MR CISA Thank you, Your Honor Good
12 afternoon, ladies and gentlemen I thank you again for
13 your jury service I know it's been a number of days

14 I think it's important that you understand
15 the posture of this case, where we are and what is
16 required of you as far as your jury service As Judge
17 Young has told you, the defendants didn't answer in time
18 so they are in default They're in default because they
19 didn't follow the court rules They're not my court
20 rules, they're the Court's rules

21 The consequences of that is that all of the
22 allegations of the complaint are deemed admitted
23 Liability is conceded by the defendants Judge Young
24 will charge you when he instructs you that the defendants
25 did not respond within the time the rules allowed and

1 therefore the rules say that the defendant has admitted
2 the allegations of the complaint and liability has been
3 conceded and we're now here for you to determine damages

4 This is a damages hearing That is what
5 we've been doing It may be confusing about what we've
6 been doing, but is that is what we're here about, is the
7 damages hearing I'm not required, and I'm probably not
8 allowed to prove issues concerning liability, because
9 it's all been conceded

10 So what you've got to look to is you look to
11 the allegations of the complaint, and it's important that
12 you understand because you haven't heard any evidence or
13 testimony about liability during the trial of the case
14 because the allegations of the complaint are deemed
15 admitted

16 What we allege in the complaint is that the
17 defendant, Paul Hulsey, is a licensed practicing attorney
18 in the state of South Carolina, having his principal
19 place of business in Charleston and at all times relative
20 to this lawsuit he was an agent, servant, an employee of
21 the other defendant, the Hulsey Litigation Group, the
22 name of his law firm

23 What we have alleged is that the plaintiff,
24 Lawton Limehouse Junior, was born in Charleston County
25 He's a lifelong resident, has friends here, relatives,

1 acquaintances, and business contacts, and he raised his
2 family in Charleston County, and he's worked in
3 Charleston County the majority of his life That is
4 deemed admitted

5 That heretofore in 1999, Lawton Limehouse
6 Junior and his father incorporated a staffing agency
7 known as L&L Services LLC, a staffing agency that
8 employed many individuals relative to the staffing agency
9 and that since 1999 Lawton Limehouse Junior has devoted
10 his time and efforts to building and establishing that
11 business

12 That in 2004, the defendant, Paul Hulsey,
13 individually and as an agent for his law firm, filed a
14 class action lawsuit on behalf of certain individuals
15 against L&L Services, that on or about April 23rd 2004,
16 Lawyer Hulsey held a press conference or otherwise made
17 false statements to certain news agencies, including a
18 reporter from the Post & Courier We've alleged the Post
19 & Courier is a widely distributed newspaper in Charleston
20 County

21 That is admitted, and y'all have heard me
22 talk about this, and you're probably tired of me talking
23 about this, but it's important, because during that news
24 conference or meeting with members of the press,
25 including the Post & Courier, Mr Hulsey made false and

1 defamatory statements concerning the plaintiff with the
2 knowledge and intent that the statements be published by
3 the Post & Courier

4 And he said that the plaintiff had engaged in
5 a classic racketeering scheme, the plaintiff's conduct
6 set the community back 150 years, that the plaintiff
7 engaged in a blatant case of indentured servitude, and
8 that the plaintiff created a perfect racketeering
9 enterprise, just like Tony Soprano Those were all false
10 statements, admittedly made by Mr Hulsey

11 I also allege -- because I'm not sure if
12 everybody is familiar with Tony Soprano, but I alleged in
13 the complaint that Tony Soprano was depicted in a
14 TV series as a gangster, mobster, murderer, engaged in
15 prostitution, gambling, extortion, racketeering, and
16 extorts money from people through physical violence and
17 he used obscene, vulgar, profane language That's all
18 admitted

19 I allege -- and this is important What we
20 stated in the complaint, the statements made by Paul
21 Hulsey, were made with the intent of bolstering that
22 class action lawsuit, with the intent to attract
23 individuals who would become members of the class so the
24 defendant could potentially earn large sums of money as
25 fees

1 So he had a conference with the Post &
2 Courier reporter He made these statements He was
3 trying to attract people to his class The idea was you
4 get people in and make legal fees

5 We've alleged that the statements were false
6 They were intended to degrade the plaintiff and did harm
7 and reduce his character and reputation in the estimation
8 of his friends, acquaintances, and business associates

9 We've alleged that the defendant, Paul
10 Hulsey, made the statements concerning the plaintiff
11 When he made them, he knew or in the exercise of
12 reasonable care and diligence should have known his
13 statements would be published by the Post & Courier, and
14 they were, in fact, published on April 24, 2004, and the
15 statements made by the defendant have caused the
16 plaintiff to suffer great mental anguish, depression,
17 caused injury to his reputation, and, further, the
18 plaintiff has suffered special damages in that he lost
19 his business

20 All of those allegations, ladies and
21 gentlemen of the jury, are deemed to be true So what
22 we're here about is to prove what damages Lawton
23 Limehouse Junior sustained as a result of those false and
24 defamatory statements

25 Judge Young will likewise charge you on

1 damages He'll say you can consider such things as their
2 injury to his reputation, his standing in the community,
3 you can consider things as embarrassment, personal
4 humiliation, mental anguish, suffering, wounded feelings
5 caused by the injury to his reputation, as well as
6 special damages, such as plaintiff's loss of his
7 business Those are the damages we're here about

8 The fact of the matter is, ladies and
9 gentlemen, when that article came out on April 24, 2004,
10 Lawton Limehouse's business was shut down It came out
11 on a Saturday He testified that people called and said,
12 Come get your people Come get your people

13 By Monday afternoon he was out of business
14 Now, Lawton Limehouse, historically, was a farmer He
15 grew up in Charleston County He farmed for 20 years
16 He wanted to go into this business in 1999 with his
17 father because farming is -- it's too unstable He
18 wanted steady income coming in

19 He and his father worked very hard
20 establishing this business If you recall, they started
21 out with about a dozen people and it worked very well
22 In 1999, and it started to grow They had a camp out on
23 Johns Island they would use when they were doing migrant
24 farming Went out and bought beds, furniture They
25 equipped it They got the business up to 200 people by

1 April of 2004 They bought vans They bought 15 vans
2 They had three pickup trucks They had computers He
3 started out in the basement of his father's home They
4 had to move the business to Sam Rittenberg It grew, and
5 they moved it to another location

6 They got a line credit from Southcoast Bank
7 to make it all work They're still paying back the line,
8 of course They had it set up and it was working You
9 know, there is a lot of side shows in this case One is
10 that these people were illegal They weren't illegal
11 They had it down These people were brought in under a
12 government program First place they took them was to
13 the social security office These aren't illegal people
14 They were here under a government program

15 MR JAMES HOOD Your Honor --

16 MR CISA Don't be sidetracked by that

17 THE COURT Sustained That is not in
18 evidence We don't want to get into that

19 MR CISA They brought it up, Judge, but I
20 understand your ruling I understand your ruling

21 They worked hard to get customers for their
22 business Lawton Limehouse Junior said he had 200
23 customers at the time the business was shut down They
24 had the golf courses on Kiawah, the golf courses on
25 Seabrook They used construction companies like Gulf

1 Stream, Trident Construction, Banks Construction, Sanders
2 Brothers

3 They had a slew of restaurants, Magnolia's,
4 Cypress, McGrady's, Planter's Inn, Roberts They had
5 manufacturing concerns They had a carpet company, a
6 tire recycling company, a candle company, Beach Company
7 was using them Their business was doing very well
8 They had finally figured it out They had some bumps
9 along the way, but the business was finally coming to
10 fruition

11 Lawton Junior worked with the business, had a
12 salary of about \$900 a week He was taking home about
13 \$700 a week His truck payment was being made His
14 insurance was being paid His expenses for his truck
15 were being paid He had health coverage for his family,
16 all of which was taken away when the business was shut
17 down following that publication in the newspaper

18 When business was shut down, the biggest
19 concern was what do we do with 200 people that we can't
20 pay anymore? We got 200 people that are unemployed, and
21 what he did was he called a friend who got him into the
22 staffing business back in 1999, got him down to try to
23 get the people reemployed One hundred people were
24 reemployed by his testimony The man took some of the
25 vans The rest of the vans had to be sold

1 Lawton Limehouse then went to work for this
2 guy for about three or four weeks Then he let him go
3 Lawton Limehouse said he let him go because his name was
4 Limehouse He didn't want him associated with his
5 business anymore His reputation in the community was
6 ruined

7 He became withdrawn, depressed He was
8 hospitalized for a week in May of 2004 He didn't
9 socialize with his friends He was going to church
10 before, but now he didn't want to go He didn't want to
11 go because of the way people were looking at him He
12 testified that before that article came out, he could
13 talk to anybody After the article came out, nobody
14 wanted to talk to him

15 He went to his cousin Jack Limehouse,
16 Limehouse Produce He needed somebody His cousin
17 wouldn't hire him He sat on the couch and he cried, and
18 he sat on the couch and cried because he had lost
19 everything he had worked for since 1999 He's 46 years
20 old now, and it was all taken away from him What could
21 be harder for a parent than not being able to provide for
22 a child that you want to provide for, like he had always
23 done?

