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SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

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SC SUPREME COURT

Opinion No. 5375 (S.C. Ct. App. Filed January 1, 2016)

Mark Kelley,.....Respondent,

v.

David Wren and Sun Publishing Company Inc.,
d/b/a *The Sun News*,.....Petitioners,

APPENDIX I

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JAN 27 2015
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Court of Appeals No. 2014-001249
Civil Case No. 2012-CP-26-3804

David Wren and Sun Publishing Company Inc.,
d/b/a The Sun News,.....Appellants,

v.

Mark Kelley,.....Respondents.

RECORD ON APPEAL

Volume 1 of 2

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP2603804

Mark Kelley	David Wren Sun Publishing Company Inc Sun News
PLAINTIFF(S)	DEFENDANT(S)

FILED
HORRY COUNTY
14 MAY 13 P 04
CLERK OF COURT

Submitted by: Attorney for: ☐ Plaintiff ☒ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order, (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

WE THE JURY, FIND FOR THE PLAINTIFF IN THE AMOUNT OF $400,000.00 ACTUAL DAMAGES. WE FIND FOR THE PLAINTIFF IN THE AMOUNT OF $250,000.00 PUNITIVE DAMAGES.

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
MARK KELLEY	THE SUN PUBLISHING CO., INC D/B/A THE SUN NEWS; AND DAVID WREN	$400,000.00 ACTUAL DAMAGES
MARK KELLEY	THE SUN PUBLISHING CO., INC. D/B/ A THE SUN NEWS; AND DAVID WREN	$250,000.00 PUNITIVE DAMAGES

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

	2152	5/13/2014
Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on 13th, May 2014, and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

James P. Stevens Jr. Stevens Law Firm, PC PO Box 127 Loris, SC 29569-0127
Natalie Shawn Stevens-Graziani PO Drawer 127 Loris, SC 29569-0127

ATTORNEY(S) FOR THE PLAINTIFF(S)

Jerry Jay Bender PO Box 8057 Columbia, SC 29202

ATTORNEY(S) FOR THE DEFENDANT(S)

Melanie Huggins-Ward

Melanie Huggins-Ward - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
2012-CP-26-3804

FILED
HORRY COUNTY
14 MAY 13 PM 1:04
CLERK OF COURT

MARK KELLY,

Plaintiff,

v.

THE SUN PUBLISHING CO., INC. d/b/a THE SUN NEWS; and DAVID WREN

Defendants.

VERDICT FORM

Instructions: Mark the appropriate response to the following questions. Each response must be unanimous.

VERDICT FORM AS TO NEWS ARTICLES

I. As to the MAY 21, 2010, the May 23, 2010, or the May 25, 2010 articles authored by Defendant David Wren, we find that the plaintiff has proven by clear and convincing evidence that the defendants publication of said article was willful, wanton, or reckless.

YES ✓ NO _____

If the jury unanimously answers YES to the finding above, we find for the Plaintiff against both defendants Punitive Damages in the amount of $ Two Hundred Fifty Thousand and no/100 ($250,000.00) Dollars.
(write your verdict in words and figures)

If the jury unanimously answers NO to the finding above, we find for the Defendant as to the articles identified above.

_____ (Initial Here)

COURT'S EXHIBIT NO. 6
IDENTIFICATION/EVIDENCE
DKT.# _____
DATE: 5/15/14

I certify the verdict above is unanimous, as witness that each juror adopted each answer as her or his own answer.

Conway, South Carolina

Jury Foreperson

May 8, 2014.

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
2012-CP-26-3804

MARK KELLY,

Plaintiff,

v.

THE SUN PUBLISHING CO., INC. d/b/a THE SUN NEWS; and DAVID WREN

Defendants.

FILED
HORRY COUNTY
14 MAY 13 PM 1:04
CLERK OF COURT

VERDICT FORM

Instructions: Mark the appropriate response to the following questions. Each response must be unanimous.

VERDICT FORM AS TO NEWS ARTICLES

I. As to the MAY ~~20~~ 21, 2010, the May 23, 2010, or the May 25, 2010 articles authored by Defendant David Wren, we find ~~the~~ that the plaintiff has proven by clear and convincing evidence that the defendants made a false statement about the plaintiff, published said statement, and that said statement injured the plaintiff personally and in his occupation and profession.

YES ✓ NO_____

If YES, we also find that the plaintiff has proven by clear and convincing evidence that said statement was published with actual malice, which is the statement was made with knowledge of its falsity or reckless disregard of its truth or falsity.

YES ✓ NO_____

If YES, we also find that the plaintiff has proven by clear and convincing evidence that Plaintiff sustained actual damages.

YES ✓ NO_____

COURT'S EXHIBIT NO. 5
IDENTIFICATION/EVIDENCE
DKT.#_____
DATE:_____

If the jury unanimously answers YES to all three findings above, we find for the Plaintiff against both defendants Actual Damages in the amount of $ Four Hundred Thousand and no/100 ($ 400,000.00) Dollars.
(write your verdict in words and figures)

If the jury unanimously answers NO to any of the findings above, we find for both Defendants as to the articles identified above.
_____ (Initial Here)

I certify the verdict above is unanimous, as witness that each juror adopted each answer as her or his own answer.

Conway, South Carolina

Jury Foreperson

May 8, 2014.

VERDICT FORM AS TO EDITORIAL

II. As to the editorial dated May 30, 2010, we find that the plaintiff has proven by a Clear and Convincing Evidence that the defendants made a false statement about the plaintiff, published said statement, and that said statement injured the plaintiff's reputation.

YES_____ NO__✓__

If YES, we also find that the plaintiff has proven by clear and convincing evidence that said statement was published with actual malice, which is the statement was made with knowledge of its falsity or reckless disregard of its truth or falsity.

YES_____ NO_____

If YES, we also find that the plaintiff has proven by clear and convincing evidence that Plaintiff sustained actual damages.

YES_____ NO_____

If the jury unanimously answers YES to all three findings above, we find for the Plaintiff only against defendant, Sun Publishing Company, Inc. Actual Damages in the amount of
$_____ ($_____) Dollars.
(write your verdict in words and figures)

If the jury unanimously answers NO to either of the findings above, we find for Defendant Sun Publishing Company, Inc. as to the editorial identified above. __JG__ (Initial Here)

I certify the verdict above is unanimous, as witness that each juror adopted each answer as her or his own answer.

Conway, South Carolina

Jury Foreperson

May 8, 2014

STATE OF SOUTH CAROLINA)		IN THE CIRCUIT COURT FOR THE
)		FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)		FILE NO. 2012-CP-26-3804
MARK KELLEY,	)	
	)	
Plaintiff,	)	SECOND
	)	AMENDED
vs.	)	COMPLAINT
	)	
THE SUN PUBLISHING COMPANY	)	
INC. d/b/a THE SUN NEWS and	)	(Jury Trial Requested)
DAVID WREN	)	
	)	
Defendants.	)	
	)	

Now comes the Plaintiff, Mark Kelley, by his undersigned attorney, and alleges as follows:

1. That the Plaintiff is a citizen and resident of Horry County, South Carolina and at all times mentioned in this complaint enjoyed a good name and reputation, both personally and in his occupation as a lobbyist for his clients.

2. Defendant, David Wren (hereinafter referred to as reporter) is an individual and is now and, at all times mentioned in this complaint, was a resident of Horry County, South Carolina. At all times mentioned in this complaint, defendant reporter was employed by defendant, The Sun Publishing Company Inc. as a reporter.

3. Plaintiff is informed and believes that at all times mentioned herein, defendant reporter was acting individually with his own motives and also was acting as the agent, servant and employee of The Sun Publishing Company Inc. and/or The Sun News. In committing the acts alleged herein below, defendant reporter was acting within the course and scope of his employment. All of the acts done by defendant reporter were known to, accepted by, and ratified by defendant, The Sun Publishing Co., Inc.

4. Defendant The Sun Publishing Company Inc. (hereinafter referred to as

Newspaper) is now and, at all times mentioned in this complaint, a corporation organized and existing under the laws of the State of South Carolina, with its principle place of business in Horry County, South Carolina. Defendant Newspaper is and was engaged in business as the owner of THE SUN NEWS, a newspaper of general circulation in Horry County, South Carolina and other counties in the state.

FOR A FIRST CAUSE OF ACTION

(Libel *per se* – Article of May 23, 2010)

5. That on or about May 23, 2010, Defendants engaged in the business of reporting and publishing in the newspaper, THE SUN NEWS, an article accusing the Plaintiff of delivering about $84,000 of campaign contributions to a gubernatorial candidate. (A copy of said newspaper article is attached hereto, marked as Exhibit 1, and made a part of this Complaint).

6. The above-mentioned publication referred to plaintiff by name, was made of and concerning plaintiff, and was so understood by those who read the article.

7. That said statement accused the Plaintiff of a crime in violation of the statutory laws of the State of South Carolina.

8. That said statement accused the Plaintiff of being unfit in his trade and profession.

9. That said statement accused the Plaintiff of an act of dishonesty and unethical conduct.

10 That the statement as set forth above and in the article is and was false as it pertains to the Plaintiff.

11. That said statement as set forth above was published with knowledge of its falsity or with a reckless disregard of its truth or falsity.

12. That said statement as set forth above was published with actual or implied malice.

13. That the article referred to above is libelous *per se* or on its face; and exposes

Plaintiff to hatred, contempt, ridicule, and obloquy.

14. As a direct and proximate result of the above-described publication, Plaintiff has suffered loss of his personal and business reputation, has suffered shame, embarrassment, mental suffering, and emotional distress.

15. That the Plaintiff is informed and believes that he is entitled to both actual and punitive damages on his First Cause of Action.

FOR A SECOND CAUSE OF ACTION

(Libel *per se* – Article of May 25, 2010)

16. Plaintiff realleges the above allegations as though set out herein verbatim.

17. That on or about May 25, 2010, Defendants reported and/or published in its newspaper, THE SUN NEWS, an article again accusing the Plaintiff of delivering, being involved in, and/or causing the delivery of about $84,000 of campaign contributions to a gubernatorial candidate. (A copy of said newspaper article is attached hereto, marked as Exhibit 2, and made a part of this Complaint).

18. The above-mentioned publication referred to plaintiff by name, was made of and concerning plaintiff, and was so understood by those who read the article.

19. That said statement accused the Plaintiff of a crime in violation of the statutory laws of the State of South Carolina.

20. That said statement accused the Plaintiff of being unfit in his trade and profession.

21. That said statement accused the Plaintiff of an act of dishonesty and unethical conduct.

22. That the statement as set forth above and in the article is and was false as it pertains to the Plaintiff.

23. That said statement as set forth above was published with knowledge of its

falsity or with a reckless disregard of its truth or falsity.

24. That said statement as set forth above was published with actual or implied malice.

25. That the article referred to above is libelous *per se* or on its face; and exposes Plaintiff to hatred, contempt, ridicule, and obloquy.

26. As a direct and proximate result of the above-described publication, Plaintiff has suffered loss of his personal and business reputation, has suffered shame, embarrassment, mental suffering, and emotional distress.

27. That the Plaintiff is informed and believes that he is entitled to both actual and punitive damages on his Second Cause of Action.

FOR A THIRD CAUSE OF ACTION

(Libel *per se* – Article of May 30, 2010)

28. Plaintiff realleges the above allegations as though set out herein verbatim.

29. That on or about May 30, 2010, Defendants published in its newspaper, THE SUN NEWS, an article again insinuating, inferring and/or accusing the Plaintiff of delivering, being involved in, and/or causing the delivery of about $84,000 of campaign contributions to a gubernatorial candidate. (A copy of said newspaper article is attached hereto, marked as Exhibit 3, and made a part of this Complaint).

30. The above-mentioned publication referred to plaintiff by name, was made of and concerning plaintiff, and was so understood by those who read the article.

31. That said statement accused the Plaintiff of a crime in violation of the statutory laws of the State of South Carolina.

32. That said statement accused the Plaintiff of being unfit in his trade and profession.

33. That said statement accused the Plaintiff of an act of dishonesty and

unethical conduct.

34. That the statement as set forth above and in the article is and was false as it pertains to the Plaintiff.

35. That said statement as set forth above was published with knowledge of its falsity or with a reckless disregard of its truth or falsity.

36. That said statement as set forth above was published with actual or implied malice.

37. That the article referred to above is libelous *per se* or on its face; and exposes Plaintiff to hatred, contempt, ridicule, and obloquy.

38. As a direct and proximate result of the above-described publication, Plaintiff has suffered loss of his personal and business reputation, has suffered shame, embarrassment, mental suffering, and emotional distress.

39. That the Plaintiff is informed and believes that he is entitled to both actual and punitive damages on his Third Cause of Action.

FOR A FOURTH CAUSE OF ACTION

(Libel *per quod* – All Articles between May 21, 2010 & November 11, 2010)

40. Plaintiff realleges the above allegations as though set out herein verbatim.

41. That between the dates of May 21, 2010 and November 11, 2010, Defendants published a series of articles dated May 21, 23, 24, 25, 30, July 14, 15, August 8, and November 10, 2010 in its newspaper, THE SUN NEWS, which insinuated, inferred and/or accused Plaintiff of raising, delivering, being involved in, and/or causing the delivery of about $84,000 of campaign contributions to a gubernatorial candidate. (A copy of said newspaper articles are attached hereto, marked as Exhibits 1 through 9 inclusive, and made a part of this Complaint).

42. The above-mentioned publications referred to plaintiff by name, were made of and concerning plaintiff, and were so understood by those who read the article.

43. That said statements or articles accused the Plaintiff of a crime in violation of the statutory laws of the State of South Carolina.

44. That said statements or articles accused the Plaintiff of being unfit in his trade and profession.

45. That said statements or articles accused the Plaintiff of an act of dishonesty and unethical conduct.

46. That the statements or articles are and were false as it pertains to the Plaintiff.

47. That said statements or articles were published with knowledge of their falsity or with a reckless disregard of their truth or falsity.

48. That said statements or articles were published with actual or implied malice.

49. That the articles referred to above are libelous *per quod*; and exposes Plaintiff to hatred, contempt, ridicule, and obloquy.

50. As a direct and proximate result of the above-described publications, Plaintiff has suffered loss of his personal and business reputation, has suffered shame, embarrassment, mental suffering, and emotional distress.

51. That the Plaintiff is informed and believes that he is entitled to both actual and punitive damages on his Fourth Cause of Action.

WHEREFORE, Plaintiff prays for judgment against the Defendants, both jointly and/or severally as follows:

(A) For actual damages in an amount to compensate the Plaintiff for his loss of and/or damage to his good name, his personal and business reputation;

(B) For actual damages for his shame, embarrassment, mental suffering, and emotional distress;

(C) For punitive damages in an amount found to be just and fair by a jury;

(D) For the costs and disbursements of this action;

(E) For such other and further relief as this Court may deem just and proper.

STEVENS LAW FIRM, P.C.

By: Natalie Stevens-Graziani

JAMES P. STEVENS, JR. – Bar # 0934
NATALIE S. STEVENS-GRAZIANI – Bar # 74222
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Attorneys for Plaintiff

February 28, 2013

05/23/2010

Bad debt adds to donor mystery

Late on bills, LLC cut checks to politicians

By David Wren
dwren@thesunnews.com

GARDEN CITY BEACH | The foreclosure of a beach house here is raising more questions about the source of campaign donations made last year by a group of corporations with ties to the Myrtle Beach Area Chamber of Commerce.

The home – at 551 S. Waccamaw Drive – is owned by Garden City Partners LLC, which made 18 campaign donations totaling $20,500 last year to political action committees, incumbent state legislators, Myrtle Beach City Council members and U.S. Rep. Gresham Barrett, R- 3rd District, who is running for governor.

While Garden City Partners was donating thousands of dollars to politicians, it also was failing to pay a bank loan tied to the beach house, according to court documents filed earlier this month in Georgetown County.

Shep Guyton, a Myrtle Beach lawyer and the registered agent for Garden City Partners, did not return telephone calls last week.

Robert Kelley – founder of Business Owners Organized to Save Tourism, a group of area tourism-related business owners – said he questions why Garden City Partners would make political donations instead of paying its bills.

Kelley said he also doubts whether the corporation truly was the source of money for those donations. Court and property records show the corporation's only asset is the beach house.

"It's been our point this

PLAINTIFF'S EXHIBIT 1

HOUSE

From Page 1A

whole time that it looks like someone came up with a large amount of money and used these LLCs to make political contributions," said Kelley, whose organization has questioned whether the donations were political payback for a tax increase that benefits the chamber of commerce.

"This whole thing could be cleared up today if they would just say, 'Here are the businessmen and women behind these LLCs who gave the money,' " Kelley said.

Political donations by corporations that don't have to disclose their membership represent "a huge problem," according to John Crangle, director of Columbia-based Common Cause of South Carolina, which advocates for open government.

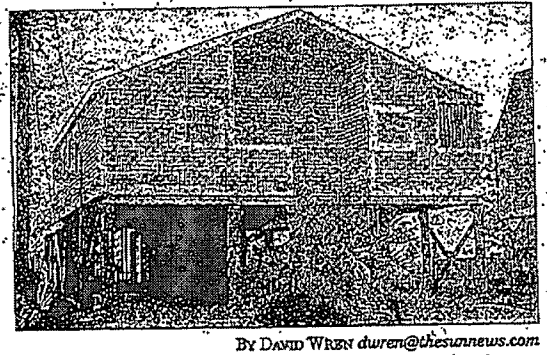
"Donors can hide behind multiple LLCs and the ultimate source of their money is often unknown," Crangle said.

Guyton, a former chamber board chairman, also is the registered agent for 14 other corporations that donated money to politicians last year. All told, those corporations made 160 donations totaling $225,000 – all of them in the form of cashier's checks in sequential order purchased on the same day at South Atlantic Bank, where Guyton is a board member.

Cathy Hazelwood – general counsel for the S.C. Ethics Commission, which oversees campaign donations – said she cannot discuss the contributions associated with Guyton's corporations. Hazelwood would not say whether the commission is investigating the matter, but previously has said the donations appear to have been legal.

Brad Dean, the chamber's president, said last week that the chamber acted as a clearing house for some of the donations – corporations would send the contributions to the chamber's headquarters and the money then would be distributed to politicians.

Dean, along with chamber lobbyist Mark Kelley, delivered about $84,000 of those contributions to Barrett in June. Those contributions included a $3,500 cashier's check from Garden City Partners.



BY DAVID WREN *dwren@thesunnews.com*

The beach house at 551 S. Waccamaw Drive belonging to Garden City Partners.

South Carolina Bank & Trust filed a foreclosure lawsuit against Garden City Partners on May 18, claiming the corporation owes nearly $1.2 million on a past-due loan. Garden City Partners has not yet filed an answer to the lawsuit.

Court documents show Garden City Partners took out the loan on April 17, 2006, to buy the beach house. The loan was supposed to be repaid within two years, but the bank allowed the corporation to extend the loan maturity date four times. When the most recent due date passed in January without any payment, the bank opted to foreclose on the property.

Garden City Partners is trying to sell the house before the foreclosure is final. The house, which has been on the market since January, has a list price of $649,900 – a little more than half of the amount owed.

Guyton and the four other members of Garden City Partners each signed personal guaranties on the loan, and the bank has asked the court for a deficiency judgment, which means those members would be responsible for paying back the difference between a sale price and the loan amount.

Three of the other members – Edward Williams, Dean Karavan and John Miller – could not be reached for comment. The fourth, Heyward Gulledge, said he sold his interest in Garden City Partners years ago and was not aware of the foreclosure.

Gulledge said he also was not aware that the corporation had made any political donations.

"I'm probably the least political person you'll ever meet," Gulledge said.

Mark Lazarus, a member of another Guyton-related corporation called Creek View Land Partners LLC, has said that he also did not know Guyton was making political contributions in the corporation's name. Creek View Land Partners distributed $13,500 in cashier's checks to politicians last year.

Lazarus said that corporation did not have any money to make political donations.

"It does not have money, it has a piece of land," he said.

Other than Guyton, none of the other members of Garden City Partners has ever made personal donations to a political candidate, according to state and federal databases. An Edward Williams made a combined $50 donation to two local political action committees last year, but it is not the same person as the corporation's member.

It is not clear whether any of the members of Garden City Partners also are members of some of the other Guyton-related corporations that made campaign contributions. That is because the S.C. Secretary of State does not require public disclosure of a corporation's members.

However, court documents show that while Garden City Partners was making political contributions, some of its members were facing other debt-related legal action:

- First National Bank of the South filed a debt collection lawsuit in April against the members of Sand Dollar Cottage LLC – including Williams, Karavan and Guyton – for failing to repay a $300,000 loan;
- Carolina First Bank filed a foreclosure lawsuit this month against Front and Orange Partners LLC – whose members include Williams, Karavan and Guyton – for failing to repay a loan used to purchase property on Front Street in Georgetown; and
- Thornburg Mortgage foreclosed on Karavan's home in The Forest at Briarcliffe neighborhood this year, and the home will be sold at auction next month.

Money from the Guyton-related corporations is among $324,500 in campaign donations given to Barrett, four City Council incumbents and seven state legislators in the months after the council members and state legislators passed laws that allowed a 1 percent sales tax increase in Myrtle Beach.

Most money from that tax is given to the chamber of commerce for tourism advertising purposes. The tax is expected to generate up to $18 million per year, or as much as $180 million over the 10-year life of the legislation, though the city will take nearly 20 percent of the funds for property tax breaks and tourism infrastructure.

Dean and Brant Branham, the chamber's board chairman, have insisted for months that there is no tie between the chamber and the campaign contributions. Branham said he solicited the contributions on his own from "like-minded businessmen and women."

Branham also said he "delivered these contributions to candidates that deserve re-election."

Last week, Dean said he delivered contributions to Barrett and state Sen. Ray Cleary, R-Murrells Inlet. Dean previously has distanced himself from the political donations.

Robert Kelley said ties between the corporation's contributions and the chamber of commerce should prompt Dean, Guyton and others to [illegible] forthcoming about who [illegible] the money and why.

"With so much public money now going to the chamber, we'd like transparency over where the money came from to make those contributions," he said. "They're going to get up to $18 million of our money over the next 10 years, but they won't even tell us where more than $800,000 in donations came from."

- Contact **DAVID WREN** at 626-0281.