24 He had a special needs child that he was
25 sending to therapy through L&L Services It stopped

1 The speech therapy stopped for Lee He had another son,
2 Marcus, who has a learning disability and was in private
3 academy Couldn't afford to pay for it anymore Take
4 him out of the private academy

5 And then his oldest son, Elliotte, who was
6 living in the apartment at their place of business and
7 working part-time and going to school, he joined the Army
8 to not be a burden on his father

9 It all hit Lawton Limehouse very hard He
10 finally, in June, started working for his father-in-law
11 hauling bait He could only do it two or three times a
12 week, get paid \$75 a haul He did that until about
13 December His sister helped him with putting together a
14 resume, he submitted it Nobody would hire him

15 Ended up going to Georgia, working with his
16 father, 300 miles from where his family lived He worked
17 in Georgia for about a year, working on equipment, trying
18 to get a packing shed going He said, well, let me get
19 back into the farming, so the following year, in 2007, he
20 struck a deal with Ed Meyer to grow some peppers and, I
21 think he said, pole beans on 60 acres of property Back
22 to farming He worked from January to August, the
23 drought, the 600 foot well ran dry Crops burned up in
24 the field He lost it again The very reason he went
25 into the staffing business, is the same exact reason he

1 went into the staffing business It didn't work out

2 He came back to Charleston, got a job with
3 Thompson pump making \$13 50 an hour, worked with them
4 until December of 2007, I think it was -- December of
5 2008 when the economy got him He had five mechanics
6 He was the last one to go, he and another guy Lost that
7 employment

8 It wasn't until March of this year that he
9 finally got another job working for the Department of
10 Transportation as a mechanic He nets \$296 a week He
11 had never been treated for depression before April 24,
12 2004, never His mother said no, he never did He said
13 he never did

14 He started out on Paxil They switched him
15 to Lexapro and Ativan, and he's before on it ever since
16 He's not been able to pull himself out of this spiral
17 He keeps -- the depression will not go away He doesn't
18 see any light at the end of the tunnel It's like his
19 mother said, it was like sadness came over him It's
20 like his sister said, he was subject to public ridicule,
21 all because of defamatory and false statements made by a
22 man who was trying to get people in his office to line
23 his pockets with legal fees That is what it's all
24 about

25 Tony Daniel, what did he testify to? He said

1 he could see it coming When his boss walked in with
2 that newspaper in his hand on that Monday after that
3 Saturday publication, they knew the business was going
4 down the tubes You need to collect the money, and he
5 helped him He helped him sell the vans They
6 liquidated some assets to pay down the debt He still
7 owed about \$70,000

8 He said Lawton Limehouse Junior was a
9 happy-go-lucky kind of guy, he worked hard but not after
10 April 24, 2004 His life took a dramatic turn for the
11 worse

12 His godfather, Mike Frost, says that when he
13 sees him he still cries He cries because he knows he
14 can't take care of his family He cries because farming
15 is out in Charleston County He lost a business that he
16 worked so hard to build Ladies and gentlemen You're
17 here to determine damages That is what this case is
18 about, and the means and methods of determining damages
19 is solely up to y'all

20 I want to talk about a couple of things, make
21 a couple of suggestions to you We know that Lawton's
22 one half interest in his business was worth \$685,585
23 Richard Holmes testified the value of the business was
24 \$1 37 million That is exactly half We know that on
25 that Saturday when the publication came out that 99,000

1 newspapers were sold, and we know from Steve Wagenlander
2 of the Post & Courier that there was a readership that
3 246,876 people read that article

4 I suggest to you -- and, like I say, it's
5 totally up to you -- I suggest to you that you give him
6 \$10 a reader If you think that is too much, you can cut
7 it back If you don't think it's enough, you can add to
8 it, but I submit to you that that's a fair way to analyze
9 it He went from netting \$700 a week, now netting \$296 a
10 week He lost his pride, he lost his reputation, he's
11 lost everything he's worked for

12 In addition to actual damages, Judge Young
13 will charge you about punitive damages Punitive damages
14 are designed to punish a wrongdoer for willful malicious
15 acts, and he's going to tell you a couple things about
16 punitive damages He's going to tell you you can
17 consider certain factors Number one He's going to
18 tell you you can consider the character of the
19 defendant's acts

20 We go back to the complaint The defendant
21 made these statements to members of the press to solicit
22 people into his office for the purpose of letting them
23 join the class action suit so he can put legal fees in
24 his pocket That's the character of the act You know,
25 they're going to get up and say, Oh, no Lawyer Hulsey

1 is trying to help people

2 Who did he help, besides himself? Who did he
3 help? He didn't help the Limehouse family He didn't
4 help Lawton Junior He ruined his life Did he help the
5 200 people that were employed by L&L Services? No They
6 were all put out of business They were working, making
7 more money than they ever made They had free health
8 care, free medical care, they had transportation for \$15
9 a week They were doing fine

10 They had the Baptist church involved with
11 them, coming out, seeing them Lawton Junior's family
12 was involved with them They're playing soccer His two
13 boys played soccer with them They're out of work He
14 didn't help them He was trying to help himself He was
15 trying to help himself

16 This really gets me Judge Young will also
17 tell you when considering punitive damages that you're
18 entitled to consider the duration of the conduct Okay?
19 He made this false publication to the Post & Courier on
20 April 24, 2004 By June, he had it on his web site The
21 web site is created so you can draw in business, get
22 clients in He had it on his web site He had a link to
23 this newspaper article on his web site in June of 2004
24 It stayed there until February of 2008

25 I sued him back in 2006 He still wouldn't

1 take it off He continued to have this article on his
2 web site for over three and a half years Think about
3 the duration of the conduct that he engaged in

4 Another thing that you should consider, or
5 the judge will tell you you can consider, is the
6 defendant's net worth He's worth \$81 million, \$81
7 million

8 MR JAMES HOOD Objection, Your Honor The
9 evidence was a financial statement He's talking about a
10 different number

11 THE COURT Overruled

12 MR CISA I'll give you the exact number

13 THE COURT You can talk about the evidence
14 and any reasonable inference from it

15 MR CISA Y'all remember Bernadette DeWitt
16 from Bank of America that testified yesterday afternoon
17 Nice lady She came in and said, Yeah, Lawyer Hulsey
18 applied for a loan on May 17, 2006, about a month after I
19 sued him, about a month after I sued him

20 I asked her, Does the financial statement
21 show his net worth?

22 She said yeah

23 I said, Well, what was his net worth?

24 And she said, His net worth was
25 \$81,556,986 61 That's his net worth

1 Now, even though he certified that everything
2 is true and correct on this statement and the statement
3 is made subject to penalties, criminal penalties under,
4 federal law, he now wants to come in and say I'm not,
5 Really worth \$81 million What is that about?

6 I submit to you that you don't punish
7 somebody who is worth \$81 million by awarding \$50,000 in
8 punitive damages or \$500,000 in punitive damages They
9 won't miss a beat I submit to you that you should
10 award -- I suggest to you that you should award three
11 times the actual damages and punitive damages You want
12 to send a message to Lawyer Hulsey that he is not to
13 defame good, hardworking people You got to send a big
14 message

15 You know, I'm proud of Lawton Limehouse
16 Junior for standing up to Lawyer Hulsey and his law firm
17 and standing up to Lawyer Hulsey's lawyers He's got so
18 many lawyers he can't even sit at the table

19 MR JAMES HOOD Your Honor, that's
20 completely improper Move to strike

21 THE COURT Overruled

22 MR CISA Thank you

23 You can buy a lot of things with \$81 million
24 You can buy a \$6 million house to live in You can buy
25 ten automobiles You can buy a Porsche that is worth

1 \$450,000 You can buy a Mercedes that is worth \$525,000,
2 but his problem is he can't buy a verdict

3 The verdicts in this case is up to y'all
4 Y'all have to decide how to dispense justice in this
5 case The verdict is up to y'all

6 You know, somebody steals money from you, you
7 work to get it back Somebody steals your reputation,
8 you don't get it back It's kind of like trying to put
9 toothpaste back into the tube It just doesn't work

10 A way to start, though, I'm going to ask you
11 to do this, I'm going to ask you to put Lawton Limehouse
12 Junior back in the Post & Courier, but this time I want
13 the headline to read that a good Charleston County jury
14 has returned a multimillion dollar verdict against Lawyer
15 Hulsey and his law firm for the false and defamatory
16 statements he made about Lawton Limehouse Junior back on
17 April 24, 2004

18 That's what I ask you to do I'm going to
19 talk about one more thing, and I'm going to sit down I
20 know y'all have been at this for a long time

21 I'm going to try my best not to object when
22 they're speaking I'm going to try my best, but as Judge
23 Young told you before we started, what we say to y'all is
24 not evidence The only evidence in this trial came from
25 the witness stand That is the only evidence

1 My questions, what I say to you, is not
2 evidence If I object, it's probably going to be on the
3 grounds that they're commenting about matters that are
4 not in evidence Let me give you an example of what I
5 mean by that

6 If I got up in front of y'all and said Lawton
7 Limehouse Junior has got \$10 million worth of debt, well,
8 that's not appropriate This was no testimony from the
9 stand that Lawton Limehouse Junior had \$10 million in
10 debt, but I'm not trying to suggest he does That's
11 improper I would be commenting about matters that
12 aren't in evidence I would be making something up
13 Okay?