THE SUN NEWS. | MYRTLE BEACH, S.C.

05/25/2010

Donations tied to MB chamber blasted

(3) Tuesday

BOOST calls for return of politicians' $225,000

BY DAVID WREN
dwren@thesunnews.com

FACEBOOK
Talk about this story on Facebook at facebook.com/sunnews.

VIDEO
Watch a video at TheSunNews.com

A group of Myrtle Beach area business owners on Monday called for gubernatorial candidate Gresham Barrett and 10 other local politicians to return $225,000 in campaign contributions given to them last year by corporations with ties to the Myrtle Beach Area Chamber of Commerce.

The group – Business Owners Organized to Support Tourism, or BOOST – has questioned whether the contributions were legal, and it wants the chamber of commerce to prove that no public money went to political candidates.

See BOOST | Page 3A

BY STEVE JESSMORE *sjessmore@thesunnews.com*

BOOST president Robert Kelley and a group of Myrtle Beach area business owners, citizens and taxpayers called Monday on Gresham Barrett and other politicians to return campaign donations.

PLAINTIFF'S EXHIBIT 2

BOOST

From Page 1A

Brad Dean, the chamber's president, has said no public money or chamber funds were included among the corporations' donations.

Dean did not return telephone calls Monday seeking comment. In a prepared statement sent to area media, Dean said it is "sad and disappointing that a fringe special-interest group continues to repeat old accusations and unfounded allegations" about the chamber of commerce.

City Councilman Randal Wallace, who received $15,000 from the corporations, said he believes the current controversy is being driven by the tight governor's race and the GOP primary on June 8.

"This is typical election-year politics," Wallace said. "It all goes away when Barrett either wins or loses."

BOOST President Robert Kelley said during a news conference that there are too many unanswered questions about the source of money used by the corporations, which do not have to disclose their membership.

Kelley questioned why at least one of the corporations made $20,500 in political contributions last year yet failed to pay the mortgage on its only asset – a beach house – which now is in foreclosure.

Kelley also said Dean has changed his story about the chamber's involvement in the campaign donations.

"In the past, the chamber has denied any involvement in this scandal, but now Brad Dean admits he set up the lunch with [chamber] lobbyist Mark Kelley and he handed Mr. Barrett the envelope full of checks," said Robert Kelley, who is not related to the lobbyist.

A Barrett spokesman told The Sun News last week that Dean arranged the meeting in which the corporations' donations were given to the politician.

"We may never know whether what took place was sloppy, stupid or arrogant – my guess is it's a lot of each," Robert Kelley said.

Barrett and local politicians – including six state legislators and four City Council members – should return the money or donate it to charity, he said.

"I know the candidates haven't done anything illegal, but if I was running for office, I would want to know where every penny came from," he said.

A spokesman for Barrett could not be reached for comment. U.S. Rep. Barrett, R-3rd District, is one of four GOP candidates running for governor. Barrett told The Sun News last week that he believes the donations were legal and he has no intention of returning the money.

State Sen. Ray Cleary, R-Murrells Inlet, said he would give back the money if it is proved that there were problems with the funds but he has not seen any proof of that.

"The people who contributed are honorable people; if they did something wrong, I'll give it back," Cleary said. "But I'm not going to insult the people who raised money for me by giving it back based on these allegations. That wouldn't be fair because it would make it appear as if they had done something wrong."

A seventh state legislator – state Rep. Tracy Edge, R-North Myrtle Beach – is the only politician to have returned the money he received from the corporations. Edge told The Sun News that he returned the money because he could not get anyone at the chamber or Shep Guyton, the corporations' registered agent, to explain the source of the money.

Guyton has not returned telephone calls to The Sun News.

Robert Kelley said he wants the chamber of commerce to open its financial records for the past 18 months "for full transparency in the spending of every single dollar."

"I don't feel that they are being completely forthcoming with all of the facts," he said.

Wallace said there is no mystery behind the donations. Wallace said he asked Brant Branham, the chamber's board chairman, to help raise money in what he felt would be a tightly contested council race.

"I was having trouble raising money, and I was worried about it," Wallace said. "I asked for a lot of area business leaders to help, and I spent every dime I raised to get re-elected."

City Councilman Wayne Gray said he believes the contributions were gathered legally.

"No regulatory office has stated that they were improper or illegal," Gray said. "The donations were very legal."

Mayor John Rhodes agreed, saying the state Ethics Commission "found there was nothing wrong with the checks, so there's no reason to give them back."

Rhodes said he would return the money if further investigation shows there was any wrongdoing.

Guyton, a former chamber board chairman, is the registered agent for 15 corporations that donated money to politicians last year. All told, those corporations made 160 donations totaling $225,000 – all of them in the form of cashier's checks in sequential order purchased on the same day at South Atlantic Bank, where Guyton is a board member.

Money from the Guyton-related corporations is among $324,500 in campaign donations given to Barrett, four City Council incumbents and seven state legislators in the months after the council members and state legislators passed laws that allowed a 1 percent sales tax increase in Myrtle Beach.

Most money from that tax is given to the chamber of commerce for tourism advertising purposes. The tax is expected to generate up to $18 million per year, or as much as $180 million over the 10-year life of the legislation, though the city will take nearly 20 percent of the funds for property tax breaks and tourism infrastructure.

Robert Kelley has said he suspects the contributions were payback for legislators' and council members' support of the tax.

Cathy Hazelwood – general counsel for the S.C. Ethics Commission, which oversees campaign donations – has said she cannot discuss the contributions associated with Guyton's corporations. Hazelwood would not say whether the commission is investigating the matter, but previously has said the donations appear to have been legal.

Former City Councilman Chuck Martino also received contributions from the corporations, as did the following state legislators: Rep. Alan Clemmons, R-Myrtle Beach; Rep. Liston Barfield, R-Aynor; Rep. Nelson Hardwick, R-Surfside Beach; and Rep. George Hearn, R-Conway.

➤ Contact **DAVID WREN** at 626-0281.

EDITORIAL

ABSENCE OF EVIDENCE

The fundamental premise behind our campaign finance laws is simple: The public has a right to know who is paying for a candidate's political campaign.

It's a premise, of course, that gets trampled upon in every election that features any significant fundraising. You'd be hard-pressed to find a candidate with more than mere pocket change in his campaign account who isn't reporting donations from an assortment of all-but-anonymous companies: Because South Carolina's campaign-finance reporting laws are so weak, this practice is unfortunately legal – even though it violates the spirit that prompted our laws.

Last year's $324,000 donation dump on a variety of local and state politicians, however, shows such brazen disregard for this premise that we have to wonder if it may have crossed even the faint lines in the sand drawn by state law.

When we don't know who's donating the money, it's impossible to know if a second principle of campaign finance is being followed: There should be limits on how much money a candidate can receive from any one person.

This view is not as universally held as the first one. Some hard-line libertarians believe that campaign cash is a form of political speech that should not be restricted, and about a dozen states support this view by allowing unlimited contributions. State Rep. Thad Viers (a recipient of the above money) is paying homage to this idea, for example, in saying

Candidates who got donations

Governor | Gresham Barrett
State House of Representatives | Alan Clemmons, Liston Barfield, Tracy Edge (since returned), Nelson Hardwick, J.R. George, Hearn, Thad Viers
State Senate | Ray Cleary
Myrtle Beach City Council | Mayor John Rhodes, Wayne Grey, Chuck Martino, Randal Wallace

ble. As we now know based on David Wren's reporting, it was Myrtle Beach Area Chamber of Commerce President Brad Dean who personally handed the $84,000 in checks to Barrett, with lobbyist Mark Kelley sitting by his side. (If Kelley handed the money over, the transaction would have been explicitly illegal – effectively forcing Barrett to say Kelley had no involvement and pinioning the donations on Dean no matter what the unprovable truth is.)

The chamber's defense all along has been that the checks came not from the chamber, but from the companies under whose name the donations were made. Dean says now that he simply collected and delivered them. Again, there is no evidence disproving this statement, but the circumstances make it difficult to believe.

Several of the donations "came" from companies in serious financial trouble, such as landholding companies that were unable to make mortgage payments on properties they owned that have since fallen into foreclosure. Further, the checks were cashier's checks, which are bought from a bank rather than drawn from an ac-

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PLAINTIFF'S EXHIBIT 3

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What we stand for

The editorial board's priorities in 2010:

- Increase openness in government
- Promote good works
- Analyze policy effects on the community's long-term health
- Hold leaders accountable to the people

Some hard-line libertarians (eve that campaign cash is a form of political speech that should not be restricted, and about a dozen states support this view by allowing unlimited contributions. State Rep. Thad Viers (a recipient of the above money) is paying homage to this idea, for example, in saying he might support a ban on contributions from corporations if the limits on individual contributions were raised."

Most people, however, believe that allowing any one donor to dump unlimited amounts of cash on a candidate essentially amounts to buying them. This is where the deep concern about last year's donations springs from: If some entity spent $96,000 on four City Council races – well above what any individual council candidate spent to win – who owns the City Council?

On this second point, S.C. law is actually much clearer, setting absolute limits on donations from individuals in state and local races. Unfortunately, with the requirements of reporting who's behind the money so weak, it is very easy to get around those limits: Just pass the money through the bank account of an LLC you own, and it's clean and legal – political money laundering 101, defended with a smirk by any candidate who received the money.

□□□

The darkest accusation in this affair is that the money in question came directly from the Myrtle Beach Area Chamber of Commerce as a kickback for passing the 1 percent sales tax for tourism advertising, passed out to City Council members and state representatives who helped make it happen – and, inexplicably, Gresham Barrett in his bid for governor.

There is virtually no evidence to prove this allegation, but there's a host of circumstance to make it plausi-

Several of the donations "came" from comp(in serious financial t..ble, such as landholding companies that were unable to make mortgage payments on properties they owned that have since fallen into foreclosure. Further, the checks were cashier's checks, which are bought from a bank rather than drawn from an account, with the LLC names simply written in the memo line. Further, the check numbers are in sequential order, suggesting they were all bought at once.

The simplest conclusion is that the money came from the same source, with the LLC names added as an afterthought. According to Political Money Laundering 101, all they had to do to make it legal was pass the money through an LLC's bank account to make it donation-ready. It's unclear at this point whether the donors even took that simple step.

Ultimately, whether the source of money is one person, one organization, or just a group of like-minded individuals with more money than bodies to pin it on has yet to be shown. (Technically, it's impossible that the donations actually came directly from sales tax money – the donations were made in June, and the first sales tax check was not collected until August.) Bank statements of the LLCs in question would settle the question definitively, but those are beyond reach of the public – suggesting that some authority with stronger investigatory powers should consider this case.

Though their long denials of any involvement have damaged their credibility in this case, the chamber may yet be telling the truth that the donations did not come from them. But hiding behind the cloak of anonymity afforded by state law makes that claim harder for them to substantiate, and they deserve the scrutiny they are now receiving.

5/21/10

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80
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THE SUN NEWS

Dean handed over envelope of $84,000

Rep. confirms meeting with chamber chief

FACEBOOK
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By David Wren
dwren@thesunnews.com

Brad Dean arranged a meeting last year with gubernatorial candidate Gresham Barrett in which he gave Barrett an envelope of cashier's checks from local corporations linked to a former chamber board chairman, Dean and Barrett confirmed Thursday.

There is no indication that Dean, president of the Myrtle Beach Area Chamber of Commerce, did anything illegal by delivering about $84,000 in campaign contributions to Barrett.

Dean said local business owners often sent campaign donations to the chamber's headquarters because they knew current and past chamber board members were raising money for candidates.

Dean said he delivered some of those checks to Barrett because he knew the politician would be in town for an unrelated fundraiser.

"This was not the chamber of commerce raising money," Dean said. "There was no public money or chamber money involved."

Since October, Dean has asserted that the chamber had nothing to do with raising money for candidates, including members of the Myrtle Beach City Council who were seeking re-election last November.

At least one local group has questioned whether a series of contributions was related to lawmakers' passage of the 1 percent sales tax for tourism, which funnels money to the chamber.

Dean told The Sun News on Thursday that he has never denied attending meetings where the campaign donations were

See DEAN | Page 9A

PLAINTIFF'S EXHIBIT 4

DEAN

From Page 1A

delivered, including a second meeting with state Sen. Ray Cleary, R-Murrells Inlet, but his attendance did not represent an endorsement by the chamber.

U.S. Rep. Barrett, R-3rd District, is one of four GOP candidates vying for the governor's office.

Barrett's money was among $324,500 in donations given to him, four City Council incumbents and seven state legislators in the months after the council members and state legislators passed laws that allowed the sales tax increase in Myrtle Beach.

Money from that tax is given to the chamber for tourism advertising purposes.

Brant Branham, the chamber's board chairman, also has insisted for months that there is no tie between the chamber and the campaign contributions. Branham said he solicited the contributions on his own from "like-minded businessmen and women."

Branham also said he "delivered these contributions to candidates that deserve re-election."

Dean gave the money to Barrett during a June 20 lunch meeting at Roy and Sid's restaurant at The Market Common in Myrtle Beach, according to Barrett and documents obtained by The Sun News. Barrett spokesman B.J. Boling said Dean arranged the meeting through Barrett's finance and scheduling staffs.

Mark Kelley, a lobbyist for the chamber of commerce, also attended that meeting, according to Barrett. Kelley did not return a telephone call Thursday.

There are strict rules that forbid lobbyists from facilitating campaign donations for statewide candidates; however, a spokeswoman for the S.C. Ethics Commission said it does not appear any laws were violated in this case.

"Just being in the same room is not a violation, it happens all the time," said Cathy Hazelwood, the commission's general counsel. "He [Kelley] is not supposed to touch the envelope or hand over the envelope."

The campaign contributions have drawn scrutiny because it is not clear where at least 15 of the corporati[ons] obtained the money to make the donations. One of the corporations was dissolved in 2007 because it failed to pay its taxes. Some of the other corporations are land-holding entities with no revenue.

Myrtle Beach lawyer Step Guyton, a former chamber board chairman, is the registered agent for those 16 corporations. Guyton did not return telephone calls Thursday.

Hazelwood said she cannot talk about the campaign donations, and she would not say whether the commission is investigating the matter. Hazelwood previously has said the donations appear to have been legal.

"I can neither confirm nor deny the existence of a complaint," she said.

Donations from the Guyton-related corporations were made by cashier's checks, making it difficult to trace the source of the funds. All of the cashier's checks to all candidates are dated June 8 and all of them are in sequential order. The cashier's checks were drawn off accounts at South Atlantic Bank, where Guyton is a board member.

Barrett, who was in Myrtle Beach on Thursday to announce his endorsement by three local mayors, said he has no plans to return the money.

"At the present time, we feel certain the spirit of the law and the letter of the law has been followed," he said.

State Rep. Tracy Edge, R-North Myrtle Beach, is the only candidate who has returned the campaign donations. Edge said he had concerns about the donations' origin, but he "couldn't get anybody to answer my questions or even talk about it."

Edge said he held onto the cashier's checks until December, when Guyton demanded their return.

"He was adamant about wanting them back," Edge said.

A Myrtle Beach-based group called Business Owners Organized to Support Tourism, or BOOST, has questioned whether the campaign donations were payback for legislators' and council members' approval of the 1 percent sales tax for tourism development.

That tax, which went into effect Aug. 1 and is expected to generate up to $18 million a year, was tacked onto the city's sales tax.

BOOST also has questioned whether at least some of the money came from the chamber of commerce.

"BOOST's contention all along is that the chamber of commerce was directly responsible for coordinating hundreds of thousands of dollars of campaign contributions for incumbents," said Tom Herron, a spokesman for the group.

Contact DAVID WREN at 626-0281.

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Sun News, The (Myrtle Beach, SC)
2010-05-24

BOOST calls for Barrett, others to return campaign money (with video)

David Wren, dwren@thesunnews.com

A group of Myrtle Beach area business owners on Monday called for gubernatorial candidate Gresham Barrett and 10 other local politicians to return $226,000 in campaign contributions given to them last year by corporations with ties to the Myrtle Beach Area Chamber of Commerce.

The group – Business Owners Organized to Support Tourism, or BOOST – has questioned whether the contributions were legal and it wants the chamber of commerce to prove that no public money went to political candidates.

Brad Dean, the chamber's president, has said no public money or chamber funds were included among the corporations' donations.

Dean did not return telephone calls Monday seeking comment. In a prepared statement sent to area media, Dean said it is "sad and disappointing that a fringe special-interest group [BOOST] continues to repeat old accusations and unfounded allegations" about the chamber of commerce.

City Councilman Randal Wallace, who received $15,000 from the corporations, said he believes the current controversy is being driven by the tight governor's race and the GOP primary on June 8.

"This is typical election-year politics," Wallace said. "It all goes away when Barrett either wins or loses."

BOOST President Robert Kelley said during a news conference that there are too many unanswered questions about the source of money used by the corporations, which do not have to disclose their membership.

Kelley questioned why at least one of the corporations made $20,500 in political contributions last year yet failed to pay the mortgage on its only asset – a beach house – which now is in foreclosure.

Kelley also said Dean has changed his story about the chamber's involvement in the campaign donations.

"In the past, the chamber has denied any involvement in this scandal, but now Brad Dean admits he set up the lunch with [chamber] lobbyist Mark Kelley and he handed Mr. Barrett the envelope full of checks," said Robert Kelley, who is not related to the lobbyist.

A Barrett spokesman told The Sun News last week that Dean arranged the meeting in which the corporations' donations were given to the politician.

"We may never know whether what took place was sloppy, stupid or arrogant – my guess is it's a lot of each," Robert Kelley said.

Barrett and local politicians -- including six state legislators and four City Council members – should return the money or donate it to charity, he said.

"I know the candidates haven't done anything illegal, but if I was running for office I would want to know where every penny came from," he said.

A spokesman for Barrett could not be reached for comment. U.S. Rep. Barrett, R-3rd District, is one of four GOP candidates running for governor. Barrett told The Sun News last week that he believes the donations were legal and he has no intention of returning the money.

State Sen. Ray Cleary, R-Murrells Inlet, said he would give back the money if it is proven that there were problems with the funds but he has not seen any proof of that.

"The people who contributed are honorable people; if they did something wrong, I'll give it back," Cleary said. "But I'm not going to insult the people who raised money for me by giving it back based on these allegations. That wouldn't be fair because it would make it appear as if they had done something wrong."

A seventh state legislator -- state Rep. Tracy Edge, R-North Myrtle Beach – is the only politician to have returned the money he received from the corporations. Edge told The Sun News that he returned the money because he could not get anyone at the chamber or Shep Guyton, the corporations' registered agent, to explain the source of the money.

Guyton has not returned telephone calls to The Sun News.

Robert Kelley said he wants the chamber of commerce to open its financial records for the past 18 months "for full transparency in the spending of every single dollar."

"I don't feel that they are being completely forthcoming with all of the facts," he said.

Wallace said there is no mystery behind the donations. Wallace said he asked Brant Branham, the chamber's board chairman, to help raise money in what he felt would be a highly contested council race.

"I was having trouble raising money and I was worried about it," Wallace said. "I asked for a lot of area business leaders to help, and I spent every dime I raised to get re-elected."

City Councilman Wayne Gray said he believes the contributions were gathered legally.

"No regulatory office has stated that they were improper or illegal," Gray said. "The donations were very legal."

Mayor John Rhodes agreed, saying the state Ethics Commission "found there was nothing wrong with the checks, so there's no reason to give them back."

Rhodes said he would return the money if further investigation shows there was any wrongdoing.

Guyton, a former chamber board chairman, is the registered agent for 15 corporations that donated money to politicians last year. All told, those corporations made 180 donations totaling $226,000 – all of them in the form of cashier's checks in sequential order purchased on the same day at South Atlantic Bank, where Guyton is a board member.

Money from the Guyton-related corporations is among $324,500 in campaign donations given to Barrett, four City Council incumbents and seven state legislators in the months after the council members and state legislators passed laws that allowed a 1 percent sales tax increase in Myrtle Beach.

Most money from that tax is given to the chamber of commerce for tourism advertising purposes. The tax is expected to generate up to $18 million per year, or as much as $180 million over the 10-year life of the legislation. Though the city will take nearly 20 percent of the funds for property tax breaks and tourism infrastructure.

Robert Kelley has said he suspects the contributions were payback for legislators' and council members' support of the tax.

Cathy Hazelwood – general counsel for the S.C. Ethics Commission, which oversees campaign donations – has said she cannot discuss the contributions associated with Guyton's corporations. Hazelwood would not say whether the commission is investigating the matter, but previously has said the donations appear to have been legal.

Former City Councilman Chuck Martino also received contributions from the corporations, as did the following state legislators: Rep. Alan Clemmons, R-Myrtle Beach; Rep. Liston Barfield, R-Aynor; Rep. Nelson Hardwick, R-Surfside Beach; Rep. Thad Viers, R-Myrtle Beach; and Rep. George Hearn, R-Conway.

PLAINTIFF'S EXHIBIT 5

THE SUN NEWS | MYRTLE BEACH, S.C.

FBI, IRS probe donors

MB Chamber, politicians investigated

By DAVID WREN
dwren@thesunnews.com

The FBI and the Internal Revenue Service have launched criminal investigations into $239,500 worth of campaign contributions given last year to political action committees and area politicians, including former gubernatorial candidate Gresham Barrett and members of the Myrtle Beach City Council.

The FBI and the IRS want to know where the money came from and why the donations were made in the form of cashier's checks purchased at Myrtle Beach-based South Atlantic Bank.

The contributions purportedly were given by 14 corporations with ties to the Myrtle Beach Area Chamber of Commerce.

See FBI | Page 7A

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PLAINTIFF'S EXHIBIT 6

FBI

From Page 1A

However, some of those corporations had no money when the donations were made, according to court documents and interviews by The Sun News. One of the corporations had been dissolved for nearly two years for failing to pay its taxes when the donations were made.

Denise Taiste, spokeswoman for the FBI, would neither confirm nor deny any active investigation. The IRS office in Myrtle Beach did not return a telephone message left by The Sun News.

However, the federal agencies have interviewed at least two people since the investigation started.

State Rep. Tracy Edge, R-North Myrtle Beach, said he met with investigators on July 7. He said the investigation appears to focus on possible money laundering, criminal conspiracy and tax fraud.