14 But if I say, Lawton Limehouse Junior is
15 netting \$296 a week right now and he had to borrow gas
16 money from his sister, that's proper, because he
17 testified to it and his sister testified to it That's
18 okay

19 Think about what they're saying, and think
20 about what was actually put into evidence in this case
21 That's what you got to do It's improper to bring
22 matters in or comment upon matters that did not come from
23 that witness stand You think about that as we go
24 forward, and I'll try not to object

25 Ladies and gentlemen, I thank you very much

1 for your attention I appreciate it Thanks

2 THE COURT All right Who's going to go,
3 Mr Lewis?

4 MR LEWIS Thank y'all for being here I'm
5 one of those guys, many lawyers over at that table I'm
6 one of those guys

7 What is really important in this case, and I
8 heard Mr Cisa's closing here, and he told you to listen
9 to what was in evidence I tell you to listen what was
10 not in evidence Why do I say that? Let me just give
11 you one example to go back through everything

12 He says he has depression Did you hear one
13 doctor come in here? Does he bring you one prescription?
14 He just says, I have depression And what we have to do
15 is weigh that against if you have depression, you have a
16 doctor And you would have a prescription, if you took
17 pills

18 But none of that was here So what is not in
19 evidence is the most important thing in this case I'm
20 going to tell you, do you remember -- and first of all, I
21 thank you for taking your time Jurors are really
22 inconvenienced, but it's a great system I love it I
23 like that y'all wear badges on your shoulder so everyone
24 runs away from you That makes it better I like the
25 fact that we get jurors from every walk of life because

1 they all bring with them common sense and logic and they
2 look at things from the real world and how they have
3 grown up, and that's good

4 And when you listen to everybody, I want you
5 to remember, when I say something, that's the way I
6 remember it If you remember it different, then you use
7 your memory as to what was said from that stand That is
8 where the evidence comes from, and that's where the lack
9 of evidence comes from

10 Now, let's talk about common sense That's
11 really a good thing That works best in this case It
12 works better than any other thing in this case Remember
13 when Mr Limehouse was on the stand and I was asking him
14 about all the other articles? There were nine other
15 articles before his, and none of those bothered him
16 They were all about his business and so forth They
17 didn't bother him Do you know why? He didn't believe
18 them

19 Then, his mother, the postal inspectors come,
20 stick a gun in his mother's face, and that didn't bother
21 him because he was at work and it wasn't true The Labor
22 Department comes It's not true It doesn't bother me
23 All the different things that came about didn't bother
24 him because they weren't true But this one statement,
25 he says it bothered him It bothered him so bad that he

1 has depression He doesn't bring a doctor in, he just
2 says it

3 Now, we're here -- and it's a funny way, if
4 you've ever been on another jury We're in a
5 straitjacket We can't put any evidence in We can't
6 put any witnesses up All we can do is cross-examine,
7 and the Court in this case has limited our
8 cross-examination So testing of the witnesses and the
9 truth is very difficult

10 So we have to look at what they say, does it
11 make sense? Does it make sense that Mr Limehouse says
12 that every article and all the things with the mother
13 putting a pistol in her -- toward her and all those
14 things didn't bother him, but this little article did, an
15 article that is very important for you to think about
16 because you've never seen it

17 You've never seen the article that is
18 supposed to have damaged him Why? Because they won't
19 give it to you Why? Because if you read it, you'll be
20 shocked That's what I say Because if it was a good
21 article for you to read, don't you think they would hand
22 it to you? Don't you think they would put it up on a
23 board like that? Sure they would They don't do that
24 They hide it So there is usually two sides in a case
25 And this time, there is only one, and y'all have to look

1 at that from that perspective

2 We could cross-examine, and we did that and
3 we got some good information, but when you look at their
4 case, I call it the case of the missing evidence
5 Everything that they say, everything that Mr Cisa told
6 you could have easily been supported by other than a
7 family member if it was true Everything that he told
8 you could have easily been supported by customers, by
9 doctors, and he didn't, by financial people, but he only
10 used his relatives or his friend, and we'll talk about
11 that

12 Depression, no doctors, no prescriptions
13 Salary, no documents Nothing from the records of his
14 company to show anything, other than just what he says
15 Lost the business How much the business is worth, they
16 put his friend up there, and he used the first four
17 months of 2004 That's what he said Did he bring you
18 or put up in front of you any tax returns? No Any
19 valuations? No He used some numbers Did he give us
20 and show us the basis of those numbers, like, you know, a
21 four-month income statement? No

22 He just said it, and, again, that is
23 important Just saying it doesn't make it so In
24 Missouri you have to show In this Court, they have to
25 show you, and if they have a chance to put in evidence

1 that would show you and they don't, then that has to be
2 suspicious

3 And Mr Limehouse, you saw, he didn't
4 remember some things Those things were pretty
5 important He said he had never pointed a weapon at
6 someone and he didn't He said that the article, nine
7 articles before that, didn't bother him He said getting
8 overtime violations didn't bother him, postal inspectors
9 didn't bother him, housing violations didn't bother him
10 Being accused of creating fake documents didn't bother
11 him The only thing that bored him was this little
12 article Does that make common sense? No Is that
13 logical? No

14 Then he puts up Mr Frost, his godfather, who
15 didn't read the article He was a nice man Then he put
16 up Derek Eager, his brother-in-law He wanted to help,
17 and he admitted that he didn't know whether the RICO
18 complaint or the article caused problems He didn't
19 know

20 Now, you remember he went into the hospital,
21 and his wife read him his discharge papers, and the
22 discharge papers said he was under federal investigation
23 and that was the stress of putting him there Did we get
24 that? No They want to lead you to believe that it was
25 because of this paper, this article, that he was in the

1 hospital It wasn't He admitted that his wife read him
2 that Did his wife testify? No

3 They didn't want her to come in here and talk
4 about that article Mr Holmes, the CPA, he's the one we
5 talked about how he valued the business, and he came in
6 here with no documents, no support He just said it
7 And he used the first four months of a year, and we don't
8 know if comparing that four months to the first four
9 months of prior years, whether that is a good four months
10 to use, the best four months to use, or the best four
11 months -- we don't know anything other than they used
12 those four years and they didn't bring anything and he
13 didn't put anything into evidence

14 He didn't put the tax returns in, and you
15 know if they would have been good, they would have been
16 in here They didn't use any documentation whatsoever,
17 and I've never seen an expert do that, just come in here
18 and say something

19 Miss DeWitt, that is the one they just talked
20 about, \$81 million If you remember what she said,
21 that's what they do They trick, and that is not fair
22 \$81 million is what he gets over 25 years And if
23 anybody knows what present day value is, that is not --
24 if you get \$81 million over 25 years, it's not worth \$81
25 million today It's worth, somewhere in the present day

1 value, some of you may even know how to do that Do it
2 It brings it way down But he doesn't want you to think
3 of that He didn't bring the present day value Then,
4 which is even more astounding, he brings in Ms DeWitt
5 and he asks her to bring a financial statement prior to
6 this latest economic crisis

7 I promise you if you had any money anywhere
8 that you don't have as much as you did three years ago
9 It took a toll on everybody, but they didn't bring that
10 person in They didn't bring that statement in They
11 brought a statement in before the economic crisis

12 Tony Daniel, the banker, said he had the
13 paper Well, they wouldn't let us see that article He
14 didn't get to see the headlines of that article He
15 didn't get to see what his boss might have been concerned
16 about, other than some little words in the body of it
17 They don't want you to see that article, and then he
18 admitted that his financial information was as of 1999
19 That's ten years ago

20 It just doesn't make sense that they didn't
21 bring in any more evidence they did on each of these
22 subjects because it was so easy to do Let's think of
23 something else

24 They didn't bring the father, the other 50
25 percent owner Why not? He was right there It was his

1 business too, and if he thought that the business had
2 failed because of this, don't you think he would have
3 come and said it? They didn't bring him They didn't
4 bring the wife because of the hospital records

5 They didn't bring the reporter that wrote the
6 article He could explain what he did and what Mr
7 Hulsey said They didn't bring him They controlled the
8 evidence, and we had no way to test it, other than by
9 asking them and they knew that cross-examination would be
10 very hurtful for them if they brought the people in that
11 could support them What do I mean by that?

12 How about when they say the reputation is
13 gone? Did they bring in one person that said that this
14 article did anything to his reputation other than his
15 family members? Did they bring in one guy who said hey,
16 I read that, and I really don't like him anymore He's a
17 terrible fellow? No, they didn't

18 There isn't anybody Did they bring in one
19 customer? I think he said he had 200 customers Did
20 they bring in one of 200 customers, any of them, that say
21 I am not a customer anymore because of that article? No,
22 because there aren't any If they would have had one,
23 they would have brought him How easy would that have
24 been?