Edge, the only politician who refused to accept the cashier's checks, said he gave the money back because no one would tell him the source of the funds.

Investigators also have interviewed Tom Herron, spokesman for a local business group that has been critical of the campaign donations. Herron declined to discuss specifics of that meeting.

Herron's group – Business Owners Organized to Support Tourism – has questioned whether the donations were payback for politicians who last year pushed through a 1 percent sales tax increase that helps fund the chamber's marketing programs.

Myrtle Beach lawyer Shep Guyton, a former chairman of the chamber's board of directors, is the registered agent for all of the corporations that made campaign donations with cashier's checks.

Guyton, who also is a board member at South Atlantic Bank, has not responded to requests for interviews.

Wayne Wicker, the bank's chief executive officer, did not respond to a request for comment.

Edge said the FBI and the IRS indicated that they were going to obtain bank records to see if any wrongdoing occurred.

The federal Bank Secrecy Act requires financial institutions to keep records of and report to the IRS and others all cash purchases of cashier's checks totaling $10,000 or more in a day.

The cashier's checks used for campaign donations all have the same date – June 8, 2009 – and they are in sequential order.

Banks also are supposed to file a suspicious activity report if money laundering or any other criminal act is suspected.

It is not clear whether South Atlantic Bank reported the purchase of those checks to the federal government.

U.S. Rep. Barrett, R-3rd District – who lost the gubernatorial bid to Nikki Haley in last month's primary election – received $49,000 in cashier's checks from Guyton's corporations.

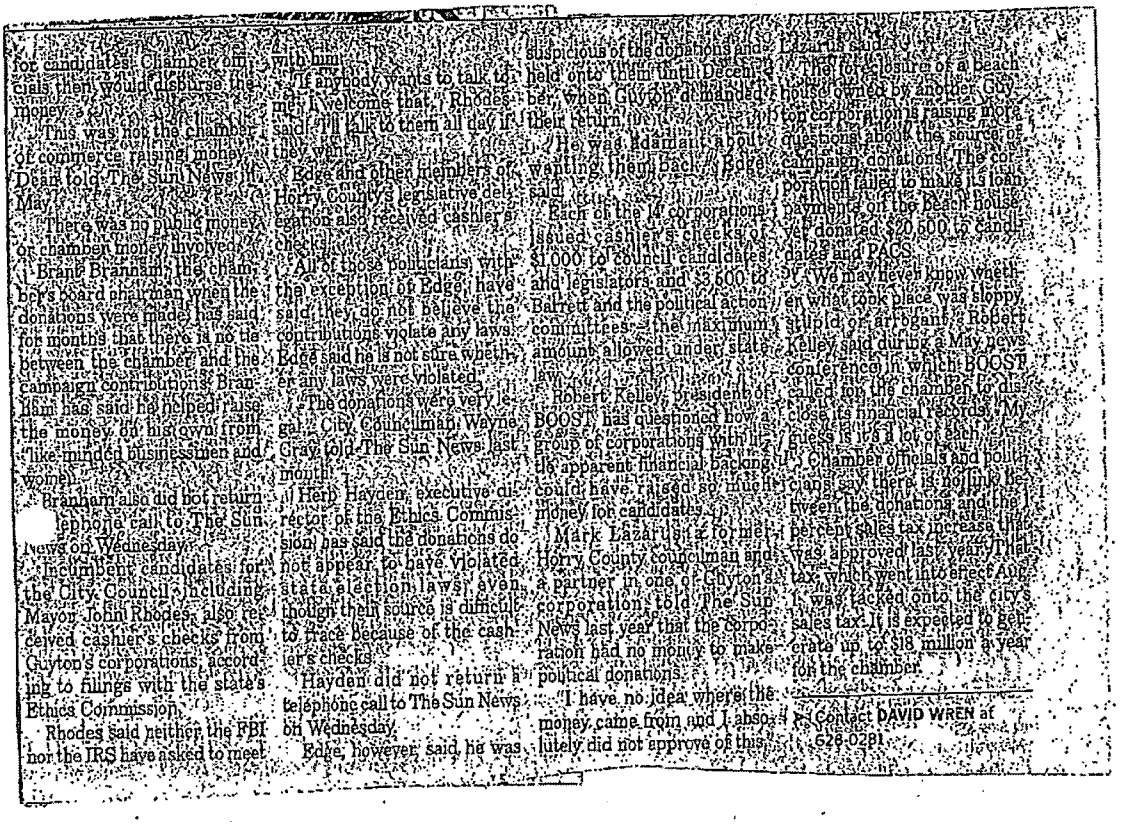
Those checks were among campaign donations that Brad Dean, the president of the chamber of commerce, delivered to Barrett during a lunch meeting last summer.

Mark Kelley, the chamber's lobbyist, also attended that meeting.

Dean did not return telephone calls to The Sun News on Wednesday.

Although Dean has repeatedly stated that the chamber was not involved in raising money for political candidates, he told The Sun News in May that the chamber acted as a clearinghouse for contributions.

Local business owners often sent campaign donations to the chamber's headquarters, Dean said, because they knew current and past chamber board members were raising money.



for candidates. Chamber officials then would disburse the money.

This was not the chamber of commerce raising money, Dean told The Sun News in May.

There was no public money or chamber money involved, Brant Brannam, the chamber's board chairman when the donations were made, has said for months that there is no tie between the chamber and the campaign contributions. Brannam has said he helped raise the money on his own from like-minded businessmen and women.

Brannam also did not return a telephone call to The Sun News on Wednesday.

Incumbent candidates for the City Council, including Mayor John Rhodes, also received cashier's checks from Guyton's corporations, according to filings with the state's Ethics Commission.

Rhodes said neither the FBI nor the IRS have asked to meet with him.

If anybody wants to talk to me, I welcome that, Rhodes said. I'll talk to them all day if they want.

Edge and other members of Horry County's legislative delegation also received cashier's checks.

All of those politicians, with the exception of Edge, have said they do not believe the contributions violate any laws. Edge said he is not sure whether any laws were violated.

The donations were very legal, City Councilman Wayne Gray told The Sun News last month.

Herb Hayden, executive director of the Ethics Commission has said the donations do not appear to have violated state election laws, even though their source is difficult to trace because of the cashier's checks.

Hayden did not return a telephone call to The Sun News on Wednesday.

Edge, however, said he was suspicious of the donations and held onto them until December, when Guyton demanded their return.

He was adamant about wanting them back.

Each of the 14 corporations issued cashier's checks of $1,000 to council candidates and legislators and $3,500 to Barrett and the political action committees, the maximum amount allowed under state law.

Robert Kelley, president of BOOST, has questioned how a group of corporations with little apparent financial backing could have raised so much money for candidates.

Mark Lazarus, a former Horry County councilman and a partner in one of Guyton's corporations, told The Sun News last year that the corporation had no money to make political donations.

I have no idea where the money came from and I absolutely did not approve of this, Lazarus said.

The foreclosure of a beach house owned by another Guyton corporation is raising more questions about the source of campaign donations. The corporation failed to make its loan payments on the beach house. Yet donated $20,600 to candidates and PACS.

We may never know whether what took place was sloppy, stupid or arrogant, Robert Kelley said during a May news conference in which BOOST called on the chamber to disclose its financial records. My guess is it's a lot of each.

Chamber officials and politicians say there is nothing between the donations and the 1 percent sales tax increase that was approved last year. That tax, which went into effect Aug. 1, was tacked onto the city's sales tax. It is expected to generate up to $18 million a year for the chamber.

Contact DAVID WREN at 626-0281.

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FBI, IRS probe Myrtle Beach campaign donations

MB Chamber, politicians investigated

David Wren, dwren@thesunnews.com

The FBI and the Internal Revenue Service have launched criminal investigations into $239,600 worth of campaign contributions given last year to political action committees and area politicians, including former gubernatorial candidate Gresham Barrett and members of the Myrtle Beach City Council.

The FBI and the IRS want to know where the money came from and why the donations were made in the form of cashier's checks purchased at Myrtle Beach-based South Atlantic Bank.

The contributions purportedly were given by 14 corporations with ties to the Myrtle Beach Area Chamber of Commerce.

However, some of those corporations had no money when the donations were made, according to court documents and interviews by The Sun News. One of the corporations had been dissolved for nearly two years for failing to pay its taxes when the donations were made.

Denise Talsta, spokeswoman for the FBI, would neither confirm nor deny any active investigation. The IRS office in Myrtle Beach did not return a telephone message left by The Sun News.

However, the federal agencies have interviewed at least two people since the investigation started.

State Rep. Tracy Edge, R-North Myrtle Beach, said he met with investigators on July 7. He said the investigation appears to focus on possible money laundering, criminal conspiracy and tax fraud.

Edge, the only politician who refused to accept the cashier's checks, said he gave the money back because no one would tell him the source of the funds.

Investigators also have interviewed Tom Herron, spokesman for a local business group that has been critical of the campaign donations. Herron declined to discuss specifics of that meeting.

Herron's group - Business Owners Organized to Support Tourism - has questioned whether the donations were payback for politicians who last year pushed through a 1 percent sales tax increase that helps fund the chamber's marketing programs.

Myrtle Beach lawyer Shep Guyton, a former chairman of the chamber's board of directors, is the registered agent for all of the corporations that made campaign donations with cashier's checks.

Guyton, who also is a board member at South Atlantic Bank, has not responded to requests for interviews.

Wayne Wicker, the bank's chief executive officer, did not respond to a request for comments.

Edge said the FBI and the IRS indicated that they were going to obtain bank records to see if any wrongdoing occurred.

The federal Bank Secrecy Act requires financial institutions to keep records of and report to the IRS and others all cash purchases of cashier's checks totaling $10,000 or more in a day.

The cashier's checks used for campaign donations all have the same date - June 8, 2009 - and they are in sequential order.

Banks also are supposed to file a suspicious activity report if money laundering or any other criminal act is suspected.

It is not clear whether South Atlantic Bank reported the purchase of those checks to the federal government.

U.S. Rep. Barrett, R-3rd District - who lost the gubernatorial bid to Nikki Haley in last month's primary election - received $49,000 in cashier's checks from Guyton's corporations.

Those checks were among campaign donations that Brad Dean, the president of the chamber of commerce, delivered to Barrett during a lunch meeting last summer.

Mark Kelley, the chamber's lobbyist, also attended that meeting.

Dean did not return telephone calls to The Sun News on Wednesday.

Although Dean has repeatedly stated that the chamber was not involved in raising money for political candidates, he told The Sun News in May that the chamber acted as a clearinghouse for contributions.

Local business owners often sent campaign donations to the chamber's headquarters, Dean said, because they knew current and past chamber board members were raising money for candidates. Chamber officials then would disburse the money.

"This was not the chamber of commerce raising money," Dean told The Sun News in May.

"There was no public money or chamber money involved."

Brant Branham, the chamber's board chairman when the donations were made, has said for months that there is no tie between the chamber and the campaign contributions. Branham has said he helped raise the money on his own from "like-minded businessmen and women."

Branham also did not return a telephone call to The Sun News on Wednesday.

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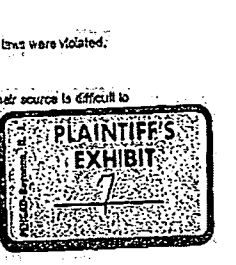

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SITE MAP

NEWS	SPORTS	ENTERTAINMENT	OPINION	PHOTOS	LIVING	VISITORS
Local/State	High school	Kicks	Letters to the editor	Staff photo galleries	Coasting	Destinations
Business/Money	Prep football	TV listings	Editorials	Reprints	Food	Living Here
Nation/world	Golf	Comics/games	Discussion boards	Reader photos	Health/fitness	Dining
Weather	Pelicans	Horoscopes		Videos	Home/garden	Plan your trip
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	National					Search businesses
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Campaign staffers say Myrtle Beach Area Chamber of Commerce president brought in disputed cash

Chamber chief denies raising disputed cash

David Wren, dwren@thesunnews.com

E-mails sent between members of Gresham Barrett's gubernatorial campaign staff last fall point to Brad Dean, president of the Myrtle Beach Area Chamber of Commerce, as the person who raised political donations funneled through corporations that now are the focus of a federal criminal investigation.

Dean has denied raising the money for Barrett and other politicians, and said no chamber money was used to make political donations.

However, an advocate for open government said Barrett's perception that Dean or the chamber of commerce raised the money would be just as effective in garnering influence, regardless of the ultimate source of the donations.

"If a politician has it in his mind that the money came from a certain business or individual, he'll keep that in mind when it comes time for legislation that could affect that business or individual," said John Crangle, executive director of Common Cause South Carolina, a nonprofit group that advocates for more accountability in government.

Dean declined to comment on why these e-mails cite him as the person responsible for arranging contributions to Barrett and others following passage last year of a tax increase that benefits the chamber.

"I have not seen the e-mails you mention and, as such, I have no way of knowing the content of the e-mails nor can I know if they are authentic," Dean said.

The FBI and the Internal Revenue Service are investigating the source of the funds and why the donations were made through a series of sequentially numbered cashier's checks purchased on the same day at South Atlantic Bank, according to those who have been interviewed by the federal agencies.

Myrtle Beach lawyer Shep Guyton, who was a board member at South Atlantic Bank, is the registered agent for the corporations under investigation. It is not clear whether Guyton remains on the bank's board of directors. His name and photo have been removed from the bank's website.

Guyton and Wayne Wicker, the bank's president, have not returned telephone calls to The Sun News. Joy Klein, the bank's director of marketing, did not respond to a request for information about Guyton's status.

Dean declined to say whether he has been interviewed by the FBI or IRS.

"It is the chamber's] policy not to comment on pending legal matters," he said.

The e-mails, obtained by The Sun News, show Barrett's staff attempting to pin down the source of the campaign donations after an Associated Press reporter raised questions about them in an Oct. 14 e-mail to B.J. Boling. Boling was communications director for Barrett during the Republican's failed gubernatorial run.

"There may be an issue with these donations," AP reporter Jim Davenport wrote in the e-mail to Boling. "Want to get your head around the sources and get back to me?"

Boling forwarded Davenport's e-mail to other campaign staffers, including Justin Stokes, Barrett's deputy campaign manager.

"These guys are tied to the Myrtle Beach Chamber of Commerce," Stokes said in an e-mail to Boling and two of Barrett's political consultants - Warren Tompkins and Heath Thompson.

"Brad Dean, the chamber's president, worked behind the scenes to pull those together last quarter," Stokes said in the e-mail.

Tompkins, in another e-mail, told staff members that he "cannot figure what the issue would be" with the donations.

"Try Mark Kelley, our Horry expert, or perhaps Allan [sic] Clemmons," Tompkins wrote in the e-mail, suggesting that those two could answer questions about the donations.

"Talk to Mark Kelley," Stokes told Tompkins and the others in another e-mail. "He would be familiar with these contributions and the connection" between the corporations and the chamber of commerce.

Kelley is a former legislator who now is the chamber's lobbyist.

The e-mails do not make clear why Barrett's staff thought Kelley would be familiar with the contributions. The S.C. Ethics Commission has strict rules that prohibit lobbyists from participating in campaign fundraising for state politicians.

Kelley and state Rep. Alan Clemmons, R-Myrtle Beach, did not respond to requests for comments.

Clemmons also is among the politicians who received donations from the 14 corporations that are under investigation.

Those corporations made $239,500 in campaign contributions to seven state legislators and four Myrtle Beach City Council incumbents in the weeks after they approved a 1 percent sales tax hike for the city last year.

Barrett - one of Kelley's political allies - also received the donations, although he had no role in passing the tax.

Crangle said the use of shell corporations to hide the true source of campaign donations is one of the biggest problems in S.C. politics, often allowing individuals to exceed contribution limits without detection.

That type of corporate giving "is inherently corrupt and ought to be banned," he said.

Crangle said he doubts legislation reining in such donations will occur, however, because the politicians benefiting from the system are the ones making the laws.

The state Ethics Commission has been reviewing whether the donations violated state laws, but that agency has not referred any information to Attorney General Henry McMaster, who would prosecute such violations, according to McMaster spokesman Mark Plowden.

"We are not involved in that situation down there with the chamber," Plowden said. "That's the feds' show right now."

Cathy Hazelwood, general counsel for the commission, said she "can neither confirm nor deny the existence of a complaint" about the campaign donations or possible violations by Kelley.

The donations that are under investigation are among at least $324,500 in political contributions made to Barrett and others by chamber-related businesses and individuals in the weeks after the tax passed.

Most of the money from the tax, which is expected to generate about $18 million a year for the next decade, goes to the chamber to pay for tourism marketing programs.

Barrett - who lost his bid for governor during a primary runoff against eventual Republican candidate Nikki Haley - told The Sun News in May that Dean delivered an envelope with $84,000 in campaign donations, including those from Guyton's corporations, during a lunch meeting last year.

PLAINTIFF'S EXHIBIT 8

Kelley also attended that meeting, Barrett said.

Dean has repeatedly said that the chamber does not raise money for political candidates. He said he delivered the contributions to Barrett because he knew the politician would be in town for an unrelated fundraiser.

Dean said the chamber last year acted as a clearinghouse for political donations - business owners would send the contributions to the chamber's headquarters and the money then would be distributed to politicians. Dean said the chamber has stopped that practice.

SITE MAP

NEWS
Local/State
Business/Money
Nation/world
Weather
Politics
Blogs

SPORTS
High school
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Golf
Pelicans
Motorsports
Youth/Rec
National
CCU

ENTERTAINMENT
Kicks
TV listings
Comics/games
Horoscopes
Movies

OPINION
Letters to the editor
Editorials
Discussion boards

PHOTOS
Staff photo galleries
Reprints
Reader photos
Videos

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Coasting
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68
Thursday
Mostly sunny
65
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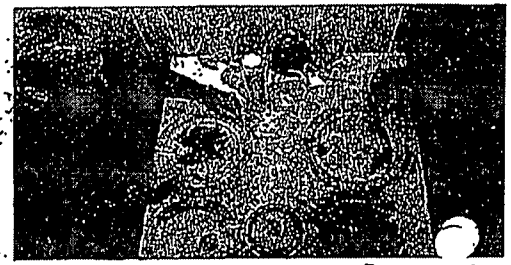
5 locals earn spots in North-South game | 1B

Mobility gap

More people outliving ability to drive safely | 6A



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MYRTLE BEACH, SOUTH CAROLINA | TheSunNews.com | NOVEMBER 10, 2010

Campaign donors face foreclosures

By David Wren
dwren@thesunnews.com

A foreclosure lawsuit has been filed against two more of the corporations that made campaign contributions last year that have been tied to the Myrtle Beach Area Chamber of Commerce.

Bank of North Carolina filed the lawsuit last week against WKG Land Partners LLC and Back Gate Partners LLC. The bank claims those corporations have defaulted on a $500,000 loan. No court date has been set.

Shep Guyton, a Myrtle Beach lawyer who is the registered agent for both corporations, did not return a telephone call to The Sun News.

Guyton is the registered agent for 14 corporations that made $289,500 in campaign contributions that now are the focus of criminal investigations by the FBI and the Internal Revenue Service.

Talk about this story on Facebook at Facebook.com/sunnews.

The investigations focus on possible money laundering, tax fraud and criminal conspiracy, according to state Rep. Tracy Edge, R-North Myrtle Beach, who has been interviewed by the agencies.

Edge is the only lawmaker who did not accept the campaign contributions.

See LAWSUIT | Page 8A

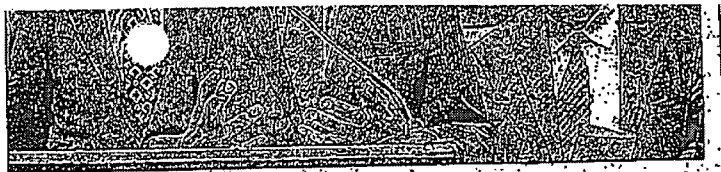
PLAINTIFF'S EXHIBIT 9

cil m ers to join me in opposition. ...ion. In the end, I think that Ms. Starnes realized it was going nowhere and withdrew her re-zoning application," he wrote.

Batch plants have been a topic of concern in Horry County lately. The county is trying to figure out which of its 10 plants or she can ask for a different re-zoning or leave the property as is.

Whatever she or other property owners plan to do in the area, Campisi said, "we will be keeping an eye on it."

Contact LORENA ANDERSON at 444-1722.



House Majority Whip Rep. James E. Clyburn (center), Sen. Jeff Merkley (left) and Rep. John Spratt introduce legislation March 10 in Washington.

...the f... ty name.

B... his job to conside... posals, he said, and in this ca... try to gauge if Conway resid... to make the deal.

"I ain't going to sneeze at t... he said.

Contact STEVE JONES at 4...

LAWSUIT

From Page 1A

The campaign donations – all in the form of sequentially numbered cashier's checks purchased on the same day at South Atlantic Bank – were given to politicians who supported a 1 percent tax increase in Myrtle Beach. Money from that tax goes to the chamber of commerce for its tourism marketing efforts.

Guyton is a former president of the chamber's board of directors. Guyton also was a member of South Atlantic Bank's board of directors until his resignation earlier this year.

Donations also were made to failed gubernatorial candidate Gresham Barrett, who did not play a role in the tax increase but was supported by chamber board members. Barrett accepted the money last year during a luncheon with chamber President Brad Dean and Mark Kelly, the chamber's lobbyist.

This is at least the fourth Guyton-related corporation facing foreclosure in the months after they made campaign contributions.

The foreclosure lawsuits have some critics of the tax increase questioning how corporations that could not pay their bills managed to funnel thousands of dollars in contributions to politicians.

Dean has said the money did not come from the chamber of commerce.

Brant Branham, the chamber's board chairman when the donations were made, has said he raised the money independently from "like-minded businessmen and women."

WKG Land Partners made contributions of $8,500 apiece to political action committees that helped re-elect Myrtle Beach City Council members.

Back Gate made 10 contributions totaling $12,500 to council candidates, state legislators and Barrett.

Bank of North Carolina said in its lawsuit that those corporations failed to repay a $500,000 loan that came due in 2008. The bank, which is the successor to Beach First National Bank, said the corporations now owe $570,245 with interest accruing at $65.02 per day.

Those corporations pledged property they own in Cypress River Plantation, located in the Burgess community, and in a shopping center at the back gate of the former Myrtle Beach Air Force Base as collateral for the loan.