25 They could have brought in their tax returns,

1 the RICO complaint, the one they got the day before the
2 article Mr Hulsey, on behalf of his clients, filed a
3 RICO claim, trying to make sure they were all properly
4 paid and properly taken care of, and we read from the
5 complaint It was very, very specific

6 I think when we look at that -- I read this,
7 manufactured and issued false identification documents
8 including false social security card That didn't bother
9 him Well, that's a bad thing to do Providing false
10 social security numbers --

11 MR CISA Objection

12 THE COURT Sustained

13 MR LEWIS I read this in during the trial

14 THE COURT But it was not admitted into
15 evidence

16 MR LEWIS You let me read these You
17 didn't let me get any more specific

18 THE COURT What, you read it in the form of
19 a question?

20 MR LEWIS I read these in, and I said did
21 this bother you? He said no Did this bother you? No
22 Did this bother you? No Did this bother you? No, no
23 I read five things None of them bothered him

24 THE COURT Okay You can go over those five
25 things then

1 MR LEWIS That's what I'm doing

2 THE COURT Okay Go ahead

3 MR LEWIS Thank you, Your Honor Okay I
4 read these five things that were in the RICO complaint
5 Did it bother you? The manufactured and issued false
6 identification documents, including false social security
7 card? That didn't bother me Someone accused of that
8 Didn't bother him Providing false social security
9 numbers to various taxing authorities No, that didn't
10 bother him either

11 Manufacturing false immigration documents,
12 including but are not limited to the provision of the
13 false resident alien cards They would consistently
14 withhold portions of their employee's wages without any
15 justification in violation of state and federal law
16 They would consistently fail to compensate their
17 employees at a rate of one half times the regular rate
18 and hours worked in excess of 40 hours a week in
19 violation of federal and state law Those are in the
20 RICO complaint they got the day before this article, and
21 not a one of those things bothered him How does that
22 conflict with your common sense? How does that fit in
23 with your logic? It doesn't, not a bit

24
25 Again, I can't help but imagine that y'all

1 have a lot of questions because there was a lot of things
2 that weren't put in evidence, but when I heard Mr Cisa
3 go through his total statements, I starred a few things
4 because these things kind of emphasized what is the
5 matter with their case

6 He tried to trick you with net worth of \$81
7 million He didn't tell you it was over 25 years, and
8 present day value was something that he never even
9 mentioned That's wrong

10 He came in here and said he was on Paxil
11 something else and something else, and there has never
12 been a prescription put in There has never been a
13 doctor put on the stand, and he said there he had
14 depression and there has never been a doctor, said he was
15 hospitalized, but he didn't tell you the records say he
16 was hospitalized because of a federal investigation and
17 the stress of it

18 It said that he went out and gave resumes to
19 people and no one hired him Did we get the resume? No
20 Did he call on one person that got a resume and said they
21 wouldn't hire him? No Then he said they wouldn't hire
22 him because his name is Limehouse That's what he said
23 That is what Mr Cisa said, that his name is Limehouse
24 And the next breath he said he went to his cousin
25 Limehouse and he wouldn't hire him, so according to them

1 a guy named Limehouse wouldn't hire a guy named Limehouse
2 because his name is Limehouse How do you like that?
3 How does that fit logic and common sense? It doesn't

4 He said church, he used to go to church
5 Doesn't go to church now Where is the minister coming
6 in and saying, We miss him? No He says his friends --
7 that he doesn't see his friends anymore Where is a
8 friend that came in that said, I used to see him The
9 only thing is your family coming in here saying
10 something We need independent people Family members
11 try to help you Independent people tell the straight
12 truth

13 So when you get down to this case, you get
14 down to a fact that Mr Hulsey and us were in a position
15 where we couldn't challenge by evidence our own evidence
16 and our own witnesses, and what did they do? They put
17 people up that just said these things when it could have
18 been easily supported by evidence or documents or
19 witnesses

20 This is the case of the missing evidence, and
21 that is what you have to use your logic and common sense
22 for Because if you find that the evidence was so easy
23 and you find that they wouldn't let me put in, like, even
24 the article we're talking about, then you got to find
25 that there is a reason for that, and the reason is there

1 is no damages There just isn't any This is a made up
2 story for money that they don't deserve

3 Thank you

4 THE COURT All right Mr Hood?

5 MR JAMES HOOD In this box, there is a
6 story for sale, a story that is so powerful the
7 plaintiffs would have you believe that it's ruined his
8 reputation, a story so powerful they would have you
9 believe that it has ruined his job, a story so powerful
10 that they want you to buy it for over \$1 million, sight
11 unseen, sight unseen

12 When this trial started, counsel stood up and
13 said, This case is about a greedy, hotshot lawyer I
14 submit to you that is flat wrong, flat wrong This case
15 is, as the judge has instructed, about damages because of
16 the posture of the case Why would a lawyer stand up and
17 say it's about a greedy hotshot lawyer? Why would you do
18 that?

19 Well, it's simple As lawyers, we're taught
20 that the first thing that you say is often the most
21 easily remembered The psychologists who study human
22 retention of information, what they tell us is that the
23 first thing that you hear is most often that which you
24 remember the easiest It's called primacy

25 And primacy, when you use it like that, it's

1 a trick, and it's a trick because what you're trying to
2 do now is you're appealing to someone's sense of bias
3 because there is no shortage of people in this country
4 who don't like lawyers I would be a fool not to
5 recognize the general perception and stereotypes about
6 lawyers I've heard all the jokes, I've seen all the
7 spoofs, seen all the commercials, all the comics But to
8 have you think about Mr Hulsey in that way is a way for
9 you to perceive all the evidence, to perceive it in a way
10 that is negative to him, and by doing that, you're
11 distracted from the task of testing the evidence about
12 damages

13 Why is that a trick, you might ask? Isn't
14 that what lawyers do? I submit to you it's not I
15 submit a lawyers's job is to bring you credible evidence
16 so you can make the determination of what to do To
17 focus the attention on the case from Mr Limehouse's
18 damages to Mr Hulsey is appealing to a bias that
19 everyone has, or may have, against attorneys And to
20 look at Mr Hulsey as an attorney, not just an attorney,
21 but a greedy attorney -- and if you don't like attorneys,
22 you're definitely not going to like a greedy one, and if
23 you don't like attorneys, you're not going to like a
24 hotshot one, and if you don't like attorneys, you're
25 never going to like a greedy hotshot one, so now your

1 sense of bias has been appealed to If you don't like
2 him, it's easier to find against his law firm

3 Well, ladies and gentlemen, bias has no place
4 in our courtroom The judge will tell you that bias is
5 like prejudice and passion, and that is not something
6 that should be considered by you in deliberating upon the
7 evidence If you evaluate someone based on the bias that
8 they have because they're a lawyer, prejudging them, and
9 that is not right

10 This case is about evidence, and it's about
11 the alleged damages that the plaintiff has sustained
12 The case began that way and the case ended that way again
13 when Mr Cisa gave his closing argument That's what
14 this case is about

15 Did the plaintiff prove to your satisfaction
16 through competent evidence that he sustained injury to
17 his reputation? The Court will explain that the
18 plaintiff has to prove the evidence through the burden of
19 proof You heard it initially on the one side You have
20 the scales, and he told you that that burden of proof is
21 called the preponderance or the greater weight of the
22 evidence That is the standard that you apply to
23 contemplate whether there are any actual damages

24 You've heard the term punitive damages on the
25 other hand, and there is a separate burden of proof

1 They're two separate and distinct ones You have
2 preponderance on the one side for actuals, and then you
3 have a higher standard called clear and convincing
4 evidence for punitive damages, and the judge will
5 instruct you about that, but it's very important

6 The reason it's important is because punitive
7 damages are asking you not to compensate someone, but to
8 punish someone And in our jurisprudence what the law
9 recognizes is that punishing someone is an extraordinary
10 event and it's extraordinary relief so you have a higher
11 burden It's clear and convincing evidence That's the
12 degree to which you must be satisfied with the evidence
13 that has been presented

14 In the case, the judge will charge you under
15 the actual damages that you'll have to award damages
16 He'll say that as a matter of law, I instruct you that
17 you have to come back with some number You can't say
18 zero If you said zero, the judge would send you back
19 in, and he'll explain to you what nominal damages are,
20 and if you believe that the plaintiff has not satisfied
21 his burden of proving to your satisfaction through
22 competent evidence that he suffered harm, then he's
23 entitled to an award of nominal damages Your Honor will
24 explain that to the jury, to all of you, when I sit down

25 On the other hand are the punitive damages

1 and clear and convincing evidence, and what is remarkable
2 about that and what is remarkable in this situation,
3 sight unseen, you're being asked to punish Mr Hulsey and
4 his practice, not just Mr Hulsey, but his law partners,
5 the associates who work with him, the secretaries,
6 paralegals, and the entire support staff at Hulsey
7 litigation