In addition, Guyton and business partners Edward Williams and Dean Karavan signed personal guaranties for the loan.

Williams and Karavan could not be reached for comment.

Officials with the U.S. attorney's office and the S.C. Ethics Commission said Tuesday they cannot confirm or deny that an investigation is taking place. They declined to comment further on the matter.

At least two other Guyton-related corporations are facing foreclosure in separate lawsuits filed earlier this year.

Deluxe Land Partners – which made $20,500 in donations to political candidates – failed to repay a $850,000 loan, according to Bank of North Carolina.

Garden City Partners – which made $20,500 in campaign contributions – failed to repay a $1.2 million loan, according to S.C. Bank & Trust.

In addition to the foreclosures, a partner in another corporation tied to Guyton told The Sun News that the corporation had no money to make political donations. That corporation's only asset is a piece of land.

Another corporation for which Guyton was the registered agent was dissolved nearly two years before it made donations to political candidates.

Money from the Guyton-related corporations ... $824,500 in campa... tions given to Barrett ... Council incumbents ... state legislators in t... after the cour... me... legislators p... ...lowed a 1 percent s... crease in Myrtle Bea...

Most of that mon... the chamber of com... advertising. The city ... 20 percent of the fun... erty tax breaks and ... frastructure project...

The tax is expecte... ate up to $18 million ... er the 10-year l... legislation.

Contact DAVID WI... 626-0281.

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
Mark Kelley,	)	
	)	
Plaintiff,	)	C. A. No. 12-CP-26-3804
	)	
vs.	)	ANSWER OF DAVID WREN
	)	
McClatchy Newspapers, Inc., d/b/a The Sun News and David Wren,	)	
	)	
Defendants.	)	

HORRY COUNTY
12 JUN 21 PM 3:06
MELANIE HUGGINS-WARD
CLERK OF COURT

Defendant, David Wren (Wren), responding to the allegations of the Amended Complaint alleges:

1. As to the allegations of paragraph 1, Wren admits the same.

2. As to the allegations of paragraph 2, Wren admits so much thereof as alleges that he is an individual and a resident of Horry County, South Carolina, but denies the remaining allegations thereof.

3. As to the allegations of paragraph 3 Wren denies the same.

4. As to the allegations of paragraph 4, Wren is informed and believes that defendant McClatchy Newspapers, Inc., is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in California, but denies the remaining allegations thereof.

AS AND FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION

5. As to the allegations of paragraph 5, Wren denies the same, and alleges in connection therewith that while he was the author of the publication referenced, he made no decision with

reference to publication.

6. As to the allegations of paragraph 6, Wren admits the same.

7. As to the allegations of paragraphs 7, 8, 9, and 10, Wren denies the same, and alleges in connection therewith that the publication cannot be read as defamatory to plaintiff.

8. As to the allegations of paragraphs 11, 12, 13, 12 [14], and 13 [15], Wren denies the same.

9. All allegations in paragraphs 1 through 13 [15] not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION

10. As to the allegations of paragraph 14 [plaintiff has mis-numbered the paragraphs in the Amended Complaint starting with the 14th paragraph. This defendant will respond using the numbers assigned in the Amended Complaint for the second, third and fourth causes of action. Wren reasserts and realleges the facts and matters contained in paragraphs 1 through 9 above, as fully and completely as if restated herein verbatim.

11. As to the allegations of paragraph 15, Wren denies the same, craves reference to the actual language of the publication and alleges in connection therewith that he had no role to play in the decision to publish.

12. As to the allegations of paragraph 16, Wren admits the same.

13. As to the allegations of paragraphs 17, 18, 19, 20, 21, 22, 23, 24, and 25, Wren denies the same and alleges in connection therewith that the delivery by a lobbyist of a campaign contribution of another to a candidate who is not a member of the General Assembly, the Governor, the Lieutenant Governor, or any other statewide constitutional officer or specified public official is not prohibited by law.

14. All allegations in paragraphs 14 through 25 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION

15. As to the allegations of paragraph 26, Wren reasserts and realleges the facts and matters contained in paragraphs 1 through 14 above as fully and completely as if restated herein verbatim.

16. As to the allegations of paragraph 27, Wren denies the same, craves reference to the publication, and alleges in connection therewith that he had no role to play in the publication decision.

17. As to the allegations of paragraph 28, Wren admits the same.

18. As to the allegations of paragraph 29, Wren denies the same, and alleges in connection therewith that the delivery by a lobbyist of a campaign contribution of another to a candidate who is not a member of the General Assembly, the Governor, the Lieutenant Governor or any other statewide constitutional officer or specified public official is not prohibited by law.

19. As to the allegations of paragraph 30, 31, 32, 33, 34, 35, 36, and 37, Wren denies the same.

20. All allegations in paragraphs 26 through 37 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A FIRST DEFENSE TO THE FOURTH CAUSE OF ACTION

21. As to the allegations of paragraph 38, Wren reasserts and realleges the facts and matters contained in paragraphs 1 through 20 above, as fully and completely as if restated herein verbatim.

22. As to the allegations of paragraph 39, Wren denies the same, craves reference to the

publications complained of by plaintiff, and alleges in connection therewith that the delivery by a lobbyist of a campaign contribution of another to a candidate who is not a member of the General Assembly, the Governor, the Lieutenant Governor or any other statewide constitutional officer is not prohibited by law.

23. As to the allegations of paragraph 40, Wren admits the same.

24. As to the allegations of paragraph 41, Wren denies the same and alleges in connection therewith that the delivery by a lobbyist of a campaign contribution of another to a candidate who is not a member of the General Assembly, the Governor, the Lieutenant Governor, a statewide constitutional officer or other specified public official is not prohibited by law.

25. As to the allegations of paragraphs 42, 43, 44, 45, 46, 47, 48 and 49, Wren denies the same.

26. All allegations in paragraphs 38 through 49 not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

27. The allegations of the Amended Complaint fail to state causes of action for libel.

AS AND FOR A FOR A THIRD DEFENSE TO THE AMENDED COMPLAINT

28. The publications complained of by plaintiff cannot reasonably be read to make false and defamatory statements of and concerning the plaintiff.

AS AND FOR A FOR A FOURTH DEFENSE TO THE AMENDED COMPLAINT

29. The publications complained of by plaintiff were true or substantially true.

AS AND FOR A FOR A FIFTH DEFENSE TO THE AMENDED COMPLAINT

30. The publications complained of by plaintiff were privileged under the First and Fourteenth Amendments to the United States Constitution and the common law of South Carolina.

WHEREFORE, defendant, Wren, having fully responded to the allegations of the Amended Complaint, prays that the same be dismissed with costs assessed against the plaintiff together with such other relief as may be appropriate.

Jay Bender
BAKER, RAVENEL & BENDER, L.L.P.
Post Office Box 8057
Columbia, South Carolina 29202
(803) 799-9091
Attorneys for David Wren

Columbia, South Carolina

June 19, 2012

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF HORRY)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
Mark Kelley,)	
)	
Plaintiff,)	C. A. No. 12-CP-26-3804
)	
vs.)	ANSWER OF SUN PUBLISHING COMPANY, INC. TO THE SECOND AMENDED COMPLAINT
)	
Sun Publishing Co., Inc., and David Wren,)	
)	
Defendants.)	

FILED
HORRY COUNTY
2013 MAY 17 PM 4:08
MELANIE WIGGINS-WARD
CLERK OF COURT

Defendant, Sun Publishing Company, Inc., (Publishing Company), responding to the allegations of the Second Amended Complaint alleges:

AS AND FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION

1. All allegations in the first cause of action not hereinabove admitted, qualified or explained are hereby denied.

2. As to the allegations of paragraphs1 and 2, Publishing Company admits the same.

3. As to the allegations of paragraph 3, Publishing Company admits that that David Wren was its employee and acted within the scope and course of his employment in the preparation of news reports, but denies the remaining allegations thereof.

4. As to the allegations of paragraph 4, Publishing Company admits the same, but alleges that its principal place of business is in Horry County.

5. As to the allegations of paragraphs 5, Publishing Company denies the same and alleges in connection therewith that the news report stated that campaign contributions were delivered by Brad Dean.

6. As to the allegations of paragraph 6, Publishing Company admits the same.

7. As to the allegations of paragraphs 7, 8, 9, and 10, Publishing Company denies the same, and alleges in connection therewith that the making of a campaign contribution to a member of Congress running for state office is not prohibited by South Carolina law.

8. As to the allegations of paragraphs 11, 12, 13, 14 and 15, Publishing Company denies the same.

AS AND FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION

9. All allegations in the second cause of action not hereinabove admitted, qualified or explained are hereby denied.

10. This defendant reasserts and realleges the facts and matters contained in paragraph 1 through 16 as fully and completely as if restated herein verbatim.

11. As to the allegations of paragraph 17, this defendant denies the same, and alleges in connection therewith that the news report stated that plaintiff accompanied Brad Dean who made the campaign contribution to candidate Gresham Barrett.

12. As to the allegations of paragraph 18, this defendant admits the same.

13. As to the allegations of paragraphs 19, 20, 21, 22, 23, 24, 25, 26, and 27, this defendant denies the same, and alleges in connection therewith that the making of a campaign contribution to a member of Congress running for state office is not a violation of South Carolina law.

AS AND FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION

14. As to the allegations of paragraph 28, this defendant reasserts and realleges the facts and matters contained in paragraph 1 through 13 above as fully and completely as if restated herein verbatim.

15. As to the allegations of paragraph 29, this defendant denies the same, and alleges in

connection therewith that the publication complained of by plaintiff was an editorial expressing opinion on a matter of public interest, and that it stated that Brad Dean delivered campaign contributions to Gresham Barrett.

16. As to the allegations of paragraph 30, this defendant admits the same.

17. As to the allegations of paragraphs 31, 32, 33, 34, 35, 36, 37, 38, and 39, this defendant denies the same and alleges in connection therewith that the giving of a campaign contribution to a member of Congress who is candidate for state office is not a violation of South Carolina law.

18. All allegations in the third cause of action not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A FIRST DEFENSE TO THE FOURTH CAUSE OF ACTION

19. As to the allegations of paragraph 40, this defendant reasserts and realleges the facts and matters contained in 1 through 18 above, as fully and completely as if restated herein verbatim.

20. As to the allegations of paragraph 41, this defendant admits that on the dates alleged it published news reports in its newspaper, but denies the remaining allegations thereof.

21. As to the allegations of paragraph 42, this defendant admits the same.

22. As to the allegations of paragraphs 43, 44, 45, 46, 47, 48, 49, 50 and 51, this defendant denies the same and alleges in connection therewith that the making of a campaign contribution to a member of Congress seeking state office is not a violation of South Carolina.

23. All allegations in the fourth cause of action not hereinabove admitted, qualified or explained are hereby denied.

AS AND FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

24. The allegations of the Second Amended Complaint fail to state causes of action for

libel.

AS AND FOR A THIRD DEFENSE TO THE ALL CAUSES OF ACTION

25. The news reports complained of by plaintiff were true or substantially true.

AS AND FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION

26. The publications complained of by plaintiff are privileged under the first and fourteenth amendments to the United States Constitution.

AS AND FOR A FIFTH DEFENSE TO THE THIRD CAUSE OF ACTION

27. The publication of May 30, 2010 complained of by plaintiff was an editorial expressing opinion on matters of public interest and significance regarding the activities of public officials and public figures, and, as such, was protected under the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, having fully responded to the allegations of the Second Amended Complaint, defendant Sun Publishing Company, Inc., prays that the same be dismissed with costs assessed against the plaintiff together with such other relief as may be appropriate.

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Attorneys for Defendant Sun Publishing Company, Inc.

Columbia, South Carolina

May 9, 2013

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF HORRY	)	**2012-CP-26-03804**
MARK KELLEY, Plaintiff, vs. SUN PUBLISHING COMPANY, INC., D/B/A THE SUN NEWS AND DAVID WREN, Defendants.	)	**Transcript of Record** May 5-12, 2014

B E F O R E:

Honorable Larry B. Hyman, Jr.
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

James P. Stevens, Esquire
Natalie Stevens-Graziani, Esquire
Attorney for Plaintiff

Jerry Jay Bender, Esquire
George Redmond, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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(MAY 5, 2014)

(REPORTER'S NOTE: The following takes place outside the presence of the Jury.)

BY THE COURT:

THE COURT: All right, gentlemen, as we begin, let me tell you what I have discussed with Judge John. I briefly told you a moment ago. He is starting a murder case which is going to require a substantial jury panel. So he's going to pull that -- I think he is pulling that now. As soon as he has his panel selected, he's going to put the balance of the jurors back in the jury pool and we'll have a panel come up. I think that fifty would be adequate, but we're gonna hold the balance of the jury pool just in case and we will bring other jurors up if that is necessary. I have limited it to fifty because that's every juror we can possibly put in this, this courtroom. So we're limited somewhat as to space.

Let me say that I have, as I told you this morning, ruled on your motion for summary judgment, Mr. Bender. Taking the evidence in the light most favorable to the Plaintiff in this matter, I find that there is no material issue of fact as to whether or not Mr. Kelley is a public figure. However, I do find issues of fact as to whether or not there was actual malice shown and I would deny your motion in that regard.

Now, do we have any other outstanding motions that we need to take up in this case, Mr. Bender?

288, William Martin, Jr.; Number 434, Elizabeth Street; Number 54, Deborah Cellucci; Number 118, Connie Edwards-Bellamy; Number 484, Mary Williams; Number 283, Quinn Marinacci.

THE COURT: Mr. Stevens, will there be a challenge to the panel? Will there be a challenge to the panel?

MR. STEVENS: No challenge.

THE COURT: Mr. Bender?

MR. BENDER: No challenge, Your Honor.

THE COURT: All right. Very well. The balance of the jury panel is excused for today. I'll ask you to call back afternoon tomorrow. There should be a message sometime after noon tomorrow. We don't know whether we're gonna need another jury this week, but I would ask you to please call back and you'll get further instructions, but you are excused. You are welcome to stay with us, but you are excused.

(REPORTER'S NOTE: Remaining Jury Venire released. 2:47 P.M.)

BY THE COURT:

THE COURT: All right. Madam Clerk, please swear the jury.

CLERK: Yes, sir. Please stand and raise your right hand.

(REPORTER'S NOTE: Jury sworn.)

CLERK: Thank you.

THE COURT: All right. Ladies and gentlemen of the Jury, please let me make a few opening or preliminary remarks to

you. Ms. Galton, guess what?

JUROR 150: What.

THE COURT: I would ask you to always occupy that seat because you will be our foreperson. You will be the Jury's liaison with, with the Court and it will be your responsibility to preside over the deliberations of the Jury. If at any time during this trial, you or anyone on your jury needs anything or you have any issues that arise, please make those issues known to Mr. Ropp or the deputy that will be assigned to you. There will always be some with you, someone with you all throughout this trial. That deputy or that bailiff's job is to make sure that you're comfortable and that you have everything that you need. If any of you become uncomfortable during the trial of this case, I would ask you to simply raise your hand. That'll be your signal to me that either you need a break or, if at any time during the trial of the case, you can't hear or you can't see what's going on, please let me know. This whole trial is a process by which we present information to you as a, a Jury and if you can't see or you can't hear, then our efforts are futile. So, please let me know. I promise you I will not keep you sitting usually more than an hour and a half. I figure if you can make it through preaching, you can make it an hour and a half in here. So I try to limit the, the sessions to about an hour and a half, but if I go over and you become uncomfortable,

please, just let me know.

Ms. Williams and is it Mr. Marinacci?

JUROR 283: Yes.

THE COURT: Mr. Marinacci, I would ask you to always occupy those two seats. You will be our alternates. You will of course be with us throughout the trial and we may need your services during the deliberation process, but I will ask you, so that we can always identify you, to sit in those two chairs and Ms. Galton, of course you will always occupy that seat when we come back in the courtroom. The rest of you may sit anywhere that you would like. And again, let me thank you for being here and stress upon you that if you need anything let us know. We have a comfortable jury room and there's always coffee, soft drinks and, and snacks available for you, but if for some reason that's not adequate, you let Mr. Ropp know and we will take care of you.

Let me begin by first of all telling you that's the end of the swearing that you have to do. And isn't that a terrible amount of swearing just to get to where you are here? You've been placed under oath three times today. But that just emphasizes the importance of your job. It is -- this case is, is so important to not only to Mr. Kelley but to Mr. Wren and Sun Publishing. They have been unable to resolve this matter and they bring it before you as citizens of this state to resolve the issues that'll be presented. Let me tell

you though that during the trial of this case, you may experience something different from what you may have seen on TV You know every time we turn on TV now there seems to be some program about a trial or somebody getting ready for a trial or criminal matter or a civil matter or something of that sort and those trials are always just action packed and suspenseful. I will tell you that that is generally not the case. There are moments that we have in this courtroom, but generally speaking, the search for the truth, and that's what we're about here, is the search for the truth. The search for the truth is often slow and deliberate. Also these fine attorneys and I want to tell you right up front, we're fortunate in this case to have the excellent attorneys. I've known these gentlemen and this lady for, for quite some time and they're all very good attorneys, but they're under certain constraints in their presentation of the evidence to you. Often it's not so much a matter of what is produced, but how it can be produced for you. There are rules that they have to follow and sometimes those rules of evidence and the way evidence is presented is tedious and redundant and you're probably going to have moments in this trial where you feel like goodness gracious, I know what you're trying to get at; just move along, move along. Please don't hold that against the attorneys. They're simply following the rules that have been established by tradition and, and law in this, this state

and they have to follow those rules to present evidence to you. So please don't hold that against them.

I will say this, that those attorneys and I are under an oath to conduct ourselves professionally and ethically during the trial of this case to insure that it is a fair trial for everyone involved. But you know you, as jurors, also are under an oath and your oath requires you to take this job very seriously, to conduct yourselves professionally and ethically. And that's probably even more important when it comes to a jury because you see, at the end of this case, you're gonna be asked to deliberate and that deliberation process involves really three, three things. The most important of which is your determination of the facts in this case, what occurred, what is true; that is your main job to determine that. You are the exclusive and absolute judges of what the facts are in this case. And what makes your job so important is this, I will instruct you on the law at the end of the, of the trial. That's the second part of the deliberation process, learning the law. You don't have much choice when it comes to the law. You have to accept the law and apply the law just as I give it to you. But if I make a mistake in my instruction on the law or I make a mistake when I rule on evidence in this case, these fine attorneys will take me up to Columbia before the Supreme Court or the Court of Appeals and they will say whether I did the right thing or not. And if I didn't do the

right thing, it can be corrected. But the deliberation process, where you determine the facts, is the only part of this trial that is not recorded. Everything that's said or done in this courtroom is transcribed by this lady, Ms. Richardson, who's down here to my left, and there's a record of it. But when you go in that jury room, if you don't truthfully and candidly and honestly look at the evidence presented in this case and apply the law as I give it to you, there's no way that that can be corrected. There's no way to remedy that because nothing that you say or do it that jury room will be recorded. So, your oath to conduct yourselves professionally and ethically is very, very important.

I said a moment ago that you are the sole and exclusive judges of the facts. I'm the sole and exclusive judge of the law. I mentioned that a moment ago. I will instruct you on the law. You may not agree with it; you may think it's wrong; you may think it ought to be something else, but you're bound by your oath to follow the law as I give it to you.

And the third part of that deliberation process is where, and we can't forget that, is you take the facts as you find them to be and then you take the law as I give it to you and the third part is where you bring them together and you see how they fit and that's where you reach a verdict in this particular case. So, you have an awesome job. It is so important that you be guided in your deliberations by only

what you hear from this witness stand. All of the questions I asked you earlier in this case or in the jury selection process, was to make sure that you have no outside influences that are improper influences that might control how you look at evidence or how you may consider a witness' testimony. You must not allow any outside interference in your determination of what the facts are.

In that regard, it is vitally important that you, as a jury and individually, do not seek any further evidence. You know, in today's world where we have computers and IPads and IPhones, you can pick up that phone and you can go back and you can look, you can scan the newspapers, you can look at in some cases, courtroom pleadings, you can look up witnesses on Facebook, you can do all manner of things. That would be highly, highly improper and I ask you not to do that. Do not speak to anyone about this case. Do not even discuss it among yourselves until I instruct you to begin your deliberations. You know there's always two sides to every story. And if you begin your deliberations when you hear one witness or two witnesses or even after a particular witness or later in the trial, you have prejudged the case, you have begun your deliberations prematurely, and I tell you, you absolutely must not do that. You must at least or also wait until I give you the law so you'll know what law to apply during your deliberations process. I ask you to please play, pay close

attention to everything that's said and done in this case. That's why I tell you it's so important if you can't see or hear, you just let me know that you've having a problem because we want to make sure that you hear and see everything. It's important to realize that during the trial of the case, you're gonna hear from many witnesses and some of that testimony may be contradictory. You -- we hear it in almost every case. Someone has a different view of what was said or done or, or, or seen. Let me say this, you can apply as a jury, any test that you and your everyday experiences have determined to lead you to the truth to a witness' testimony. You can believe one witness over many witnesses, many witnesses over one, you can believe all of what a witness says, or nothing of what a witness says or you can believe any portion of what a witness says in your search for the truth. It is vitally important that you realize and keep in mind that you will determine what the facts are in this case, but in doing so, you must consider all the evidence that has been presented to you.

Now, in just a moment, we're going to start the trial of the case and I want to tell you a little bit about how it will proceed. I'm going to give each, each attorney an opportunity to make an opening remark to you. It will begun -- begin with Mr. Stevens or Ms. Stevens-Graziani, and he will tell you or she will tell you about their client's position in this trial.

Basically, they will tell you what they think they can show, what they believe they can show and why they believe that relief should be granted to them. Please remember that what they say during opening remarks is not evidence in the case. You should not consider it as evidence. The only evidence you consider is the evidence that comes from the witness stand. Following that, Mr. Bender or Mr. Redmond will have an opportunity to present the defense position. After these arguments or opening remarks, you will have a better idea of what this case is about. I purposely tried to give you just the, a minimal amount of knowledge about this case, just enough so that you could identify it if you knew something about it. They will tell you what their position is in the case. Again, what they say is not evidence in the case. It's merely a road map for you, something that will help you understand where they're trying to go as the testimony develops.