8 Sight unseen, punish him by clear and
9 convincing evidence It's an extraordinary remedy that
10 is not doled out sight unseen In this courtroom there
11 are two types of evidence that you will normally hear
12 It all comes from witnesses, and they are documents and
13 things, exhibits, from the witnesses In this case there
14 weren't any documents or exhibits There were witnesses,
15 and you alone judge the credibility of those witnesses

16 When we talk about credibility of witnesses,
17 the judge has a specific instruction that tells you the
18 types of things that you, as jurors, consider to value
19 the credibility of witnesses

20 You've heard a number of times that we
21 weren't permitted to call witnesses and we are not
22 permitted to introduce evidence That's because we're in
23 default Default is not a bad word Default does not
24 mean that Mr Hulsey or his practice were thumbing his
25 nose at the system, is where we are, so we're not

1 fighting over liability, we're talking about damages

2 The evidence that they present to you through
3 witnesses has to do with credibility, and to judge
4 credibility, you look, and the judge will tell you that
5 you look, towards does this witness have a bias, any
6 prejudice, an interest in the outcome? Are they owed
7 money so they have a reason to testify? What was their
8 appearance and demeanor on the stand? What was the
9 reasonableness of the statements that they made? What
10 they said, did that make sense? Was that reasonable?

11 And we've heard all the witnesses We've
12 heard from family members We heard from Mr Frost, the
13 godfather Mr Frost hadn't read the article Mr Frost
14 tells us it was 2005 or 2006 that Mr Limehouse's
15 condition changed and began spiralling Totally
16 different than what we heard the other witnesses say

17 He has come down and sees him quarterly
18 They go up to Deerfield Plantation in St George and
19 hunt It was a year or two after this date, of the
20 article, that the injuries, in his eyes, began We heard
21 from Mr Eager, his brother-in-law He didn't know
22 whether the lawsuit, the article, or any of the previous
23 article caused problems, he just told you about what he
24 saw and when he saw it But we did hear from a number of
25 witnesses, and we'll talk about that in a minute You

1 heard Mr Lewis discuss that

2 I want to talk about there was a blow-up here
3 from Mr Wagenlander, I think we called him Steve, the
4 circulation guy He came in He doesn't have a dog in
5 the fight He's just telling us what the numbers are
6 Well, there are three numbers There is the circulation
7 number, which is around 100,000, then there is a
8 readership number, which is 240,000, then there was an
9 actual reader number

10 The actual reader number I was asking
11 about -- and they study, open up a newspaper, if you're
12 over 18 or you're under 52 you're more likely -- you're
13 50 percent more likely to read the front page and vice
14 versa for the sports page and things like that, so they
15 can tell you out of that total number of who they think
16 are reading the paper how many read that article but he
17 didn't bring that information to testify to

18 That information would have made that number
19 much smaller, just like Mr Holmes, what he was asked to
20 do He's not an independent CPA He is their friend,
21 their current business guy Mr Holmes is the one that
22 came up with the calculation using a rule of thumb, a
23 methodology that his own organization does not even
24 recognize

25 Why? Because it allowed him to use four

1 months, four months of income, to calculate a huge
2 number, \$1 300 some odd thousand dollars, an enormous sum
3 of money He did that by taking only four months, the
4 company has been in business for five years, for profit
5 He added four months, multiplied it by three, divided it
6 by 12, determined this is how much it would make on a
7 monthly basis

8 He didn't use the methods that exist to
9 fairly and accurately value companies I asked him, I
10 said, Mr Holmes, would you put on your seller's hat --
11 excuse me, your buyer's hat? He was representing the
12 seller, and I submit to you, the price of what you want
13 to sell a house for or what you want to sell a business
14 for is not the value of it The value of it is what
15 someone is willing to pay for it I could sell you
16 what's in this box, but you want to know what it is so
17 you know -- you agree to the value and what you pay for
18 is what it's worth

19 That's why I said, Mr Holmes, why don't you
20 switch seats? Jump over here Act like you're the
21 buyer Tell me what you would Got all this due
22 diligence Got a guy with all these records, clients
23 with all these, valuated the goodwill, look at all the
24 information that is in the complaint Well, did you do
25 that with this? No Why? Because I was representing

1 the seller I wasn't asked to do that

2 So he uses a number, a multiplier It was
3 3 72, and he took the value of the company for a year
4 He multiplied it by that multiplier, to get this huge
5 number of over 1 million

6 He did that without contemplating any of the
7 negative information that was in existence prior to this
8 article coming out He explained that buying a company
9 is buying a risk Buying a risk is something that you
10 would have to calculate value If you're going to buy a
11 company or you're going to pay what the seller is asking,
12 if that company has contracts that require it to do
13 certain things that they're not doing it, are you going
14 to buy a company that could eventually subject your
15 investment to being worthless? I submit to you if you
16 have a company with all these types of things, you have
17 to question whether that company has value and whether
18 someone would buy it

19 Mr Holmes could have done that and explained
20 it to you, but he wasn't asked to do it, and I asked him,
21 I said, Mr Holmes, you know that I can't call another
22 expert to rebut what you said, and you know that I can't
23 introduce evidence to impeach you, and you don't have the
24 documents with you here today that you rely on, do you?
25 No, I don't

1 He knew the game The game is, we're only
2 allowed to ask certain questions, and that is what we're
3 doing, but I submit to you that his obligation as a
4 certified public accountant is to bring to you a
5 valuation based on the methodologies that his own
6 organizations required

7 It's like a doctor saying I'm not following
8 the AMA guidelines I don't have to follow that If
9 another doctor is coming up to testify after him, I bet
10 he's singing a different tune

11 Now, we heard from Ms DeWitt She was not
12 the loan officer, and she brought in a
13 three-and-a-half-year-old financial statement, and then I
14 heard Mr Cisa say, Mr Hulsey comes into Court He
15 says, I'm not worth \$81 million Have you heard
16 Mr Hulsey say anything? Have you heard him testify?
17 Have you heard him say one thing? No

18 You've heard his lawyers object You've
19 heard his lawyers argue You've heard his lawyers
20 cross-examine, but you haven't heard from Mr Hulsey
21 Why is that significant? Because they're asking you to
22 punish somebody based on inaccurate information, punish
23 him, and how do you get someone mad? How do you jerk at
24 their heartstrings? You tell them he's greedy, he's a
25 hotshot, and he's really, really rich, make it hurt

1 Bam That is the passion that is like bias and
2 prejudice It deserves no consideration in your
3 evaluation of evidence

4 So Ms DeWitt comes in here with
5 three-and-a-half-year-old information She has available
6 to her at the bank updated information We don't see it,
7 and you're asked to punish someone based on their ability
8 to pay Their ability to pay is how much they're worth
9 How much is he worth? We don't know, because we can't
10 introduce it into evidence, and the single largest factor
11 is there was \$67 million over 25 years, and what she
12 didn't describe until cross-examination that there was an
13 asterisk next to it with that sheet explaining where that
14 money comes from, from the tobacco funds settlement that
15 is payable over 25 years

16 It's not sitting in the bank It can't be
17 touched It's not available But they don't want you to
18 see that It's not in evidence, so you can't consider
19 it You just have to punish him sight unseen, and you
20 punish the practice, not just Mr Hulsey, but his
21 partners, his associates, folks that helped him get ready
22 for trial, the folks who are there at the office now to
23 answer the phones, punish him, sight unseen

24 You heard from the plaintiff, and this is
25 what the case is about as a plaintiff and his

1 credibility, his damages, what he has suffered That is
2 why we're here This is why we spent a week together,
3 and we heard something that lawyers don't hear very
4 often

5 We heard a witness testify and he answered a
6 question, did you ever point a gun at anyone? No We
7 need to leave the stand We have a break Comes back
8 The question is, And you told the jury you never pointed
9 a pistol at anyone, is that true?

10 No That's not true I don't know the
11 circumstances about pointing a gun at his wife and he
12 said she said, but when you walk up here and you place
13 your hand on the Bible and you swear to tell the truth,
14 the whole truth, and nothing but the truth, that means
15 something That means when you're asked a direct
16 question you don't come back and say no, that's not true

17 Only once they realized that we had the
18 records and we knew the answer to the question that the
19 story came out Some of it was remarkable He didn't
20 remember It was over 20 years ago If you don't
21 remember, how do you know when it was? Do you remember
22 pleading guilty? I don't even remember But you pled
23 guilty? I pled guilty to it, yes

24 Wasn't that your wife? Well, that's what she
25 said, but I didn't do that That is the credibility

1 which is the litmus test, is how you determine whether
2 the information they presented is credible, whether you
3 can believe it in order, sight unseen, punish someone,
4 sight unseen, buy his story

5 That is what this case is about It's not
6 about how many lawyers can sit at this table It's not
7 about one, two, three of us at the table, and Arial in
8 the back and Mr Hulsey It's not about Cheri in the
9 back, it's about damages It's about whether the damages
10 testimony is credible, credible

11 Is there a bias? Is what he said reasonable?
12 Does he have an interest in the outcome? Those are the
13 type of things that we need your expertise in That is
14 why we need juries to solve cases We can't do it
15 without you, and that is why the system works, because as
16 soon as someone appeals to those sentences that you know
17 they shouldn't be, a flag goes off, but that is why its
18 is the hardest thing to do

19 You might not like Mr Hulsey The things
20 you might have heard about him might make you not like
21 him, but you only heard one side You don't know what
22 he's like You don't know what he does in his free time
23 You don't know if he's got a family You don't know any
24 of those things And I submit to you if you ask a jury
25 to punish somebody, it's incumbent upon you to let the

1 jury see that person, to let the jury evaluate that
2 person's conduct on the witness stand and let that jury
3 determine the credibility of that person you want to
4 punish

5 I submit to you they haven't done that in
6 this case, and I submit to you for that reason, when the
7 judge gives you the verdict form, when you get to the
8 second question, it's about punitive damages, you check
9 the box for no I got this form here The judge will go
10 over it with you And I told you earlier, you have to
11 put something in there for actual amount of damages, but
12 on the punitive issue, you can say no You can say no

13 You can say we're not going to punish
14 somebody unless you are going to bring him in here and
15 give us more evidence than just your word, just your
16 word, and your lawyer's argument that this is about a
17 greedy, hotshot lawyer That is not right

18 You heard Mr Lewis talk about these things
19 I'm not going to belabor it I brought up business
20 records because when we're talking about businesses going
21 in and out, there are certain documents that all
22 businesses have, order forms, invoices, call sheets, all
23 these types of things that come in and say, Would you
24 come, bring six workers?

25 No, problem I'll send you a bill for it

1 Bring the revenue in That is how you keep
2 track of how much money you're owed, how much you've
3 paid There is file somewhere that has got this
4 information We can't bring it, they can Don't you
5 think that if you could demonstrate, knowing that I'm
6 going to stand up here and argue to you, the jury, that
7 they haven't brought it? Don't you think they would just
8 cut my legs out from underneath me and enjoy doing it and
9 say, They don't have anything to talk about We brought
10 the witnesses and we brought you exhibits What else do
11 you need?

12 Objective medical evidence, I'm not going to
13 tell you depression isn't a serious issue I don't think
14 there is probably a family in this country that hasn't
15 experienced depression with a loved one, and it is a
16 serious medical condition, but it's just that It's a
17 medical condition And if you want to compensate someone
18 for it, don't you think they would have introduced
19 medical bills? That is something that is recoverable
20 under our law

21 If I do something wrong and get sued about it
22 and it causes you to incur medical expenses, well, that
23 is something you're entitled to It's not been
24 presented He haven't seen Mr Hulsey Punish him,
25 sight unseen In this web site we're talking about

1 duration of conduct We're talking about three and a
2 half years What does the web site say? It's over there
3 in the box We don't run around with copies of it
4 Witness can't see it

5 Can we put it in context? No, but they can
6 Don't you just think for a minute if that web site was as
7 egregious it would be all over the walls? You wouldn't
8 be able to see my face It would be plastered on me I
9 brought this projector here at the beginning of the week
10 because technology in the courtroom is broken Figured
11 we would be seeing these things, I would be putting it
12 up, and we would be talking about it Haven't seen it

13 Finally, the article, the suit is about one
14 article, the damages, the credible damages that have been
15 testified to by the witnesses, one article For sale,
16 millions of dollars in that box, for sale, sight unseen

17 Thank you

18 THE COURT Thank you All right, folks It
19 was brought to my attention during the break that at the
20 beginning of the trial when I told you what this lawsuit
21 was about, and just to kind of give you a summary
22 overview, of course I'm not testifying, just like the
23 lawyers aren't testifying, I said Mr Hulsey filed this
24 lawsuit, working for his law firm against Mr Limehouse
25 Obviously, I assumed everybody just takes it for granted,

1 they filed a lawsuit on behalf of their client, but I did
2 not state they filed a lawsuit on behalf of their
3 clients, and so I wanted to clear up any misconception
4 that might have been created They didn't file a lawsuit
5 alleging he was a party against Mr Hulsey, or against
6 the Limehouses, but he filed it on behalf of his client,
7 and I told the lawyers that I would clear that up in case
8 anybody had -- was operating under the misconception that
9 he filed it personally as opposed to on behalf of a
10 client

11 All right Now, at this point, you have
12 heard all of the evidence and you have heard all of the
13 closing arguments, and so I'm going to charge you on the
14 law that you apply to the facts as you find them in this
15 case

16 As I told you at the beginning of the trial,
17 you are the judges of the facts, and whatever facts are
18 in dispute, you are the sole judges of that, and in that
19 regard, we're bound by whatever you decide the contested
20 facts are By that same token, the oath that you took at
21 the beginning of the trial makes you bound now to apply
22 the law as I charge it to you, the facts as you find
23 them You determine how much weight to give the
24 testimony of a witness, you determine the credibility of
25 witnesses, you decide how much weight to give the

1 testimony of any given witness, you alone determine
2 whether or not a witness has a bias, a prejudice, or an
3 interest in the outcome of the lawsuit

4 You can determine or judge such things as
5 their appearance or their demeanor on the witness stand
6 and the reasonableness of a witness's statement. In a
7 case like this, I told you at the beginning of the trial
8 there is a burden of proof, and that burden of proof in
9 this kind of case is what we call a preponderance of the
10 evidence, and I used an example about scales at the
11 beginning of the trial

12 A preponderance of the evidence is, again,
13 simply the greater weight of the evidence or is whatever
14 the party trying to prove more likely true than not true.
15 You determine whether or not a party has met a burden of
16 proof. The number of witnesses that a side calls doesn't
17 determine the preponderance of the evidence. A
18 preponderance of the evidence is determined by the
19 greater weight of all the evidence

20 When it comes to judging such things as
21 credibility of witnesses, you can judge such things,
22 again, as their demeanor and their appearance on the
23 witness stand. You're not bound by the number of
24 witnesses that a party calls, and you don't decide a case
25 based on the number of witnesses that a side produces

1 You can accept all of the witness's statement
2 or you can reject all of it And if you accept part of
3 it, you can still reject part of it, and if you reject
4 part of it you can still accept the remainder of the
5 witness's testimony

6 Now, you did have a witness that appeared as
7 an expert in this trial, and I will remind you that
8 witnesses normally are only allowed to testify about
9 things that they observed and what they know from their
10 personal knowledge We don't typically allow them to
11 give their opinions, however, the law says that when a
12 person, because of their education or experience in a
13 field rises to a level of expertise, we let them testify
14 in the form of an opinion, and you did hear expert
15 testimony and you heard expert testimony in the form of
16 an opinion

17 You determine how much weight to give an
18 expert's testimony You're not bound to give it any
19 weight You're not required to give it any more weight
20 than any other witness You determine how much weight
21 that witness's testimony deserves, based on all of the
22 evidence

23 Now, normally, I would tell you what the
24 substantive law is at this point and tell you that a
25 party has a burden of proving all of the elements of that

1 cause of the action I'm about to tell you about I'll
2 remind you again that the posture we are in this case,
3 that is, the plaintiff served a lawsuit on the
4 defendants The defendants did not respond within the
5 time the rules allow, and therefore the rules say the
6 defendant has admitted the allegations of the complaint
7 and liability has been conceded, and we are now here for
8 you to determine the amount of damages, if any, that are
9 owed as a result of the allegations admitted

10 In a case like this where we have a default,
11 the plaintiff must still prove by competent evidence his
12 damages, and that proof again must be proven to you by a
13 preponderance of the evidence I've talked a little bit
14 at the beginning of the trial about what the law is on
15 libel and slander, just to give you an understanding
16 about how it helps you compute damages I'll go over a
17 little bit of the substantive law

18 A tort is just our big fancy word for a
19 wrong The tort of defamation allows the plaintiff to
20 recover for injury to his reputation as a result of the
21 defendant's communication to others of a false message
22 about the plaintiff

23 Now, defamatory communications take two
24 forms There is libel and there is slander Libel is
25 the publication of the defamatory material by written or

1 printed words, by its embodiment in the physical form, or
2 by any other form of communication that has potentially
3 harmful qualities characteristic of written or printed
4 words

5 Slander is spoken defamation Now, to
6 recover for defamation, normally the party has to prove
7 by a preponderance of the evidence that there was a false
8 and defamatory statement by the defendant concerning the
9 plaintiff, two, that is, it was an unprivileged
10 communication, three, that there was fault on the
11 defendant's part in publishing the statement, and, four,
12 that it was either -- that there was either actionability
13 of the statement irrespective of respective harm or that
14 there was existence of special harm to the plaintiff
15 caused by this publication

16 A communication is defamatory if it tends to
17 harm the reputation of another so as to lower him in the
18 estimation of the community or to deter third persons
19 from dealing or associating with him The very essence
20 of an action for defamation is that the plaintiff has
21 suffered damage as a result of the injurious effects of
22 the defamation upon his reputation Actual proof of
23 damages is not required if defamation is actionable per
24 se When defamation is actionable per se, then the law
25 presumes that the defendant acted with common law actual