Following that, the Plaintiff, Mr. Stevens, will produce Plaintiff's witnesses. He will put up witnesses and he will have an opportunity to examine those witnesses, to ask them questions. Then the Defense will have an opportunity to cross examine those same witnesses and we will go through the Plaintiff's case. Following that, we will begin the Defense and the Defendants will have an opportunity to put up witnesses and examine those witnesses and Mr. Smith and -- I

mean, Mr. Stevens or Ms. Stevens-Graziani will have an opportunity to cross examine those witnesses. When all that is done, when all the evidence has been presented to you, they will have another opportunity to sum up, to do what we call arguments, last arguments, and they will tell you about what the witnesses have said or what they believe the witnesses have said and why it supports their case and why they should prevail, whether it be the Defense or the Plaintiff's. And then, finally, I will instruct you on the law and I do something that I really don't know if any other judge in the State is doing or not. I've been doing it for about seven years now and that is I will prepare for you a, a written transcript of my charge to you. I will charge on the law and I will also provide you with a written transcript of that for your use during the deliberations process. After that's done, the case will be turned over to you and you will decide how this case will be resolved.

Let me point out one other thing to you. During the trial of this case, you may hear either one of these attorneys say something like, Your Honor, we have a motion or Your Honor, I have a matter to take up outside of the presence of the Jury and that always concerns me because I think the jurors get the impression that we're trying to keep something from you and that's certainly not the case. It's not proper for me to express any opinion about any evidence in this case.

That's beyond my authority. You are the sole judges of the facts and the evidence in the case. And usually when that happens, someone has asked to speak to the Court outside the presence of the Jury, it involves the way evidence may be presented to you. We spoke a moment ago about the rules that control the way evidence is presented and ruling on the way a piece of evidence may be presented or whether it should be presented, I may have to express an opinion about the weight or value of that particular piece of the evidence and that would be highly improper for you to hear. So it's usually my ramblings that they don't want you to hear, not the evidence. So, please, draw nothing, draw no conclusions from, from that. If an attorney objects or an attorney says that he needs to speak to me outside the presence of the Jury, you should draw no conclusions at all from that and I ask you not to.

Mr. Stevens, are you ready to make an opening remark?

MR. STEVENS: Yes, Your Honor.

THE COURT: All right. Thank you.

Anything further, Mr. Bender or Mr. Stevens, in the way of preliminary instruction?

MR. BENDER: We do have two minor issues with respect to witnesses. I think we can do it at a sidebar.

THE COURT: I tell you what. Why don't, why don't we give you a short break. Show them where their jury room is, familiarize them with that, Mr. Ropp. Bring them back in

I look forward to trying this case because I think this is important in terms of how a newspaper serves the public by reporting on matters that affect our governments, affect our society and affect our lives. Thank you.

THE COURT: Counsel?

MR. STEVENS: We call our first witness, Mark Kelley.

CLERK: Please raise your right hand and place your left hand on the Bible?

MARK KELLEY HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Take a seat please, sir. State your name for the Court please, sir.

MR. KELLEY: Mark Kelley.

DIRECT EXAMINATION OF MARK KELLEY BY MR. STEVENS:

Q: Would you state your full name please, sir?

A: Mark Steven Kelley.

Q: Okay. And where do you live?

A: , Conway, South Carolina.

Q: All right. And what's your occupation now?

A: My occupation is a lobbyist and I also do some real estate.

Q: And you're the Plaintiff in this case?

A: That is correct.

Q: How old are you and what's your date of birth?

A: I am fifty-nine years old born on September

Q: And are you married?
A: I am.
Q: What's your wife's name?
A: My wife's name is Lisa.
Q: Okay. Any children?
A: We have four children.
Q: How old are they?
A: My oldest, Christopher is thirty-four. Nicholas is twenty-five; my daughter, Lisa is twenty-three and my son, Shawn is twenty.
Q: Have all of them left the nest?
A: No.
Q: Okay.
A: In fact two of them are still there and one's coming back from college so we'll have three of them in the nest.
Q: Okay.
A: I would like to just clarify that my three oldest children are Lisa's by a previous marriage; they're certainly my children now.
Q: Okay. And what's your educational background?
A: I have one year of college at Coastal Carolina University and after I served time in the General Assembly was awarded an honorary doctorate's degree from Coastal Carolina; that's the extent.
Q: Okay. Have you served in the military?

A: I have. I spent four years in the Air Force, two tours in Southeast Asia, was awarded the Vietnam conflict ribbon there and served in the Panama Canal Zone. Basically, went TDY for about thirteen times in four years. They kept me on the road, kept me moving.

Q: You were in Vietnam?

A: Yes, sir, twice.

Q: Two tours?

A: Yes, sir. Part of it in Vietnam, part of it in Thailand; yes, sir.

Q: Were you discharged from the Army?

A: I was honorably discharged.

Q: Can you tell the Jury a little bit about your employment background?

A: I've been a pretty busy guy since -- I will start probably just since the military, but ---

Q: Could you speak up just a little bit?

A: I'm sorry.

Q: You can sit back a little bit I think.

A: Yeah. Since the military when I got out I did some work in remodeling work and carpet and vinyl installation, moved into bartending business working in, in bars and nightclubs. Eventually in 1981 opened up my first restaurant in North Myrtle Beach called Kelley's. Ended up running and owning four different locations through the years; my last one being

Shamrocks in Myrtle Beach. Also after I served in the General Assembly, I got out, I got my Real Estate License and my broker's license and practiced some real estate work.

Q: And when did you become a lobbyist?

A: I became a lobbyist a year after I got out of the General Assembly. By law, by ethics laws, we are not allowed to be a lobbyist for one year after you serve your last year in the General Assembly. So I joined a firm, but I didn't file as a lobbyist until 2003.

Q: Mr. Kelley, you ever been arrested?

A: I have not.

Q: Have you ever brought a lawsuit in your life?

A: I have not.

Q: This is the first time?

A: Yes, sir.

Q: What, when were you elected to the House of Representatives?

A: In 2000, I'm sorry, in 1992.

Q: Okay. How long did you serve?

A: I served ten years.

Q: Until 2002?

A: Yes, sir.

Q: And what committees did you serve on when you were in the House?

A: I started on an Education Committee. My second term in

the General Assembly, I stayed on the Education Committee, but was elected, proudly elected, to the Ethics Committee as Secretary to the Ethics Committee in the House, which that's voted on by all the members of the House, they vote on the Ethics Committee, so being one of the members there selected by your colleagues is quite an honor. After that, I served -- after two terms, I served -- then moved to Ways and Means Committee, which I was sub-committee Chairman on the Executive Budget Sub-Committee; also was on Rules Committee for six years, the last two years of that as Chairman of Rules Committee.

Q: Were you, did you say you were Chairman of the Ethics Committee, too?

A: I was, I'm sorry, I was not Chairman; I was Secretary on the Ethics Committee.

Q: Secretary, okay.

A: Chairman of Rules Committee.

Q: Well, did you retire from the legislature by your own decision or did the voters retire you?

A: No, fortunately my voters didn't retire me. I retired after ten years.

Q: Okay. What was your reasons for leaving the legislature as a representative?

A: I think part of it was to get back to my family, spend more time, have more time with my family. The longer I served

in the General Assembly, the more I was involved with doing the budget and that seemed from what they told me was a part-time job from January to June became a full-time job around the calendar meeting with sub-committees and agencies and then to, to establish the budget and was taking an awful lot of time from my wife and my children. So I wanted to do that. The other reason was basically to get out of the public eye. I had been in it for ten years, you know, I used to tell people that we weighed our mail, we didn't count it, because of all the mail we got and the responses you have to do that, the functions you have to go to and the constant time that you have to speak on different issues, both locally and, and, and in Columbia. So, I decided after ten years -- four years in the military, ten years in General Assembly that I had given enough service and I was gonna step back a little bit.

Q: When was it you decided to become a lobbyist?

A: I looked at it shortly before I got out.

Q: And with regards to becoming a lobbyist, in carrying out your duties as a lobbyist, is it required that you call press conferences and get in the public life?

A: Oh absolutely not. That would probably be one of the worse things you do as a lobbyist. You know but certainly the public perception is, is not a benefit to a lobbyist, but being thrust out in the public is not a benefit to a lobbyist, being working behind the scenes. I view a lobbyist as a

conduit between the clients and the General Assembly to educate one side and the other side as to the issues and concerns that both sides have and that's probably the major focus that we do as a lobbyist and that is best done by keeping your head behind the scenes letting the politicians speak for themselves and talk for themselves and letting our clients use their professional staff to talk to them.

Q: Have any of your clients informed you they did not want you to be in the public?

A: Yes, one in particular that I can bring up is Coastal Carolina University and President DeCenzo, I work directly for has said that they have a, a group of people at Coastal Carolina that do their public speaking for them, that I was -- and I would let my clients know that one of my things I would not do is do public speaking.

Q: Let me ask you if you can remember your customers, your clients in 2009?

A: I can tell you that some of that you heard up here, Coastal Carolina University, Horry County Schools, Grand Strand Business Alliance here; in 2009, it would've been Alltel, Progress Energy, Waste Management, and, and 2009 I'm not sure if Greenville Hospital System was on there, GlaxoSmithKline are some of the clients that I had.

Q: Do you know how many you had in 2009 and the beginning of 2010?

A: In 2009, I had twelve clients and that's just not me, that's, that's Kelley, McCain and Smith Owens, which is the firm that, that I'm a partner in.
Q: What's the name of it again?
A: The name of it is Kelley, McCain and Smith Owens. Smith Owens is Angela Smith Owens. It's two names, no hyphen.
Q: Okay.
A: As she says.
Q: And the, the middle?
A: That was Will McCain, who at one time was Governor Beasley's Chief of Staff.
Q: And do all three of you engage in lobbyist activities?
A: Unfortunately, we did until October of last year when Will McCain passed away with melanoma.
Q: All right. So, they're just two of you now?
A: That's correct.
Q: Do you have, did you gain any clients between January the 1st of 2010 up to the point in time when Mr. Wren started reading, writing his articles?
A: In 2009, I had -- we had McCain and myself, we had twelve clients that I was registered to lobby for. In 2010, we had thirteen clients that I was registered to lobby for.
Q: Okay.
A: Now, we have ten clients that I'm registered to lobby for. So we have lost clients.

Q: You had thirteen then and you have ten now?
A: Yes, in 2010. And clients basically come on one-year contracts. Usually the contracts will start sometime in November, December of January of the year and they run one year and that's to get ready for the General Assembly, which comes in in January. Their session is January through June, or the first part of June, and so we just try to get clients, you know, to sign up in November so that we can work with them preparing for the General Assembly when it comes in and then dealing with them through the year and then wrapping up. So, yeah, they're basically on a yearly contract. These articles coming out in May, those contracts in 2010 would've held until the end of 2010.
Q: Now, Mr. Wren reported in I don't know how many articles that you were the Chamber, bracket, his words, lobbyist. Tell the Jury whether you're the Chamber lobbyist?
A: I will glad to tell you that I am not the Chamber lobbyist. I have never been a lobbyist for the Chamber. I have never had a contract to be a lobbyist for the Chamber of Commerce, the Myrtle Beach Area Chamber of Commerce, ever.
Q: You are a lobbyist for the Greater ---
A: Grand Strand Business Alliance, which was at one time when I first started with them, they were the Grand Strand Business Association; they're now called the Grand Strand Business Alliance.

Q: Does Mr. Wren know that?
A: I don't know if Mr. Wren knew it, but it certainly was easy enough to find out.
Q: Tell the Jury how easy it is to find out for an investigative reporter?
A: Very -- and you know for an investigative reporter or anybody and many people do do it. You go to South Carolina Ethics Commission online and it directs you to tell you lobbyist or lobbyist's principals and you can look up lobbyist, you can look up the lobbyist principal. You can see who the principal has lobbying for them or who the lobbyist lobbies for as principals. And for those who might not know, the lobbyist is actually the person that goes back and forth; the lobbyist principal is the, the agency or company that hired you to do the work.
Q: When this case started, did The Sun News want to get subpoenas for all your records?
A: They did.
Q: They subpoena all your records for the Horry County School District?
A: Well, I know they subpoenaed all my Horry County School District, Coastal Carolina, and many of my other clients.
Q: We got about 1500, 1600 pages of your documents at the school district, right?
A: Horry County School District gave them what they asked

for, I guess.
Q: Did you object to any of it?
A: No, sir.
Q: So, if you were a lobbyist for the Chamber of Commerce, you would have to register with the Ethics Commission?
A: I'd have to register with the Ethics Commission as a lobbyist for the Myrtle Beach Area Chamber of Commerce. They would have to register as a lobbyist's principal.
Q: So it's a two, two-way street?
A: That's correct.
Q: The principal has to register and you have to register?
A: That is correct.
Q: And that's a matter of public record?
A: Absolutely.
Q: Would it be easy today for anyone sitting there with The Sun News to do is go online, if they've got any knowledge of computers, and get that information?
A: It certainly would. And that's, you know, one -- when we passed the Ethics Laws that was one of the big things that we talked about was that transparency, that people knew who the lobbyist were, who the lobbyist's principals were so they knew who was working for whom.
Q: Now let's change courses here and let's talk about the 2000 -- excuse me -- was it Jan, June, I may have my dates wrong. It was in June of 2009?

A: The luncheon?
Q: The luncheon?
A: Yes, sir.
Q: Do you remember what the date was?
A: I don't exactly. I want to say it was like June 10th, something like that.
Q: Do you remember the day of the week?
A: I certainly remember the day of the week; it was a Saturday.
Q: Okay. Tell the Jury how you found out about the meeting?
A: I got a phone call.
Q: From whom?
A: I got -- my phone call was from my friend who is the CEO of the Myrtle Beach Area Chamber of Commerce, there's no secret about that. Brad Dean called me and told me. I had known for a long time that Brad -- Gresham Barrett. Gresham and I served in the South Carolina House together. So, Gresham and I have been friends since he came into South Carolina. He then moved on to Congress where he served in Congress before he made his run for, for Governor in South Carolina. So, he told me that a friend of mine was coming into town, would I like to join them for lunch and I said sure. I hadn't seen Gresham in a while; it would be great to catch up.
Q: Okay. At that time, did you know anything about the

subject of David Wren's deposition, excuse me, his investigation or ---

A: No, sir.

Q: --- what was going on behind the scenes?

A: No, sir. No offense, but I never paid a whole lot of attention to what they were doing in The Sun News.

Q: Okay. Did, did you go to the -- did you accept the invitation?

A: I sure did.

Q: All right. Did you know what the meeting was about other than sitting down and eat lunch?

A: No, I had no idea.

Q: Did you know that Brad Dean had campaign contributions or that he was going to give campaign contributions before he went to the luncheon?

A: I did not, but it really wouldn't have mattered.

Q: Okay. You would have gone anyway?

A: I certainly would.

Q: All right.

A: Maybe I need, Mr. Stevens, just let you know and let them know, in Columbia, we go to a lot of functions usually after a day of session or something they'll be fund raisers going on for different members of the House and the Senate and that. In South Carolina, it is not against the law for a lobbyist to go to these functions. It is against the law for a lobbyist

to facilitate in handing, collecting, distributing funds or anything of value to a member. We go to those. We can -- in fact, we even get notices for informational purposes. We can take those notices and we can pass them on to our clients to let them know for informational purposes as long as we're not in the, basically the trail of the funding as far as collecting and distributing the funding to candidates. So, yes, I would have went to the luncheon.

Q: Did you know that Brad Dean was gonna hand him, Gresham Barrett, any campaign donations?

A: I did not.

Q: Okay. Did you know where the campaign donations came from?

A: I did not, still don't.

Q: Okay. Did you have anything to do with this investigation that Mr. Wren was reporting?

A: No, nor would I.

Q: Is there anything, do you know anything about these LLCs that, that Jay Bender's talking about?

A: The only thing that I know about them is because of my name being mentioned in the paper, reading the articles and knowing what they said about them, but other than that, I know nothing else about these LLCs.

Q: Okay. You didn't have anything to do with any of these people that ran the LLCs?

A: No, sir.
Q: All right. This is just part of what they have written and reported?
A: That's my understanding.
Q: Do you know why he drug you into this thing?
A: I haven't the faintest idea, no.
Q: Did you, did you -- when you found out Mr. Barrett, Gresham Barrett, was gonna be there, did you call him or did you just go and meet him?
A: You know, I think I might've mentioned to him or we might have had a text the day before said see you at lunch and looking forward to it.
Q: Then let's see, it was you, Gresham Barrett and Brad Dean; was anybody else there?
A: Drea Byars was there, who was the Finance Director for Gresham Garrett or Gresham Barrett.
Q: Did you know Drea Byars before you got there?
A: I have. I've known Drea for a while because she, she works with campaigns and she lives in the Columbia area.
Q: Okay. She works with campaigns?
A: That's correct, sir.
Q: More than one?
A: Yes, sir.
Q: Okay. All right. Now tell the Jury where you were sitting, where was everybody sitting?

A: We were at a table, just a regular open table, not in a booth or anything, but at an open table and Brad Dean was on my left side, I would be in the middle, Gresham Barrett would be on my right and Drea Byars would be between Gresham and Brad Dean.

Q: On the other side of the table?

A: On the other side.

Q: Okay. Now you're between Gresham Barrett and Brad Dean. Did you have anything to do -- did he had you an envelope and get you to hand it to Gresham Barrett?

A: No, that's one thing I think we're all very clear that we wouldn't -- I certainly wouldn't do it to hurt my career and certainly wouldn't do it to hurt the career of somebody that I truly thought would be the Governor for the State of South Carolina. Why would I jeopardize that?

Q: Now, can you tell the Jury where the funds were? Did you see any funds? Did you see what was there?

A: I did not. I seen an envelope.

Q: Just an envelope?

A: Yes, sir.

Q: Okay. Did -- and you did not touch the envelope?

A: No, sir.

Q: Did you know the envelope contained contributions?

A: I had a pretty good assumption that it contained contributions, sir, sure.

Q: After the contributions were given to Mr. Barrett, what did he do with them?
A: Mr. Dean handed the envelope to Mr. Barrett, he looked at it, thanked Mr. Dean and handed the envelope to Drea Byars, who put it in her purse.
Q: You didn't look in the envelope, did you?
A: No, I didn't look in the envelope. I would've had to touch the envelope to look in the envelope. I kinda -- well, that's a story for another day, but no, I did not look in the envelope. I did not touch the envelope.
Q: How long did the luncheon last?
A: About an hour, an hour and a half, someplace in there.
Q: Okay. What did y'all talk about?
A: Well, the campaign donations were given to Congressman Barrett right at first and then we talked. We sat down and talked about families, about, you know, Mr. Dean and his family and his children and Mr. Barrett and his family, his children, my family and that and just kinda caught up as friends and Drea was in the, in the conversation. They talked about different campaigns and stuff going on and that, but it was just general conversation.
Q: What did you do -- you said an hour and a half, what did you do when you finished after that hour and a half?
A: I went home.
Q: Okay. And you left Mr. Barrett?

A: Yes, sir.
Q: You left Brad Dean?
A: Yes, sir.
Q: Left Drea Byars?
A: Yes.
Q: Did you have anything to do after that day with the campaign -- they'd talked about these LLCs and what they claim was money shoveled up under this LLC and back out through the Chamber of Commerce?
A: I never had anything to do with it before, during or after.
Q: All right. And on all of these articles, David Wren always puts your name in brackets, Chamber lobbyist?
A: I don't know if he did it on all of them, but I know I seen it on some.
Q: Okay. And do you know why he did that?
A: I guess we're gonna hear from Mr. Wren why he did that.
Q: Yeah.
A: I don't know.
Q: Okay. Now, did anyone other than the four people come to the table that day?
A: Yes, I have to admit somebody else did; a waitress.
Q: Who?
A: The waitress.
Q: Okay. The waitress, okay. Anybody else?

A: Not to my knowledge.
Q: Okay. Now, it has -- as a legislator who handled the passing of the Ethics Bill, were you familiar with it?
A: Oh, certainly.
Q: All right.
A: Don't ask me to quote it because I forget how many, eighty pages, ninety pages.
Q: We'll try to narrow it down. Okay. Your Honor, we could have the screen come down so we can -- now, we have a -- sections of the Ethics Bill here. I believe that's Section 2-17-80(a) that deal with the acts prohibited by public officials and lobbyists?
A: Right, that's the Code of Law now after, of course after a bill is passed, it becomes part of the Code of Law.
Q: Okay. And you're familiar with what the legislative history was behind the passing of the act?
A: Yeah, I think anybody that was around back then probably remembers Operation Lost Trust that brought this act about.
Q: Okay. And it says the lobbyist or the person acting on behalf of lobbyist -- keep going -- shall not offer, solicit, facilitate, provide to or on behalf of any member of the General Assembly, the Governor, Lieutenant Governor or any other statewide constitutional officer, any public official of any state agency who engaged in and covered agency actions or any of their employees contributions as defined in that

section.
A: That is correct.
Q: All right. Now, a public official is defined as any elected or appointed official of the State?
A: Except for -- I think we'll get to some -- including candidates, certainly including candidates for those statewide offices.
Q: All right. Now, when this lawsuit was first brought, did The Sun News and Mr. Wren claim that Gresham Barrett wasn't, wasn't a public official within that definition?
A: My recollection of that was Mr. Bender saying he didn't know how the law was violated because Gresham Barrett wasn't a statewide officer. Therefore, basically, I could've gave him all the campaigns I wanted to and it wouldn't have been illegal. Evidently, Mr. Bender, didn't read far enough down through the law to find out the section that deals with the candidate.
Q: Okay. I'll back up and show what the candidate is. Candidate means a person who seeks nomination for election, for election to a state or local office or authorizes or knowingly prevents the complexion of disbursements of money for the promotion of his candidacy or election. Back up, Natalie, to the one before that if you would. We've got another that deals with, public official includes candidates as I understand it?

A: Public official includes candidate by that section of the code.

Q: And candidates would include candidates for the office of Governor?

A: Yes.

Q: Even if they're in the Congress?

A: Yes, because it wouldn't make much sense to be able to freely give to somebody that wasn't a statewide office holder, yet restricting the statewide officer holder, office holder, from receiving campaign contributions.