1 malice and that the plaintiff suffered general damages

2 Such defamation is actionable without proof
3 of special damages The words actionable per se carry
4 with them the presumption that actual damage to
5 reputation and character directly and proximately
6 resulted from and it is not necessary to allege or prove
7 any actual or special damages

8 If a defamation is not actionable per se,
9 then common law -- the plaintiff must prove and plead
10 common law actual malice and special damages, however, in
11 this case, I am charging you that defamation was
12 actionable per se and therefore actual damages is
13 presumed That is, the plaintiff does not have to meet a
14 burden of showing the Court that there was actual damage

15 I will charge you under the facts of this
16 case that you must return a verdict for at least nominal
17 damages to the plaintiff because he has suffered actual
18 damages There are several types of damages that I will
19 talk to you about I just mentioned nominal damages
20 Nominal damages are a trivial or trifling sum awarded to
21 a plaintiff in an action where there is not substantial
22 loss or injury to be compensated, but still the law
23 recognizes there was a technical violation or a technical
24 invasion of the plaintiff's rights or breach of the
25 defendant's duties

1 Nominal damages are awarded for the
2 vindication of a right where no real loss or injury can
3 be proved. Again, the plaintiff does not have to prove
4 the elements of defamation or libel or slander. They are
5 deemed to be admitted, and liability has been conceded.

6 Therefore, the plaintiff again only has to
7 prove by a preponderance of the evidence the amount of
8 damages so you have to award at least nominal damages.
9 However, you can also consider actual damages, and then I
10 will talk with you about punitive damages.

11 When you find that the plaintiff has suffered
12 actual damages, actual damages are designed to put a
13 party back where they were to make them whole. You can
14 consider such things as their injury to their reputation
15 and their standing in the community. You can consider
16 such things as embarrassment, personal humiliation,
17 mental anguish and suffering, wounded feelings caused by
18 injury to reputation.

19 A plaintiff who proves he is entitled to
20 special damages may also recover special damages, any
21 expenses or loss of value that could be attributed to the
22 slanderous statement. Special damages consist of
23 specific identifiable economic or material losses to the
24 plaintiff as a result of the defamation.

25 Special damages are tangible losses for

1 injury to the plaintiff's property, business, occupation,
2 or profession, which are capable of being assessed
3 monetarily and which result from injury to the
4 plaintiff's reputation special damages is manifestation
5 of injury to the reputation which is computable in money
6 or capable of being assessed at a monetary value

7 Now, in this case, the defendant -- or the
8 plaintiff, excuse me -- in this case the plaintiff is
9 also seeking punitive damages in addition to actual
10 damages Punitive damages are also known as exemplary
11 damages, and they are imposed to punish a party They
12 are not intended to compensate

13 Punitive damages are allowed in the interest
14 of society, in the nature of and as a warning, an example
15 to deter the wrongdoer and others from committing like
16 offenses in the future Moreover, they serve to
17 vindicate a prior right by requiring the wrongdoer to pay
18 money to the injured party

19 Punitive damages serve at least three
20 important purposes Punishment of the defendant's
21 reckless, willful, wanton and malicious conduct,
22 deterrence of future similar conduct by the defendant or
23 others, and compensation for the reckless and willful
24 invasion of the plaintiff's private rights The
25 paramount purpose of awarding punitive damages is not to

1 compensate the plaintiff, but to punish and set an
2 example for others

3 What would justify an award of punitive
4 damage? Well, I want to you consider -- or you can
5 consider the issue of punitive damages or, as you
6 consider the punitive damages, I will note we have a
7 higher burden of proof in the law for punitive damages

8 I talked to you a minute ago about the burden
9 of proof for actual damages as being a preponderance of
10 the evidence In a civil action, such as this, where
11 punitive damages are claimed, the plaintiff's burden of
12 proof is higher It is a standard called clear and
13 convincing evidence

14 Punitive damages can only be awarded where
15 the plaintiff proves by clear and convincing evidence
16 that the defendant's actions were willful, wanton,
17 malicious, or in reckless disregard for the plaintiff's
18 rights There must be a conscious failure to exercise
19 due care which constitutes willfulness

20 To recover for punitive damages, the
21 plaintiffs must prove by clear and convincing evidence
22 that the statements made were with actual malice, that
23 is, the defendant either realized the statement was false
24 or had serious reservations about the truth There must
25 be a present consciousness of wrongdoing that justifies

1 the assessment of punitive damages against the wrongdoer

2 Punitive damages will be allowed even when
3 the defendant does not realize he is invading the
4 plaintiff's rights so long as the act is committed in
5 such a manner that a person of ordinary prudence would
6 conclude that it is done in reckless disregard to the
7 rights of others

8 Now, in the law there is no formula or
9 standard which can be used for measuring or assessing
10 punitive damages, however, I will give you some factors
11 that you may consider if you consider an award of
12 punitive damages. You may consider such things as the
13 character of the defendant's acts, the nature and extent
14 of the harm to the plaintiff which caused -- or which the
15 defendant caused or intended to cause, the defendant's
16 decrease of culpability, whether or not the punishment
17 should be imposed, the duration of the conduct, the
18 defendant's awareness or concealment, the existence of
19 past similar conduct, the likelihood that any award will
20 deter the defendant or others from acting in like
21 conduct, and whether the award is reasonably related to
22 the harm likely to result from such conduct, and,
23 finally, the defendant's wealth or ability to pay

24 The financial condition of the defendant is a
25 factor you should consider in awarding punitive damages,

1 however, there is no requirement that the defendant be a
2 person of means before you are justified in awarding
3 punitive damages

4 And while the wealth of the defendant is a
5 relevant factor in assessing punitive damages, it is not
6 necessarily controlling In other words, the financial
7 worth of the defendant is a fact properly to be
8 considered by you, and in determining the amount of the
9 ward -- the amount to be awarded as punitive damages, but
10 evidence of net worth is not a prerequisite to a punitive
11 damage award

12 Under proper allegations where a plaintiff
13 proves by clear and convincing evidence, a willful,
14 wanton, reckless, and malicious violation of his rights,
15 it is the right of the jury to award punitive damages
16 Accordingly, if you should find that the plaintiff is
17 entitled to recover punitive damages in addition to
18 actual damages, it would be your right to include such
19 damages in your verdict and award such amount as you may
20 deem reasonable and proper in light of the facts and
21 circumstances

22 Now, folks, there is a verdict form here I'll
23 go over with you There are two possible verdicts, but
24 there are three questions that you need to answer, all
25 right? And there is no particular order to these, except

1 you have to, in this case, determine first whether or not
2 they have met their burden of proof of proving actual
3 damages, and, again, I told you, you must award at least
4 nominal damages

5 So your first question to answer,
6 Mr Foreman, is the question which says we, the jury,
7 find for the plaintiff against the defendants in the
8 amount of blank actual damages Y'all determine what
9 amount of actual damages is owed You sign it and date
10 it

11 Then, as a second question, you must find,
12 first, did the plaintiffs meet their burden of proof,
13 that is, by clear and convincing evidence, that he is
14 entitled to punitive damages, and you have two possible
15 answers there, yes and no

16 If the answer is yes, you write the amount in
17 right below that where it says if yes, what is the
18 amount Sign and date it On the other hand, if you
19 find the plaintiff has not met the burden of proving he
20 is entitled by clear and convincing evidence that he is
21 entitled to punitive damages, you answer that question no
22 by initialling or checking there, and then sign below
23 where it says foreperson, so you will sign up here and
24 down below Okay?

25 Now, I am going to send you back to the jury

1 room You're almost ready to begin deliberations, but
2 not just yet, because as a formality, I have to give the
3 attorneys the opportunity to say, Oh, Judge, you misspoke
4 about something You didn't say something you told us
5 you were, or you blurted out something that was a
6 surprise to us It's a formality we have to go through

7 We get the evidence together, send it back to
8 you When the bailiffs bring you back the verdict form
9 and the evidence, he or she will say, The judge said you
10 can begin your deliberations at that point

11 But you don't begin your deliberations just
12 yet We have to do this, and it probably less than five
13 minutes you'll be back with that When you go back
14 there, I need the two alternates to come out because you
15 don't participate in the deliberations so you stand in
16 the hallway for a minute

17 They will take you to a different room, and
18 you just set for a little bit until they have reached
19 their verdict Just in case we need you, we'll have you
20 All right? So y'all go on back there Don't begin your
21 deliberations just yet

22 (Jury recessed) Okay Anything from the
23 plaintiff?