Q: Okay. All right. So we know what contribution means, money, that's what they've been talking about in the articles. We know what candidate means. Go ahead. Now the penalties for violation of this chapter, do you remember when you passed that?

A: I do.

Q: All right. Go ahead. A lobbyist or lobbyist's principal who willfully violates the provisions of this chapter is guilty of a misdemeanor and upon conviction must be fined not more than $2,500 or imprisoned for not more than one year, or both. The penalty, in addition, any lobbyist or any lobbyist's principal convicted of or pleading guilty or nolo contendere to a misdemeanor under the provisions of this section is barred from acting as a lobbyist or a lobbyist principal for a period of three years from the date of

conviction. What does that do to a lobbyist?
A: Well, we purposely put that -- and you got to remember when did this, I was in the House of Representatives, so I really wasn't thinking it from the side of the lobbyist, but I was thinking about from the side of, of how do we clean up this State and how do we make the image of this State better after Operation Lost Trust. And we said that, you know, fining a lobbyist or, or, you know, threat of possibly a year in prison as a misdemeanor didn't have quite enough teeth. But we knew that barring a lobbyist from being able to lobby for three years virtually ruins a lobbyist. They would be done.
Q: Okay. Is this, is this a serious thing for a lobbyist to be accused of this?
A: Unless you're ready for a big career change, I think it's very serious.
Q: Okay. All right. Can you collect campaign donations for a candidate as a lobbyist?
A: No, sir.
Q: Can you supervise bringing in campaign donations for a candidate?
A: No, sir.
Q: Can you facilitate obtaining campaign donations for a candidate?
A: No, sir.

Q: Can you facilitate setting up a meeting to give campaign donations to a candidate?
A: No, sir.
Q: Can you handle campaign donations for a candidate?
A: I cannot.
Q: Can you handle the envelope containing campaign donations for a candidate?
A: I cannot.
Q: Now, let's go to the articles. Your Honor, we move to introduce Exhibits One through Nine at this time, which are the articles and the editorials?
THE COURT: Mr. Bender?
MR. BENDER: No objection as to One through Nine, Your Honor.
THE COURT: All right. One through Nine are admitted without objection and are so numbered. Do you have them numbered, Ms. Richardson?
COURT REPORTER: I think Mr. Stevens numbered them.
MR. STEVENS: Yeah, I numbered them for you.
THE COURT: Let -- let's -- if we introduce them, let's get them numbered properly before they get out of Ms. Richardson's hands. There's no telling what you lawyers may do with them.
MR. STEVENS: I had yellow stickies on all but two.
THE COURT: Let's, let's get Ms. Richardson the stickers

so she'll know what her exhibits are. Let's just get Kay's initials on one set or the other so she'll know which are hers.

MR. STEVENS: Okay. We've got extra sets. We'll just let her keep them, One through Nine.

THE COURT: Just as long as we keep them straight. Since we do have the extra sets floating around, let's try to keep up with which ones have been introduced. Certainly, I would appreciate a copy. Thank you very much.

PLAINTIFF'S EXHIBITS ONE THROUGH NINE

ADMITTED INTO EVIDENCE

THE COURT: Okay. Mr. Stevens, you may proceed.

BY MR. STEVENS:

Q: I have exhibits for you, Mr. Kelley. What I want you to do is, Can you identify Exhibit Number One?

A: Exhibit Number One is the article that was written on Friday, I think it was May 21st.

Q: I believe that's correct.

A: Of 2010.

Q: You can put that one up. I've already done that. One through Nine is in evidence. Okay. That news, news article has a portion -- and it talks about Dean handing over an envelope with $84,000. Now, the story here is about what?

A: The story here is, you know, is about Brad Dean handing over $84,000 to Gresham Barrett, a candidate for Governor.

Q: Okay. Now, does he mention Mark Kelley in here?
A: Yes, he does.
Q: He said, Mark Kelley a lobbyist for the Chamber?
A: For the Chamber of Commerce also attended the meeting according to Barrett.
Q: According to Barrett. Okay. Now, that first clause, is there anything false about that?
A: To which -- the first, Mark Kelley, a lobbyist for the Chamber of Commerce?
Q: Yes.
A: Yes, I've never been a lobbyist for the Chamber of Commerce.
Q: And it goes on and it says, There are strict rules that prevent lobbyist from facilitating campaign donations for statewide candidates. Do you know what was important about the story other than you were a lobbyist?
A: I was kinda glad that they put that in there since they mentioned me even though they got it wrong that I didn't lobby for the Chamber; but I was kinda glad that it said, you know, that it said what a lobbyist can't do.
Q: Okay. And it says, However, a spokesman for the South Carolina Ethics, Ethics Commission says it does not appear any laws were violated in this case?
A: That's correct.
Q: All right. Cathy Hazelwood as I understand it?

A: That's correct.
Q: And it says just being in the same room is not a violation, it happens all the time said Cathy Hazelwood, the Commission's General Counsel. He, bracket, Kelley, is not supposed to touch the envelope or hand over the envelope. Do you know why David Wren would be calling the Ethics attorney and asking them what about you -- about you doing that stuff for?
A: No, I wondered that.
Q: Did he call you up and ask you if you had anything to do with LLCs?
A: No, he did not. I mean, he claimed and it could've happened that he made a phone call to me, but if you can remember, this article was almost a year after the luncheon. If he'd made a phone call to me, the call would have just said possibly, I'm David Wren and have run an article or running a story can you call me. I have not known him to ask to lay out what he's gonna ask when he leaves a phone message and I don't return his phone calls.
Q: Why don't you?
A: Because in the past, he's never quite got it right. He takes it out of context. He uses snippets. He does that part and doesn't, doesn't portray the whole story; so, I just quit talking to him.
Q: Did you tell him that?

A: Huh?
Q: Did you tell him?
A: I told him, I told him that in a previous, a previous time that don't call me because I won't return your phone call and I won't talk to you.
Q: Because of your past experience with him?
A: That's correct.
Q: Okay. Now did -- is there anything about that article -- are you telling the Jury anything about that first article that's defamatory or libelous to you?
A: Not defamatory or libelous. The only thing that, that I would say in that story that's incorrect is where he claims that I'm a lobbyist for the Chamber.
Q: Okay. Now what he's investigating as I understand all this investigative reporting he's doing, was trying to follow the trail of campaign contributions through LLCs you had nothing to do with?
A: I had nothing to do with them.
Q: Okay. Do, do you know anybody in the LLCs?
A: I do not.
Q: Do you know what the names of the LLCs are?
A: I do not. And let me retract that because I understand there was many LLCs. For me to hear and just say a blanket statement that I don't know anybody in the LLCs, I don't know of anybody -- I couldn't tell you who owned what LLC or was

part of any LLC, but if you went through the whole list of LLCs and put all the names of the people that were in those LLCs, I might know them.

Q: That's what I'm saying, you, you, from sitting here today, you don't know the names of the LLCs?

A: No, sir.

Q: You don't know the principals in the LLCs?

A: No, sir.

Q: You don't know what they did with their money if they had any?

A: No.

Q: You didn't have anything to do with it?

A: No, sir.

Q: Now, that was on a Friday. Now, on Sunday did you get their article?

A: I did.

Q: Did that upset you?

A: It did.

Q: All right. It says, Bad debt adds to donor misery. Are you a donor?

A: No, sir.

Q: Now, it's a pretty big article here. What in this article relates to you?

A: There's a paragraph in this article or sentence, long sentence in this article that, that says, Dean along with

Chamber lobbyist, Mark Kelley, delivered about $84,000 of these campaign contributions to Barrett in June. Those contributions included $3500 cashier check from Green City Partners.

Q: All right. What is false about that statement?

A: Well, first of all, I take you back to the Chamber lobbyist again. I'm not the Chamber lobbyist. And Brad Dean along with Chamber lobbyist, Mark Kelley, delivered about $84,000, so that tells me two people delivered that $84,000, me being one of them, and that would be illegal.

Q: Well, you heard the day that Wren testified in his deposition, didn't you?

A: I did.

Q: Tell the Jury what he says is what he meant?

A: Well, it's funny in his deposition, but he never made it clear in his articles. In his deposition, he said that along with just meant I was there. So Brad Dean, Mark Kelley, just being there, delivered is what he's trying to say that says. I can't read it any other way than Brad Dean and Mark Kelley delivered $84,000 of these contributions to Gresham Barrett.

Q: Do you remember what he said when I asked him or I think he volunteered it, that if had meant that, to accuse you, what would he have used?

A: Yes. He said I would have put and.

Q: Brad Dean and Chamber lobbyist, Mark Kelley. All right.

Did you look up the word and in the dictionary?

A: I did.

Q: And what did ---

A: And more than one dictionary.

Q: Okay. What does it say?

A: Well, one of the first things any dictionary almost -- well the dictionary's I've looked in, let's put it that way -- the first thing is it's a conjunction and the first thing it says as a definition of it is along with.

Q: Along with.

A: Or together with.

Q: Did you look it up in Thesaurus?

A: I did.

Q: And what does it say?

A: The first thing Thesaurus says along with.

Q: And?

A: And.

Q: Does it say together with, also?

A: It does but it says along with, I think, first.

Q: Okay. Remember when I asked Mr. Wren in his deposition what -- don't you think it would be a little bit more clear if you said Brad Dean handed the campaign donations to Gresham Barrett, period; Mark Kelley was just sitting there at the table? Remember when I asked him that?

A: Yes, I certainly do.

Q: What did he say?
A: No.
Q: He said it wasn't clearer?
A: It wasn't clearer.
Q: So, you're telling the Jury that they, they accused you of a crime?
A: I can't read it any other way.
Q: Now, I believe that Exhibit Three and Exhibit Four is essentially the same article. Exhibit Three is the one they pasted online or posted online, excuse me. And this was posted on 5/24 the day before the newspaper article came out on 5/25; is that correct?
A: That's what it looks like to me.
Q: Okay. The, the, now this is the one dealing with BOOST, right?
A: Yes, sir.
Q: Okay. Now, when he said Kelley, we got -- that Robert Kelley?
A: Yes, to my knowledge, there was a gentleman named Robert Kelley that was supposedly the head of this, this organization that was called BOOST.
Q: Do you know Robert Kelley?
A: I do not.
Q: Okay. It says, In the past, the Chamber -- they got it in quotes -- In the past, the Chamber has denied any involvement

in this scandal, but now Brad Dean admits he set up the lunch -- with parenthesis -- Chamber, again, lobbyist, Mark Kelley. Is setting up the lunch with the Chamber lobbyist, Mark Kelley, a crime?

A: Yes, sir, if I were to set up the lunch that would've been helping to facilitate.

Q: Okay.

A: Correct.

Q: And then he goes on further and he says, and he handed Mr. Barrett the envelope full of checks. Do you know who he's talking ---

A: It made me a little nervous since lobbyist Mark Kelley is right before and he handed Mr. Barrett the envelope full of checks.

Q: Okay. And he said, it said, Robert Kelley, who was -- is not related to the lobbyist. Have you ever talked to Robert Kelley?

A: No.

Q: You know if Robert Kelley was in the meeting?

A: He certainly wasn't in the meeting. I don't know where he would've got that information from.

Q: Do you know if this quote is, is correct?

A: I haven't the faintest idea; don't know how he would've got that.

Q: I guess they will hopefully put Mr. Kelley on the ---

A: I hope so.
Q: Okay. Now, do you remember the following Sunday -- did you read the editorial?
A: Yes, sir, I did.
Q: Did that upset you?
A: Yes, sir.
Q: And the editorial is entitled Absence of Evidence, right?
A: Yes, sir, that's what it said.
Q: And they, they're talking about these LLCs again, right?
A: That's correct.
Q: And where the campaign donations were going and what you're telling us, you had nothing to do with it?
A: Absolutely nothing to do with it.
Q: All right. And then they talk about political money laundering 101?
A: They're the wordsmiths.
Q: They're the wordsmiths. They talk about -- other words they use, darkest accusations, and this affair, and this kickback and inexplicably. Then they get to Mark Kelley again, don't they?
A: Yeah.
Q: Now, absence of evidence, as we now know based on David Wren's reporting it was Myrtle Beach Area Chamber of Commerce President Brad Dean who handed, excuse me, the person who handed the $84,000 in checks to Barrett with lobbyist Mark

Kelley sitting by his side. Well, finally they got it right, right?

A: I was glad to see that part.

Q: Yeah. But they didn't stop there; they went further, right?

A: They did.

Q: All right. Now read this to the Jury and tell, tell the Jury what it's saying there?

A: In parenthesis it said, if Kelley handed the money over, the transaction would have been explicitly illegal effectively forcing Barrett to say Kelley had no involvement in pinioning the donations on Dean no matter what the unprovable truth is.

Q: What are they saying?

A: I haven't the faintest idea other than they think that they got a truth that they can't prove that says that I did it.

Q: Now, okay. So, they entitled the article Absence of Evidence and then they say well Brad Dean did give him the campaign donations. They didn't -- wasn't satisfied with that, they had to put that parenthetical phrase in there that said, if he had -- if Kelley had handed the money over, the transaction would have been explicitly illegal effectively forcing Barrett to say Kelley had no involvement in pinioning -- what do they mean by pinioning?

A: Putting it on Mr. Dean; sticking it on Mr. Dean; making

Mr. Dean the guy that to take basically I guess the fall.
Q: Okay.
A: Because they had the unprovable truth.
Q: No matter what the unprovable truth was. In other words, what they're saying is they're liars. We know the truth. We know Mark Kelley did it. Is that what he's saying?
A: That's what he's saying. That's what I interpreted it to say.
Q: Okay. Now, we've got some more articles. Can you tell the jury again, other than going to this luncheon for that one day that was almost a year before, did you have any connection with anything that was going on with his reporting or the source of his reporting or the subject to his reporting?
A: No, I wasn't a member of the Chamber; I don't do lobbying work for the Chamber; I didn't have anything to do with the Chamber; I didn't have anything to do with the LLCs; I didn't have anything to do with cashier's checks. In fact, if I would've known that there was cashier's checks, I might have said something to somebody because I would have told them that that looked kind of funny and you might -- you shouldn't have done that, but I had no idea and had no knowledge of it until I seen it in the paper.
Q: Okay. You didn't facilitate that or you didn't organize it and you didn't ---
A: No, sir.

Q: Okay. Now, they continue on in another online July the 15th and July the 15th, one online and one in the newspaper, and they continue to talk about Mark Kelley, the Chamber's lobbyist also attended the meeting. Did David Wren report anything other than you going to this one particular meeting?
A: Before that we had the luncheon, you know, he ran three articles and an editorial in May.
Q: Uh-huh (affirmative response).
A: And here we come in July again and he brings me back into this picture.
Q: Okay. And then here again on Exhibit Number Eight, now it says something about FBI probes. Have you heard anything about any indictments or anything about a probe by the FBI?
A: The only thing I had heard at that time was the FBI might have been looking into something and I think I see that in the paper.
Q: That would have been in 2010?
A: That would have been in 2010.
Q: All right. Has any charge been brought that you know of?
A: No.
Q: Did the FBI call you?
A: No.
Q: Did it have anything to do with all of this?
A: No.
Q: Okay.

A: Now, I do have to tell -- I do want the Jury to know that the IRS did look into our KMSO and ask us for our records and they looked at all that and that was over two years ago and nothings ever come of it.
Q: You voluntarily gave them everything?
A: We voluntarily gave them everything.
Q: All right. Now, we have another one here on August the 8th. I don't know -- read it but, but, but, okay. Email sent to members of Gresham Barrett's Gubernatorial Campaign staff last fall. The emails do not make clear why Barrett's staff thought Kelley would be familiar with contributions. Who was asking?
A: David Wren was asking.
Q: David Wren. Could not figure what the issue would be with the donations. Okay. Try Mark Kelley our Horry expert, Tompkins wrote in the email suggesting that these two could answer questions about the donations. Kelley is a former legislator who is now Chamber lobbyist -- Chamber again.
A: Here we go again.
Q: Okay. How did you feel when you looked at these, these articles?
A: I didn't know why they kept bringing me into this, why -- I understand where Tompkins would say something, check with Mark Kelley our Horry expert. Most of these campaign consultants and people that work on campaigns live in the

Columbia area. I have lived since 1972 in the Horry County area here when I wasn't away on tour. I've lived here that long. I kinda know Horry County; so, they kind of lean on me when it comes to Horry County, Horry County issues, the feel of Horry County, stuff like that. So, I understand why they would say check with Horry County's expert, but nobody ever checked with me. And if they would have checked with me, the only thing that I could have told them is I have no idea what they're talking about.

Q: Okay. And he says your -- Barrett's one of your political allies?

A: Well, that's glad -- I'm glad to know that because I was just a lowly House Member in South Carolina and Gresham Barrett went on to be a Congressman. He went on as a run for Governor and now he's all of a sudden my political ally. That was interesting.

Q: Now, Exhibit Nine is the article that was written that's been in -- Dean had repeatedly said the Chamber did not raise money for political candidates. Were you a part of any of this debate?

A: No.

Q: Other than going to that luncheon, that's all you did, nothing else?

A: As far as this whole issue goes, that was it.

Q: Okay. I go to November. Now the campaign faced

foreclosures and they're talking about money laundering and -- let's see, money laundering and tax fraud, criminal conspiracy, all that. And then he starts Barrett accepted the money last year during a luncheon with Chamber President Brad Dean and Mark Kelley, the Chamber's lobbyist, again.

A: In November.

Q: In November. Has Mr. Wren stopped writing about you?

A: He stopped writing about me about the time that you served them with the lawsuit.

Q: Okay. Now, excuse me, Your Honor. When you looked up the word, along with, is this what you found?

A: Yeah, I looked up the word and.

Q: Oh, and.

A: Because Mr. Wren said that the word that he would have used if he wanted to say that I was handing campaign donations would have been the word and. So, it just didn't make any sense to me because I know he's used along with in some articles that he's had long before this that we've found that meant somebody got indicted with somebody else but it said along with so I looked up and, and it was funny that in the dictionary and is a conjunction and one of the ways to explain it is along or together with.

Q: Now, the first sheet you got there, where did you get that from?

A: Dictionary.com.

Q: Okay. Is that a free dictionary?
A: It is.
Q: All right. What is the next one?
A: English -- World English Dictionary.
Q: And what does it say about and?
A: It's a conjunction. The first thing it says about it on line number one there, along with.
Q: Okay. What's the next one?
A: Collins English Dictionary.
Q: What does it say?
A: It says the number one thing is along with.
Q: Along with. And then you got what?
A: And then the Thesaurus.com.
Q: That's a synonym?
A: That's a synonym.
Q: What's a synonym?
A: A synonym is -- can be used in place of another word.
Q: Okay. What's the first thing it says on synonyms for and?
A: A synonym for and, the first thing is along with.
MR. STEVENS: Okay. We'd move to introduce this, Your Honor.
MR. BENDER: No objection, Your Honor.
THE COURT: Without objection and that will be Plaintiff's ---
COURT REPORTER: Ten.

PLAINTIFF'S EXHIBIT NUMBER TEN

ADMITTED INTO EVIDENCE

MR. STEVENS: May I hand it to the Jury?

THE COURT: You may publish. Mr. Stevens, are we to the point we can bring the lights up. I don't think it does much good to publish it to them in the dark?

MR. STEVENS: Yeah, I think we're through, Judge.

THE COURT: I thought you had seen it, Mr. ---

MR. STEVENS: Excuse me, just one minute.

MR. BENDER: I had took the witnesses word for what he testified.

THE COURT: All right.

MR. BENDER: I'd just like to see a copy of it.

THE COURT: All right.

BY MR. STEVENS:

Q: Now, during the pendency of this trial, did you serve requests for production of documents on Mr. Wren?

A: We did.

Q: And did -- one of the things you asked for was his emails?

A: All of his emails that had in any way related to this case.

Q: All right. And did he produce some of those emails?

A: He produced some. There's gaps, but we have some.

Q: There are gaps?

A: Yes, sir.

Q: Okay. I want to direct your attention first of all to ---
(REPORTER'S NOTE: Mr. Stevens confers with Court Reporter regarding exhibit numbers.)
THE COURT: Bobby, let's take them out for a few minutes, please and let them refresh themselves until we decide what we're gonna do.
(REPORTER'S NOTE: Jury exits courtroom. 4:58 P.M. The following takes place outside the presence of the Jury.)
BY THE COURT:
THE COURT: Let's find out where we are now. You said something about legislators coming in today?
MR. STEVENS: I beg your pardon?
THE COURT: You said something about some legislators coming in today.
MR. STEVENS: No tomorrow.
MS. STEVENS-GRAZIANI: Tomorrow.
MR. STEVENS: Tomorrow morning.
MR. BENDER: I thought it -- I thought it was today but he said in the morning, sir.
THE COURT: Okay. Well, it's 5 o'clock.
MR. STEVENS: You want to break now and get ready for ---
THE COURT: Well, it looks like you've got to reform some exhibits. Let's go ahead and break and be back in here at -- I'd like for the attorneys to be here by 9:00.
MR. STEVENS: Okay.

THE COURT: I'm here by 9:00. We'll bring the Jury back in at 9:30, but I always like to have a little bit of time just in case. Okay.

Bring them back in. I'm gonna release them for the evening. Okay?

THE COURT: Mr. Kelley, you can step down. Thank you. I'm gonna release the Jury.

All right. Let's take care of that in just a minute. Let me get this Jury out.

(REPORTER'S NOTE: Jury returns to courtroom. 5:02 P.M.)

THE COURT: Ladies and gentlemen, it's a little after 5:00 and I know you all need to get home. So I'm gonna let you go. We're gonna continue Mr. Kelley's testimony tomorrow and, of course, we have cross examination tomorrow. Let me remind you of my previous instruction. Please do not discuss this case with anyone. Don't discuss it among yourselves. I know how hard it is when you get home with your wife, the husband, the boyfriend, girlfriend, says what did you do today. Just tell them, you just can't talk about it yet and you can tell them everything about it when we finish this case, but let's don't talk about it now. Don't let anyone approach you. Don't listen to any news reports of any kind about the case. That would be inappropriate. Don't electronically seek out any information about it and for goodness sake, do not discuss it on any social media of any

type. I know a lot of folks like to do that Facebook thing and talk about what they been doing. Please don't talk about any witness or any attorney or anything about the case and/or about me. Let's just talk about it period. It would be improper for you to do so. Don't do any investigation on your own. Go have a nice evening and forget about this case until tomorrow. Mr. Ropp's gonna show you how to get in the courtroom tomorrow, the courthouse. I've asked the attorneys to be here about 9:00 o'clock. I always do that just in case that we need to, to take care of some matter outside the presence of the Jury, something they may think about. I'll ask y'all to come back about 9:30.