24 MR CISA Judge, I don't believe -- and I
25 may be wrong, I don't know that you told them that the

1 verdict has to be unanimous It just occurred to me
2 Maybe you did

3 THE COURT Maybe I did, it's possible that I
4 did not, but I'll bring them back in to make sure

5 MR CISA I don't see it here and I don't
6 recall it I'm sorry

7 THE COURT You got me thinking about it
8 We'll bring them back, so we don't want to do it twice,
9 based on that Do y'all have anything I need to discuss
10 with them, other than what you said before All those
11 objections, you don't have to renew them

12 MR LEWIS The only other one, if all my
13 other objections come into that, I just think and I
14 always make this objection The punitive damage charge
15 that you gave way over emphasizes punitive damages

16 THE COURT Okay Let's bring them back for
17 just a second

18 MR JAMES HOOD I join in that, Your Honor

19 THE COURT All right

20 (In open court, jury present)

21 THE COURT All right Folks -- are we
22 missing somebody? We got an empty chair there Out of
23 an abundance of caution, I can't remember, and it was
24 brought to my attention that maybe I forgot to tell you
25 your verdict has to be unanimous That means all 12

1 people have to agree on what it is That's the only
2 thing I need to go back and reemphasize to you, or
3 apparently I just forgot to say it, so your verdict has
4 got to be unanimous

5 You'll go back The two alternates will be
6 segregated I'll send you back I just have to formally
7 go back through the evident real quick You can go back,
8 but don't begin your deliberations until I send the
9 verdict back

10 Go ahead and tell them they can begin their
11 deliberations and segregate alternates

12 (At 2 47 p m , the jury begins their
13 deliberations)

14 (3 55 p m , question from the jury)

15 (In open court, jury not present)

16 THE COURT We would like to know the actual
17 and punitive damages being taxable, so I assume are they
18 taxable? So I'm just going to put down here that should
19 not factor into your consideration

20 They basically want to know if actual and
21 punitive damages are taxable, so I'll just put that
22 should not factor into your consideration, and I'm
23 sending it back

24 Anybody have a problem with that?

25 MR CISA I don't No evidence about it,

1 so --

2 MR HOOD Let me talk to Paul and see if he
3 has --

4 MR LEWIS We don't have a problem

5 THE COURT All right Thank you

6 (5 27 p m , question from the jury)

7 (In open court, jury not present)

8 THE COURT I got a note they want to go home
9 for the evening and come back tomorrow So that is what
10 we'll do We got everybody here? All right Bring the
11 jury in

12 (In open court, jury present)

13 THE COURT All right Okay I got a note
14 that y'all want to stop for the evening and come back
15 tomorrow, which is fine

16 What we'll do is we will break until 9 30
17 tomorrow morning This is very important, of course
18 You've got to stop your deliberations completely Don't
19 talk to anybody about your case Don't call each other,
20 don't talk to anybody about the case at home or, you
21 know, your friends, your neighbors, your bartender,
22 anything like that We've come a long way, so let's not
23 spoil it now What you do, you base your decision on
24 what you hear here in the courtroom You deliberate
25 amongst yourselves, and you can't deliberate when you're

1 no all together as a group

2 I'm going to ask that the alternates return
3 tomorrow morning as well

4 All right So we'll see y'all tomorrow
5 morning Report back at 9 30 Don't begin your
6 deliberations until everybody gets here, and they'll let
7 me know everybody is here and then I can give you the
8 okay to begin your deliberations

9 But, again, it's very important that you
10 don't talk to anybody about the case, including other
11 members of the jury, so just go home, relax, and we'll
12 see y'all back tomorrow morning at 9 30 Thank you for
13 your patience with us today

14 (Jury recessed)

15 THE COURT Okay We'll see y'all at 9 30

16 (Notes from the jury marked for
17 identification as Court's Exhibit No 12)

18 - - - - -

19 (November 13, 2009)

20 (At 9 36 a m , the jury resumed
21 deliberations)

22 THE COURT Okay It looks like we got
23 everybody here Bring the jury in

24 (11 13 a m , in open court, jury present)

25 THE COURT All right We have everybody?

1 All right Mr Foreman, I understand the jury has
2 reached a verdict, is that correct?

3 THE FOREPERSON Yes, Your Honor

4 THE COURT Is that a unanimous verdict?

5 THE FOREPERSON Yes, Your Honor

6 THE COURT Will you hand that to the
7 bailiff, please All right Clerk will publish

8 THE CLERK In the State of South Carolina,
9 County of Charleston, Lawton Limehouse Junior, plaintiff,
10 versus Paul H Hulsey and Hulsey Litigation Group, LLC,
11 defendants In the Court of Common Pleas, Ninth Judicial
12 Circuit, 2006-CP-10-1578, we the jury, find for the
13 plaintiff against the defendants in the amount of \$1
14 million actual damages, and then it also says that for
15 punitive damages, we find for the plaintiff in the amount
16 of \$2 6 million Signed, the foreperson

17 Ladies and gentlemen of the jury If this is
18 your verdict, please raise your right hand

19 THE COURT All right Let the record
20 reflect all the jurors have raised their right hands
21 Thank you

22 All right Well, folks, we want to thank you
23 for your service this week That will conclude your
24 service for this case and for the week I want to thank
25 you, and, you know, we have a way of resolving disputes

1 in this country that is by peaceable means

2 And as I told you at the first of the week in
3 jury qualifications, it's not entirely unique, but it's
4 rare around the world that people that have a dispute,
5 can't resolve them, have fellow citizens come in You
6 listen to the evidence, the judge tells you what the law
7 is, and then y'all go in and deliberate it, talk about
8 it, and figure out what you think the right thing is to
9 do

10 To me, it's the greatest system in the world
11 in the history of mankind because you don't go out and
12 resolve them an un peaceable means with violence, and you
13 know, despite the fact that I think I'm a fair judge and
14 that I don't have a dog in this fight, there is still
15 something special about having the fellow citizens come
16 in and resolve it

17 So, you know, from a litigant standpoint, you
18 know, you always might wonder in the back of your head,
19 well, the judge works for the government I wonder if
20 that is going to influence his decision Y'all don't
21 have any connection to this case, to anybody, and that is
22 something special and maybe more people around the world
23 will get to do that

24 Who knows, but we get to do that and it's
25 special and y'all have participated in that So as I

1 told you on Monday, it's a responsibility of citizenship
2 Some would say it's a burden of citizenship, but it's a
3 privilege to serve on a jury, it really, truly is

4 Y'all have participated in your government
5 Normally, the only way you get to participate is to pay
6 your taxes and vote, but this is actually participating
7 in your government, because you have participated in the
8 third branch of government this week, so this is special
9 and you should be proud of it, very good jury Everybody
10 paid attention all week long

11 Obviously, there is a lot of emotion involved
12 in the case, but y'all took your time You deliberated
13 and you did exactly what we asked you to do, so I want to
14 thank you for your service this week and you should be
15 proud of your service this week Hopefully, you found it
16 interesting, and hopefully you will talk favorably about
17 your experience to other people so that they would want
18 to do it, and if you ever get called again to do it you
19 would also look forward to doing it again

20 You might remember from Monday, you are now
21 disqualified for the rest of the year, so there is not
22 much of a chance you get called for the rest of the year
23 anyway, but you also have an exemption now for two more
24 years, so while you can waive that exemption, as I said,
25 and come back and serve again, you would be exempt from

1 service for two more years

2 So keep that in mind Thank you again for
3 your service You are free to go You don't have to
4 call back the telephone number You're free for the rest
5 of the week A lot of times in cases like this, the
6 lawyers are interested in knowing how you came to your
7 decision, and it helps them to prepare down the road for
8 other cases, and so if you get a call and they ask to
9 talk with you about the case, you are free to talk with
10 the lawyers and anybody on God's green earth you want to
11 talk to about this case at this point

12 You are not required to, so if you don't want
13 to, you just simply tell them you don't want to talk to
14 them about it, and they'll respect that But you are
15 free to talk to the lawyers if they contact you You are
16 free to talk to anybody, because I've been telling you
17 all week long don't do that, and I know y'all have been
18 following those instructions

19 I wish you well, and I hope that our paths
20 cross again someday soon Thank you again for your
21 service

22 (11 19 a m jury dismissed)

23 THE COURT All right Well, the rules give
24 you ten days to file any post-trial motions, so if you
25 want to, you're welcome to, and I will draft up my post

1 trial review of the punitive damages

2 So thank you so much It was another
3 interesting week, and I thank y'all for doing such a good
4 job and making sure we got it done this week And it's
5 always an interesting experience from my perspective to
6 have such good lawyers You're at the top of the game
7 It keeps me on my toes, and I appreciate the courtesies
8 you extend to the Court Until next time, we'll see you
9 down the road Thank you

10 - - -

11 (Whereupon, the proceedings were concluded)

12 - - -

13

14

15

16

17

18

19

20

21

22

23

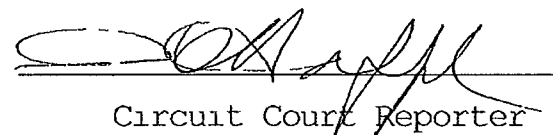
24

25

I, the undersigned, Amanda K Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 5th to 13th of November 2009

I do further certify that I am neither of kin, counsel, nor interest to any party hereto

November 17, 2009


Circuit Court Reporter