Mr. Ropp, what you gone have for this Jury?

THE COURT: Ms. Galton, what do you want; you want biscuits or do you want doughnuts; what would you like your jury in the morning?

JUROR 150: Biscuits.

THE COURT: Biscuits. You have biscuits for them, okay.

MR. ROPP: We'll have biscuits, Your Honor.

THE COURT: Thank you.

(REPORTER'S NOTE: Jury exits courtroom. 5:05 P.M.)

THE COURT: All right, gentlemen, let's continue to do whatever we need to do to make sure that Ms. Richardson's got everything straight so far. And I look forward to seeing you all back in the morning.

MR. STEVENS: 9:00 o'clock?

THE COURT: About 9:00 o'clock. Okay. Thank you.

(RECESS - 5:05 P.M.)

*******OFF THE RECORD*******

(END OF DAY ONE.)

(MAY 6, 2014)

(On the Record - 9:38 A.M.)

BY THE COURT:

THE COURT: They Jury has had a little snack this morning and they're ready to come in. Is that correct?

BAILIFF: Yes, sir.

THE COURT: If you would, bring them in.

(REPORTER'S NOTE: Jury enters courtroom. 9:38 A.M.)

THE COURT: Good morning. I see we have all of our jurors and our alternates. Ms. Galton has done an excellent job rallying them this morning.

Did you have time for your biscuits this morning? I just wanted to make sure that Mr. Ropp was doing what Ms. Galton told him to do yesterday.

We're ready to proceed with the testimony in this trial. I want to tell you that we're going to do something that's a little unusual and out of keeping with our usual traditions here in the Court of Common Pleas and that is we're going to break a witness' testimony. You may've heard on yesterday when I was reading to you a list of potential witnesses that there were some familiar names and those were some of our members of the General Assembly. And they will be testifying today. Of course, the General Assembly is still in session and they will meet later today for the week of session and we wanted to have those two witnesses available this morning so

that we could get their testimony in and allow them to get back on to Columbia. So, what we're going to do is put up their testimony and then we will bring the Plaintiff, Mr. Kelley, back to the stand and we'll complete his testimony.

Mr. Stevens, are you ready to proceed?

MR. STEVENS: Yes, Your Honor.

THE COURT: Very well.

MR. STEVENS: We'd call Representative Alan Clemmons.

ALAN CLEMMONS, HAVING BEEN DULY SWORN, TESTIFIES AS FOLLOWS:

CLERK: Have a seat, please, sir. State your name for the Court, please, sir.

MR. CLEMMONS: My name is Alan Clemmons.

DIRECT EXAMINATION OF ALAN CLEMMONS BY MR. STEVENS:

Q: Representative Clemmons, how -- where do you live?

A: I live in Myrtle Beach, corner of 17th Avenue South and Highway 15.

Q: Okay. Are you a native of Horry County?

A: I am, born and raised in Myrtle Beach.

Q: So, you've lived here how many years?

A: Are you asking how hold I am?

Q: Yeah.

A: Okay. I'm fifty-five years old.

Q: I asked one fellow had he lived here all his life and he said not yet. Now, you're in the House of Representatives.

When were you elected?

A: I was elected in 2002 and began serving in 2003.

Q: Okay. Did you take Mark Kelley's place?

A: I did. He was a member of House, District 107, before I was elected.

Q: Okay. And you've known Mark Kelley for quite a while?

A: I have, probably close to twenty years.

Q: How was his reputation before 2010 in and around Myrtle Beach?

A: Had an excellent reputation. I, I remember well when he came -- when he approached me when he was thinking about retiring. I had unsuccessfully run for the State Senate and he contacted me, invited me to lunch and told me that if I, if I wanted to run for his House Seat that he would endorse me for it and those of us from Myrtle Beach knew what that meant. That if Mark Kelley endorsed you, that, that, would, the election was pretty much assured. So, his reputation was excellent.

Q: Prior to 2010, had you heard anything bad about him?

A: No, never.

Q: In the House of Representatives, you've been there since 2002 for about twelve years now, right?

A: Yes, sir.

Q: And are you, do you serve on any committees?

A: I do. I'm the Chair for the Rules Committee and I -- the

entire twelve years, I've served on the Judiciary Committee, where I chair the Ethics and Election Law Sub-Committee.

Q: Was the Ethics Law already passed when you took office?

A: Yes, sir.

Q: Okay. Has it been amended at any time while you've been there?

A: We're in the process of amending it now, but I don't, I don't recall any amendments during that time frame until now.

Q: Now, do you recall when Mark Kelley became a lobbyist?

A: I do.

Q: Did he talk to you about doing that?

A: He did.

Q: As I understand, he has to wait a year before he begins?

A: That's correct.

Q: Did you know his company, KSMO?

A: I, I did know his company. I knew his partners who were already lobbyists.

Q: Okay. I believe the testimony is that one of his partners died?

A: Will McCain, wonderful man.

Q: Has that company enjoyed good reputation among Representatives and Senators and State Senators?

A: Yes.

Q: Is it important to have a good reputation as a lobbyist to be dealing with legislators?

A: As important as it is to have a good reputation as a legislator, it's even more important if you're gonna be a successful lobbyist to have a good reputation. Lobbyist, the entire lobbying trade is built upon respect that members of the legislature have for the individual who is proposing an idea. Without, without that respect, without that reputation, you don't get a whole lot of attention.

Q: And did Mark Kelley enjoy that type of reputation before 2010?

A: He did.

Q: Okay. Now, just general without getting into much detail, could you tell the Jury what a lobbyist does; how do they interact with a legislator?

A: A lobbyist -- well, the first thing I'll say is lobbyist are, their stock and trade, again being their reputation. They, they, they mingle with members of the legislature, they get to know members of the legislature, they, they are advocates for the issue that they are currently working on. I've always said that a good, a good lobbyist not only presents his side of the coin, but he also lets you know what the other side of the coin is, what those who are opposed to his position would have you, would say regarding the issue that he's supporting. Mark Kelley has always been good about that.

Q: He tells both sides of the story?

A: Both sides, yeah.
Q: And would it be fair to say that a lobbyist also educates the legislator?
A: Absolutely. And many times, when you're looking for information on an issue, the lobby is where you will go to try to find that information.
Q: Okay. Like you've got some issue and you're trying to hold down the budget and then when you look over the budget, you look at what the school district needs and maybe what Coastal Carolina needs and you think maybe it's too much money; do you then call the lobbyist and ask him questions about that?
A: No, we probably don't call them. We probably walk out into the lobby and talk to them right there because the lobby -- where the legislators are, the lobbyist are nearby because they understand that they need to be close by to provide information whenever the issue arises.
Q: Now, let's get -- direct our attention to 2010. Were you aware who was running for Governor in 2010?
A: I was.
Q: And tell the Jury who was running?
A: I was supporting Gresham Barrett. Nikki Haley was running and I'm a supporter of Nikki Haley's now.
Q: Okay.
A: We had Henry McMaster was running for Governor.

Q: He was Attorney General at that time?
A: He was the Attorney General at that time, correct, and had previously been the Republican Party Chair when I, when I got involved in politics.
Q: There was a fourth, I believe, Andrew Bauer?
A: That's right. He was Lieutenant Governor at the time.
Q: And ---
A: Andre, excuse me, Andre Bauer.
Q: Andre Bauer. Andre Bauer. And did you know who Mark Kelley -- if he was supporting Gresham Barrett?
A: I would've been shocked if he did not. He and Gresham served in the legislature together and were very close friends.
Q: Now, there was a series of articles that came out in May of 2010; do you recall reading those articles?
A: The articles in The Sun News, yes.
Q: Okay. I'd like to call up the article of May 23rd. Now, we've been talking -- you haven't been in here, but we've been talking about this particular language, being along -- Chamber lobbyist, Mark Kelley delivered about $84,000 of those contributions to Barrett in June. Now reading that, if you read that the first time you had read it, would you tell me whether -- how many people delivered money to Gresham Barrett?
A: As I read it now and as I read it then, two people.
Q: Two people. And who were those two people?

A: Dean and Kelley. Brad Dean and Mark Kelley.
Q: As a Representative at that time, did you know that that was a crime?
A: Yes, I did.
Q: Okay. Did that particular language, would it hurt a lobbyist's reputation?
A: Absolutely.
Q: Okay. What happens when a legislator sees something like this in the newspaper?
A: He goes into damage control mode. The first phone call to make is to the person -- well, if it were me, it would be to the person that wrote the article to make sure they understood the facts that if indeed I were -- I did not deliver that $84,000, I want a retraction. But then I'd probably call my closest campaign supporters and seek advice from them and I would follow that up with talking to my paid campaign advisors to see what I need to do to try to right the wrong that's been done.
Q: Okay. Let me ask you this. As a legislator and this coming out in the news, would you or not be -- want to be seen with Mark Kelley in public with this on him out in the public?
A: Absolutely not.
Q: Tell the Jury why?
A: Politicians stock and trade, like a lobbyist, is his reputation. And in politics, perception is reality and if you

are perceived, if there's somebody that has, has committed a crime, an ethics crime, particularly when it involves a gubernatorial candidate where the media is fully focused and you, you don't want to be seen as a part of any of that and you don't want your constituents to think that you had anything to do with it, so, or your fellow House Members, legislators. Again your reputation is all you have in building relationships and to get bills passed and get things done that are important to you as a legislator and important to your constituents and if you don't have that reputation, then you can kiss goodbye being able to get things done in Columbia.

Q: How did this statement affect the effectiveness as a lobbyist of Mark Kelley?

A: It, it would directly affect it. I know for a fact, I had legislators approach me in the Chamber in very hushed tones, what's going on with Mark Kelley, what, what's this all about? So, it was on everybody's radar screen.

Q: Okay. In your eyes, did this damage Mark Kelley's reputation?

A: Yes.

Q: As a lobbyist?

A: Yes.

Q: Personally?

A: Yes.

Q: You said you had been approached by legislators. How about your constituency, were you approached by any of your supporters?

A: I did. I had ---

MR. BENDER: I would object to hearsay of what the supporters said.

MR. STEVENS: Your Honor, we would show that the, the statement, if there is any such statement, we're not gonna introduce what people said, but just the general feeling and it's to show the present mental state of the persons making the statement.

THE COURT: I'll allow it.

MR. STEVENS: Okay.

A: I did have constituents talk to me about questions that they raised in The Sun News. You know, my constituents had been Mark Kelley's constituents, so they, they knew him better than they knew me. He'd been there for ten years and I had been there for some time less.

BY MR. STEVENS:

Q: And did that, based upon what they told you, from their conversations with you, was the -- Mr. Kelley's reputation both personally and as a lobbyist damaged in their eyes?

A: In my view, from what they told me, yes.

Q: Okay. Were you also privy to the other articles that came out later?

A: I was.
Q: If we could see the May 25th quote. Okay. If you would, read that,
A: In the past, the Chamber has denied any involvement in this scandal. But now Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley, and handed Mr. Barrett the envelope full of checks said Robert Kelley, who is not related to the lobbyist.
Q: Do you know if that is a correct quote by Robert Kelley?
A: I do not know.
Q: Have you had an opportunity to talk to Robert Kelley?
A: I don't think I know who Robert Kelley is.
Q: Now, reading that particular sentence or quote and having already read the other quote from May the 23rd, what is that quote telling you?
A: That Mr. Dean and Mr. Kelley gave Mr. Barrett an envelope full of checks.
Q: All right. Does that particular statement in this article from two days after the May the 23rd -- I think it would be Tuesday -- would that damage Mr. Kelley's reputation both personally and as a lobbyist?
A: Yes, it would. It's a cumulative effect.
Q: Okay. Now, let's go to the May the 30th editorial. Do you remember reading this editorial entitled Absence of Evidence?

A: I remember it. I haven't read it since that time, but I do remember it.
Q: What was your reaction when you read that particular editorial?
A: I found it rather shocking. Knowing Mark Kelley as I do, I found it rather shocking. I found it shocking that The Sun News would, would admit that they have no evidence, but in the end, they've already indicted Mr. Kelley.
Q: Okay. Let's go to the language. Now in the beginning of it, it's talking about political money laundering 101. That's a kind of an expression. What do they mean by that? What do you understand it to mean?
A: Well, political Monday, money laundering 101 -- first of all, there are laws that are very detailed on what kind of contributions you can accept, who can they, who they can be accepted from, the, the total that can be accepted from any one individual or entity. There are very specific laws on what a politician, in this case a gubernatorial candidate, is allowed to receive, to take for his campaign. And when you talk about political money laundering, you're talking about breaking the law to channel money from one source into multiple sources to make it look legal, when in fact it's illegal.
Q: That's also a federal crime, isn't it?
A: It's a state and federal crime; that's correct.

Q: Now, the article began with these descriptive words, darkest accusation, this affair, kickback, inexplicably. In, in looking at that, is, is -- are those types of phrases accurately reporting the news?
A: In my opinion, no.
Q: Okay. Let's go to the next. If you would read that out and look that, look at that and tell me what you understood that to mean.
A: That phrase as we know based on David Wren's reporting?
Q: Uh-huh (affirmative response).
A: It, it, it tells me that the editorial is drawing its basis of knowledge from the reporting by their reporter, David Wren.
Q: Okay. What if I were to tell you that the editorial witness, her deposition was taken and she said that she didn't read any of Mr. Wren's emails, only the articles. What, what in your understanding would be -- would that be with regards to whether it's accurately or properly investigated and reported?
A: Well, it would seem to me that if, if the author of the editorial says that her basis of knowledge is David Wren's reporting and she only reviewed a portion of that background of the reporting, then she only has a partial amount of the knowledge on which to report or editorialize.
Q: What if I were to tell you that we had subpoenaed David

Wren's, all of his written notes, a pretty thick pack and you can't hardly read it, but I asked him in his deposition would he review it and point out on any page where he mentioned Mark Kelley and all of his notes, and he said none, nothing's in there related to Mark Kelley. Would that be good investigative reporting in your opinion?

A: In this case, where Mark Kelley's name appears multiple times as one of the parties that gave checks, gave an envelope full of checks to the Governor, then I would say that is not good reporting.

Q: Okay. All right. Now, if you go on a little further, beginning, it was Myrtle Beach Area Chamber, finish that up for the Jury?

A: Certainly. It was Myrtle Beach Area Chamber of Commerce President, Brad Dean, who personally handed the $84,000 in checks to Barrett with lobbyist Mark Kelley sitting by his side.

Q: Now, let me stop you right there. Is anything wrong with, with the statement up to that point?

A: Anything wrong with it?

Q: Yeah.

A: No, sir.

Q: All right.

A: That I see.

Q: All right. Now what's wrong with the rest of it?

A: Let me read it.
Q: Okay.
A: If Kelley handed the money over, the transaction would have been explicitly illegal effectively forcing Barrett to say Kelley had no involvement in pinioning the donations on Dean no matter what the unprovable truth is.
Q: What did you understand that to mean?
A: I remember scratching my head when I read that. That last phrase, no matter what the unprovable truth is. To me, The Sun News was saying we know that Mark Kelley really gave him the money, but we can't prove it.
Q: Thus their title, Absence of Evidence?
A: I think so, yes.
Q: If you don't have evidence about a crime, do you accuse somebody of that crime?
A: I certainly don't.
Q: Would, would a Solicitor, who was, has the duty of prosecuting crimes bring an action or bring a charge against Mark Kelley when the person who is accusing of it says no matter what the unprovable -- if they read that?
A: Absolutely not.
Q: Well, you're an attorney, right?
A: I am.
Q: Okay. And you have been involved in criminal representation of, of in criminal cases, right?

A: I've represented Defendants and I've prosecuted criminals.
Q: You're familiar with what is necessary to swear out a warrant?
A: I am.
Q: All right. If The Sun News went up to a magistrate and gave them this background, would a warrant be sworn out for Mark Kelley?
A: Absolutely not.
Q: Okay. Did this particular article affect Mark Kelley or affect Mark Kelley's reputation both personally and as a lobbyist in his business or profession?
A: I know for a fact that at least this article cumulatively with all the other articles did, yes.
Q: Okay. Now, The Sun News didn't quit after that, did they?
A: No.
Q: They kept, they kept going?
A: Yes.
Q: Okay. And I think we've introduced some July articles and I'm not gonna go into those and August and in November and I believe right on into the next year?
A: Yes, sir.
Q: Do know why they kept on continuing to bring Mark Kelley into this picture?
A: I could only guess that the sensationalism of it would boost readership.

Q: Okay. Now, is that the business of a newspaper to be sensational or to report the news?
A: I've always believed the newspaper was for reporting the news.
Q: Okay. Now Mr. Clemmons, as an attorney, do you have clients who look for lobbyists to help them in legislation they're supporting?
A: As an attorney, no.
Q: Okay. Do you know of anyone who, did anyone ask you about Mark Kelley, about hiring him?
A: Yes, they did.
Q: Who?
A: Well, there were several inquiries and discussions I had with folks that were looking for lobbyists but I can only remember one in particular where I can remember who it was.
Q: And who was that?
A: That was a group called the American Resort Developers Association.
Q: Okay.
A: And that's an organization out of Orlando, Florida. They represent timeshare developers.
Q: Okay. Did they approach you about hiring Mark Kelley?
A: They did. They were going through a, a difficult legislative issue or had a difficult legislative issue to deal with. Actually it was a Supreme Court issue. The Supreme

Court had at that time raised an issue that directly affected the way that timeshare developers did business with regards, and this does, this does go -- in my profession, I'm a real estate attorney. The Supreme Court opinions made it clear that the Supreme Court was of the opinion that as far as closing real estate transactions of any nature, including timeshare transactions, that an attorney had to be present; a South Carolina attorney had to be present at the time of closing. That was contrary to the way that timeshare developers across the country to business. They have their clients sign the documents whenever they agree to purchase and then send the documents to the attorney to finalize the transaction. So, they saw that as undoing their model of doing business and they were looking for lobbyists. And they approached me because I had dealt with some legislation involving timeshare and I represent some timeshare developers in my, as part of my practice. And the name Mark Kelley came up and I shared with them everything that was going on and told them that in my opinion, as a lobbyist Mark Kelley was toxic at that time because of everything that had been in The Sun News.

Q: Thank you. That's all I have. Oh, one other question. Do you know whether they hired him?

A: No, they did not.

Q: Okay.

Q: Thank you very much. I have no other questions. Enjoy your trip to Columbia.
A: Thank you.
MR. STEVENS: Just a few, Your Honor.
REDIRECT EXAMINATION OF ALAN CLEMMONS BY MR. STEVENS:
Q: Now, when we keep hearing about these LLCs, if you wanted to find out who the members of the LLCs, isn't it easy to call the Secretary of State and ask for the Articles of Organization?
A: You can and some -- and those Articles of Organization sometimes will reveal -- it'll reveal at least the organizer.
Q: Okay. And sometimes they tell who they are and what interest they hold in the LLC?
A: Sometimes they do.
Q: Okay. Now, let me ask you this. To the best of your knowledge, did Mark Kelley have anything to do with the LLCs?
A: No.
Q: Did he have anything to do with anything to do with campaign donations coming from the LLCs?
A: No.
Q: Did he even know anything about it?
A: I don't believe he did.
Q: Okay. So far as you know, Mr. Wren drug him into this?
A: I'm sorry.
MR. BENDER: I object to the leading, Your Honor.

MR. STEVENS: Okay. I withdraw that question. I withdraw that.

BY MR. STEVENS:

Q: Let me ask you this, In the political world, there are people who for want of a better word, hedge their bets in giving campaign donations, don't they?

A: That's correct.

Q: Tell the Jury what I'm talking about.

A: There are those, especially business people, who will make contributions to both sides of the coin. If, if I'm being opposed by a Democrat running for public office, some business people will give to me and give to my Democrat opponent, in the event that my opponent beats me, so they will have a friend going into the legislature and not be perceived as an enemy.

Q: Do those contributors sometimes decide to make the donation through one of their businesses?

A: Many times.

Q: Is there anything illegal about that?

A: Absolutely not. Absolutely nothing. In fact, if I -- I know an individual who, who owns several businesses and he, I think he owns four businesses, and it's not unusual for him to give, to write a check out of his and his wife's personal account for a $1,000 and a check for a $1,000 out of each of his corporations, which are legal entities so that, in affect,

you receive $5,000 in contributions legally from that one individual and each of his legal four entities. That is completely legal under Ethics Law.

Q: Let me ask you this so the Jury will know, individuals are limited to how much they can give, am I right?

A: That's correct.

Q: And how much is that?

A: $1,000.

Q: All right. Now, if I wanted to ---

A: I'm sorry, in a campaign cycle.

Q: Okay. In a campaign cycle?

A: Yes.

Q: If wanted to donate to your campaign, but I wanted to give you more than $1,000, is there a different way I could do it through my business?

A: Yes.

Q: Tell the Jury about that?

A: Okay. If you have an LLC or a corporation; LLCs are pretty much corporations, it's just a different kind of corporation. So, if you're a lawyer --

Q: Uh-huh (affirmative response). I hope so.

A: And you have, you have an LLC or an LLP or a partnership or some business that, that runs your legal practice. So, if you wanted to give me $2,000 in contributions, you could write a check out of your personal -- in fact, I would appreciate it

if you'd do that today -- you could write a check out of your personal checkbook for $1,000.

Q: Okay.

A: And then you could ask your bookkeeper to write a check out of the firm checkbook for $1,000. Both of those checks are completely legal even though you had control over both checkbooks.

Q: Doesn't a business have a higher -- aren't they entitled to give more money than 1,000?

A: No, I think 1,000 is the limit for even a business.

Q: All right. So, if I wanted to give you more than a thousand, I could give my wife a $1,000 and let her give it to you, right?

A: Your wife can give 1,000; you can give 1,000; each of your adult children can give 1,000.

Q: Of course, I'd have to trust my wife to give you the money, but I could do that?

A: Yes, sir. Your funds are shared funds; so, yes, you can do that.

Q: Now, are there also people who just don't want their name in the public; they just want to protect their privacy and they don't want their name because this goes into a list and it goes to central filing in the State, doesn't it?

A: It does.

Q: And if anybody wants to see who donated to so and so they

can call that up online and just see whoever's donated?
A: That's correct. Every contribution is recorded in a database in Columbia at the Ethics Commission. Additionally, whenever that is recorded, every, every person that is in public office or desires to run for public office looks at that database and they use the names and addresses in that database to make up their own mailing lists to solicit contributions.
Q: Okay. Now, Mr. Bender has been beating around the bush with this email. Let's get it out in the open here. Let me ask you this. If a lobbyist like Mark Kelley -- is it illegal for him to support Gresham Barrett?
A: Not at all.
Q: Can he go to campaign raisers himself?
A: He can appear, yes.
Q: Okay. He can go and mingle around?
A: He can.
Q: He can go out in public and he can say please vote for Gresham Barrett?
A: He can. He can even be in the room when checks are handed to him.
Q: Okay. As long as he just doesn't touch it?
A: As long as he's not involved in that check, yes.
Q: Okay. That's what, actually what Cathy Hazelwood said to Mr. Wren. It's legal as long as he doesn't touch it; isn't

that what she said?

A: Yes, sir.

Q: Okay. So, would it be okay for a lobbyist like Mark Kelley who's supporting Gresham Barrett to get an email from Luke Byars -- you know Luke Byars?

A: I do know Luke Byars.

Q: Who is he?

A: He is, he is a paid campaign consultant/fundraiser/finance guy.

Q: Okay. Suppose this email talks about a straw poll that showed that at that time in April, I believe the 25th, that Gresham Barrett was in first place with 37 percent; Henry McMaster was in second place with 30. -- 34.2 and Nikki Haley was in third place with 18.4 percent and Andrew, Andre Bauer was in fourth place at 10.4 percent. If Mark Kelley got this and ---

A: And I'm sorry, those percentages are percentages of funds raised?

Q: No, straw poll.

A: Straw poll; thank you.

Q: The straw poll. Where they were if an election was held then?

A: Right.

Q: Based upon the poll. And in this particular email, the purpose of the email is it starts out with, Sorry to bother

you on a Sunday ---

MR. BENDER: I object to ---

MR. STEVENS: I move to introduce it.

THE COURT: Has anyone authenticated it?

MR. STEVENS: I'll authenticate it.

THE COURT: Okay. We'll let you authenticate it and then we'll hear from counsel.

BY MR. STEVENS:

Q: Let me let you look at this email and ask you if your address is on that email?

A: I see quite a few addresses. Yes, my clemmons1@aol.com address is on there.

Q: Does that forward to you from Mark Kelley a email that he received from Luke Byars?

A: Yes, it was sent originally to Luke Byars on April 25th and then was forwarded that same day by Mark Kelley to me and others.

Q: Okay. What is Mark ---

MR. STEVENS: We'd move to introduce it, Your Honor.

MR. BENDER: I'm not sure he's authenticated it, but I have no objection.

THE COURT: All right. Without objection it's introduced as ---

COURT REPORTER: It's Plaintiff's Exhibit Number Seventeen.

MR. STEVENS: Seventeen.

THE COURT: Seventeen.

PLAINTIFF'S EXHIBIT NUMBER SEVENTEEN

ADMITTED INTO EVIDENCE

BY MR. STEVENS:

Q: All right. This email, if you would, read the -- you said it was to a whole lot of people, we won't go into that -- but read what Mark Kelley is saying to the people he addresses.

A: Okay. His, his comment was for all that have supported and those that still can and want to this is great news.

Q: What was the purpose of his email there that you understood?

A: To show that Gresham Barrett was, was in the lead.

Q: Okay.

A: He was taking up ground.

Q: Did you understand the email to be soliciting campaign donations?

A: No.

Q: There is, there is a full email by Luke Byars. Read it to the Jury?

A: Dear Friends, Sorry to bother you on a Sunday but I had some great news that just couldn't wait. Gresham took first place in the South Carolina Republican Party Straw Poll held at its annual Silver Elephant Dinner in Columbia last night. The full results are provided below, but here's the big take

away from Saturday night's win. With just forty-four days left until the primary, our campaign has seized the momentum and we're not letting go of it. That's all bold and underlined. Then it says Republicans from every corner of the State are beginning to realize what you and I have known for quite some time. Gresham is the one candidate with the conservative credentials, character and plan to lead an economic turnaround in South Carolina. As we head into the home stretch, we need your help now more than ever. So today I'm asking you to do two things that will make a big difference: One, volunteer; get involved with our campaign. We've got plenty of work that needs to be done from making phone calls to putting up signs to stuffing envelopes. We could really use your help. Click here to get involved or call 803-255-8095. Two, contribute, whether it's $10, $50 or $100, whatever you can give today will go a long way. Thank you for everything you do. Sincerely, Luke Byars, Campaign Manager, Barrett for Governor. P.S. Here are the full straw poll results from last night's Silver Elephant Dinner: First place, Gresham Barrett, 37 percent; second place, Henry McMaster, 34.2 percent; third place, Nikki Haley, 13.4 percent; fourth place, Andre Bauer, 10.4 percent. P.S. for more about last night's straw poll click here to read the Post and Courier's coverage.

Q: Thank you. Anything illegal about that email?

A: Not ---

MR. BENDER: I would object to this witness' ---

BY MR. STEVENS:

Q: To your understanding of the Ethics Law, is there anything illegal in forwarding an email from Mr. Byars?

A: From my understanding of the Ethics Law, no, there is nothing illegal about forwarding that email, particularly when he's pointing out the good news.

Q: Okay.

A: Of the straw poll.

Q: May I hand it to the Jury?

THE COURT: Any objection to publication?

MR. BENDER: I'll be happy to show my blowup so they can all see it at one time.

THE COURT: You may publish.

BY MR. STEVENS:

Q: Now, just so I understand, let, let's say I wanted to give a campaign donation, but I did not want the public to know and I donate to that particular candidate, could I put money into my professional corporation and let the professional corporation donate the money?

A: You can, yes.

Q: Does, does the public have a right to know that I do that?

A: There is no requirement under the law for that disclosure.

Q: So, the debate that was going on is people just want -- we

want to know who is donating?

A: That's correct.

Q: All right.

A: That's correct.

Q: So, if I gave it on Stevens Law Firm, it would be very simple to go look in the Secretary of State, to see who owned Stevens Law Firm, right?

A: That's correct.

MR. STEVENS: That's all I have, Your Honor.

MR. BENDER: Briefly, Your Honor.

RECROSS EXAMINATION OF ALAN CLEMMONS BY MR. BENDER:

Q: Now, can you see this? This is that email.

A: I, I can but not real well.

Q: I can get a little closer to you.

A: If you want me to read from it, it needs to get closer because my glasses aren't powerful enough.

Q: All right. Well, let's take a look at this. In fact, Luke Byars is taking the opportunity of that straw poll to solicit campaign contributions, isn't he?

A: And well I think he's doing two -- three things actually. He is, he's building the fact and getting the word out, Gresham is in first place. That's important, important. You don't want to be a person at the bottom of that straw poll list. So he's, he's building throughout the political world in South Carolina awareness that Gresham is in first place.

You do that so you can build upon that momentum.

The second thing he's doing is he's asking for volunteers. Don't overlook how important getting volunteers involved in a political race is. It's key. You get people to get volunteer, they get excited because you're in first place and you're gonna be the winner so it appears. So I'm gonna go knock on doors. I'm gonna go do whatever it takes to help if it's passing out bumper stickers, get involved in the campaign.

And then thirdly, make a contribution.

Q: So among these other things, it's a solicitation for the political class to make a campaign contribution to Gresham Barrett?

A: Or to volunteer to get involved.

Q: To give a contribution or get involved?

A: Yes. You said the political class, I'm not sure, I'm not sure who all it went to.

Q: I thought you said that you want the political class to hear this because it's good news because that's where the money is gonna come from?

A: You want voters to know it; you want people to know it that, that you can build that momentum with.

Q: And no matter how you slice it, that is a solicitation to give money to Gresham Barrett?

A: That is Luke Byars. Luke Byars is asking for

contributions; that's absolutely correct.
Q: And somebody whose email is Repmkelley@aol.com sent that to that list at the top?
A: Repmkelley, and I know for a fact that's Mark Kelley's email address.
Q: And on April 25th, 2010, Mark Kelley was a registered lobbyist, was he not?
A: Yes, he would've been.
Q: And that is a solicitation for a campaign contribution for Gresham Barrett, isn't it?
A: It is Luke Byars' letter soliciting contributions.
Q: It was forwarded by Mark Kelley?
A: And he's specifically referring, you know -- do, do you want me to respond as to how I perceived the email, how I received it and what I perceived about it.
Q: I want you to read the last line.
A: Contribute whether it's, whether it's $10, $50 or $100, whatever you can give today will go a long way.
Q: Thank you. I have nothing else, Your Honor.

REDIRECT EXAMINATION OF ALAN CLEMMONS BY MR. STEVENS:

Q: You wanted to tell him something how you perceived it. How did you perceive it?
A: I perceived that Mark was talking about the good news of the straw poll results. I remember the email and I did not remember there was a solicitation in it for contributions, but

I remember the straw poll results. That was a big, big, deal for the Gresham campaign at that time.

Q: In his language, he didn't solicit anybody, did he?

A: No, he did not.

Q: Okay. That's all I have.

THE COURT: You may step down. Thank you.

A: Thank you, Your Honor.

MS. STEVENS-GRAZIANI: The Plaintiff calls Nelson Hardwick.

CLERK: Please raise your right hand and place your left hand on the Bible.

NELSON HARDWICK, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat please, sir. State your name for the Court, please, sir.

MR. HARDWICK: Nelson Hardwick.

DIRECT EXAMINATION OF NELSON HARDWICK BY MS. STEVENS-GRAZIANI:

Q: Representative Hardwick, could you tell the Jury where you're from?

A: Yes, I love telling people where I'm from. I'm from UCLA; upper Conway/lower Aynor. I'm a graduate of Aynor High School.

Q: And tell the Jury what, what do you do for your occupation?

A: I'm an engineer and I have several real estate

partnerships I'm involved with.
Q: And are you a member of the House of Representatives?
A: Yes, but I don't do that for a living. I do that as a public service.
Q: Okay. And when did you become a member?
A: I ran in 2004 and I became a member in 2005.
Q: Okay. And, and what area do you represent?
A: Surfside, Deerfield Plantation, and the greater Burgess area; basically south of 544 to the Georgetown County line.
Q: And how many -- in 2002 you said?
A: 2004 election and 2005 I become a member of the House.
Q: You're a member of the House of Representatives for nine, ten years?
A: I'm completing my tenth year.
Q: And while you've been a member of the House of Representatives, have you served on any committees?
A: Yes, ma'am.
Q: What committees?
A: House Agriculture, Natural Resources and Environmental Affairs.
Q: Have you chaired any of those committees?
A: I'm currently chair of that committee.
Q: Do you know Mark Kelley?
A: Yes, ma'am.
Q: And how do you know Mark Kelley?

A: I met Mark Kelley when I got involved in politics in Surfside Beach.
Q: When was that?
A: A long, long time ago. He was a House member. I was trying, I was helping a guy named Terry B. Cooper when he ran for Horry County Council and, you know, being involved with it, that's the first time I got involved more than just voting.
Q: How would you characterize Mark Kelley's reputation?
A: He was the go-to guy if you wanted to get elected in Horry County, especially -- in fact we made a trip from Surfside Beach up to meet with Mr. Kelley and other people that he associated with and that sort of thing to ---
Q: To ---
A: Well, just to get to know the politics and that sort of thing. A lot of people that, a lot of people that associated with Mark and that sort of thing were involved in politics throughout Horry County and Terry was running for a County Council seat, which we needed to meet all the people that were involved in politics in Horry County.
Q: So, he was well-known?
A: Yes, he was.
Q: And how was he -- would you say that his reputation was good or would you say his reputation has been questionable?
A: No, not at all.

Q: Are you familiar with the articles that we've -- or you've been sitting in the courtroom this morning, correct?
A: Yes, ma'am.
Q: And are you familiar with the articles that were reported and that we've brought up on the projector screen?
A: Yes, ma'am.
Q: Did you read all of the articles?
A: Yes, when they were -- I'm a -- I subscribe to The Sun News. I read them when they happened and ---
Q: What did you perceive the articles to say about Mark Kelley?
A: Today?
Q: When you read them.
A: Oh, when I read them I was just surprised.
Q: Why?
A: Surprised but -- having, having been in the legislature and knowing, you know, all the rules and regulations you have to abide by and that sort of thing, when it said that he was passing out checks, I -- it was just a surprise.
Q: So, the sentence that says Dean along with Chamber lobbyist Mark Kelley delivered $84,000 in campaign contributions to Barrett in June, how many people did you perceive delivered campaign contributions?
A: Those two guys.
Q: Not one, but two people?

A: Yes.
Q: Did you read the quote by Robert Kelley in the article that talks about the BOOST, the BOOST rally or the meeting that BOOST held?
A: I'm sure I did. I read it today.
Q: Can I pull -- Ms. Sandra, can you pull that down again? Do you recall reading this article that's titled Donations Tied to Myrtle Beach Chamber Blasted, BOOST Calls for Return of Politicians $225,000?
A: Yes.
Q: And did you read this quote by Robert Kelley that says, In the past, the Chamber has denied any involvement in this scandal, but now Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley, and he handed Mr. Barrett the envelope full of checks?
A: Yeah. Yes, ma'am.
Q: According to that quote, how many people set up the meeting or how many people set up the lunch according -- how do you interpret it? How many people set up the lunch?
A: Dean and Kelley set up the lunch.
Q: Did you read the editorial titled Absence of Evidence?
A: I'm sure I did.
Q: And -- excuse me. Do you know what the editorial said about Mark Kelley and how it portrayed his involvement in the lunch?

A: Yes.
Q: Did they have any proof?
A: It didn't appear ---
Q: According to the editorial?
A: Well, it -- if they'd had, the headlines would've read, we got proof; that says absence of evidence that we're presenting what we think happened, I guess.
Q: If you read the, the part that's in parenthesis that says if Kelley handed over the money -- if Kelley handed over the money, the transaction would have been inexplicitly illegal, effectively forcing Barrett to say Kelley had no involvement in pinioning the donations on Dean, no matter, no matter what the unprovable truth is. What are you saying -- what do you interpret the unprovable truth is in that parenthesis?
A: That Kelley gave him the money.
Q: Ms. Sandra, I don't need that any more. Thank you.
Did you -- did this, these articles have any effect in your relationship with Mark Kelley professional, well as a Representative?
A: No, like I say, when I met Kelley, I got to know him. We became friends in the election of Mr. Cooper and when I ran, you know, I sought his advice as many people do and that sort of thing, about who to meet and so -- I've always had a pretty good relationship with Mark.
Q: Well, after these articles, were you nervous in any way

about being around in the political setting being affiliated with Mark Kelley?

A: I, I'm not because if I'm your friend today, I'm gonna be your friend tomorrow. But I know it did make other people uncomfortable.

Q: Were you told by other people that it made them uncomfortable?

MR. BENDER: Your Honor, I object.

MS. STEVENS-GRAZIANI: I withdraw.

BY MS. STEVENS-GRAZIANI:

Q: Did you, did the article, in your eyes, damage Mark Kelley's reputation?

A: Again, I mean, if the article didn't, all the blogs and all the other crap that came with it, you know, that The Sun News and over the internet and that sort of thing, I felt like, I felt like it did.

Q: Just one second. I think I'm finished. Okay. That's all I have.

THE COURT: Mr. Bender?

MR. BENDER: If it please the Court, Your Honor.

CROSS EXAMINATION OF NELSON HARDWICK BY MR. BENDER:

Q: I was see whether it was afternoon -- good morning. I'm Jay Bender. I represent David Wren and The Sun News. What committees do you have in the House?

A: As I said before Agricultural, Natural Resources and

Environmental Affairs.

Q: Does Mark Kelley ever lobby with respect to legislation before your committees?

A: He does mostly, I think, education and budgeting, but he very seldom, occasionally he may, but he, if he's spoken more than -- I won't say he's never spoken before my committee, but he, you know, he's involved in issues there, as all of us are, with environmental permits and beach renourishment and things that nature which falls under our purview.

Q: And he's still a lobbyist?

A: Yes, last I heard.

Q: We've been talking about campaign contributions that were questioned by a group called BOOST because many of the contributions came in the form of cashier checks drawn on real estate limited liability companies; is that correct?

A: Yes.

Q: Did you receive any of those checks?

A: Yes, I did.

Q: How much?

A: I think it was twenty-two checks.

Q: You got twenty-two checks drawn on real estate LLCs?

A: Yes, sir.

Q: And they were cashier checks?

A: As far as I know a lot of them were.

Q: And who handed them to you?

A: I got them from personal -- the way I came about the checks was I have a business partner, Hinson, he has, he's a business partner with, with several other people and that sort of thing and I'd asked that we get some help with raising some campaign money and that sort of thing. So I was, you know, I was expecting some checks from Shep Guyton. I had met him as he was a partner with Mr. Hinson. We were involved with an issue that was important to, to the, you know, some real estate committees and that sort of thing and some environmental problems with regulation and that sort of thing on wetlands and other deals. So, in talking with Keith and Mr. Guyton, they agreed to raise some money for my campaign, hold a political event for me. And so I had got a call from him, Mr. Guyton, and he said that he'd be in, he was up in Myrtle Beach at a restaurant. I was at another event and then I had got there, he had left and, according to Brad Dean, he had left them in his care and I got them from Brad Dean.

Q: Brad Dean and Shep Guyton have a connection?

A: I don't, I don't know what the connection was. I just know they were both there. I know both of them very well. Shep had left and he left the checks in his care.

Q: And these cashier's checks drawn on LLCs, do you know who put up the money for those checks?

A: No, sir.

Q: Now, are you a member of the Chamber of Commerce?

A: No, sir.
Q: In your business, does the Chamber of Commerce have a negative reputation?
A: In my business, like I sat, I'm in the engineering business. Most of the people I meet as, as in the business community, many of them do and some do and some don't know who the Chamber is.
Q: Would it harm a person's reputation to be associated with the Greater Myrtle Beach Chamber of Commerce?
A: I, I know that after this event and all the things that were -- as a legislator, I know after all this information came out in The Sun News that a lot of the people on my committee and the people I know in the House wanted to shy away from Myrtle Beach issues because, you know, the Chamber represented, you know, it's an advocate for the business community of Myrtle Beach, whether it be beach renourishment or wildlife or anything else.
Q: Did it strike you as strange that the President of the Chamber of Commerce sitting next to a lobbyist with a candidate for Governor on the other side of the lobbyist pass an envelope containing many of these cashier checks drawn on these LLCs; does that strike you as strange?
A: I don't know that I understand.
Q: Well, is that how politics is done in South Carolina that the President of a Chamber of Commerce in the company of a

lobbyist can give an envelope with $84,000 in campaign contributions to a candidate for Governor and nobody knows where the money came from on those LLC checks?
A: I, I mean, I don't know what you're trying to say, strike. I've handled checks before and not know, and you know, moved money around with between my partners and different things on real estate deals and I didn't know. All I was interested in when they cash a check were they good at the bank. So I, I mean, I don't have an opinion about your question. I'm missing something somewhere.
Q: You've made no effort when you got these cashier checks to look behind the check to see who put the money in?
A: I, I -- in reviewing and looking at the names, they seemed like title, title companies. Companies that were in the development business. I don't remember the list right now, but they seemed to be legitimate names that people would have in this area and would have some interest in supporting the legislative -- you know, our Delegation in Horry County.
Q: So, I guess the answer is no, you did not look behind the checks to find out where the money came from.
A: Huh-uh (negative response).
Q: Nothing further. Excuse me, Your Honor. Let me show you Plaintiff's Exhibit Seventeen. That's the one I had blown up a minute ago. Take a look there and see if your name is on here to receive this email from Mark Kelley. While you're

looking at that, I'm gonna go get my big picture back.
A: Yes, sir; it is.
Q: All right. Were you a supporter of Gresham Barrett?
A: Yes, sir; I was.
Q: There are some other names on there you might know, if you'll take a look at it. What's your business partner's name?
A: The one I mentioned in my testimony earlier?
Q: Yes.
A: Keith Hinson.
Q: Is Keith Hinson's name on there?
A: Not on any name I've ever used to contact him.
Q: Who's Charles Hinson?
A: Keith's brother.
Q: What business does he have?
A: He's a -- basically a real estate agent.
Q: Was he supporting Gresham Barrett?
A: I couldn't -- I don't know that he and I ever had a conversation.
Q: Are you in business with anybody else who's on the list?
A: Doug Wendel and I are stockholders in the Coastal Carolina National Bank.
Q: And the last line on this page is a request for political contributions?
A: I guess it appears that Mr. Byars is asking people to

contribute.
Q: And Mr. Byars didn't send that to you, did he?
A: I don't know. I don't know him well enough to know whether or not -- I mean, I don't recall him ever sending me an email.
Q: And let's look up at the top. Whose email address is that?
A: That's Mark Kelley's.
Q: So, this message is being forwarded to you by Mark Kelley?
A: That's correct.
Q: Not from Luke Byars?
A: That's right.
Q: And it's asking specifically for money for a campaign; that's what that last line says, isn't it?
A: Oh, absolutely, but I, I get forwarded emails to me every day and people believe in what it said or they don't believe in what's being said on there. If -- when I write something to somebody, I, I do the asking. If I forward something, it's for information, not to try to ---
Q: Well, what did Mark Kelley put up here?
A: Where? Oh, you're talking about all who have supported ---
Q: All that -- I think it should be who, but for all that have supported; is that a request?
A: You think it ought to be who?

Q: All who have, but that's all right -- and that can still can and want to. So, is that a request to support Gresham Barrett?
A: No, the great news is that Gresham Barrett was the winner of the straw poll.
Q: And those that want to still can and want to; is that a request to get involved in Gresham Barrett's activities?
A: I'd think so, to get involved.
Q: And one of the ways to get involved is send money if you're in politics?
A: That's correct. I give people a chance every day.
Q: To give you money?
A: No, to get involved in my campaign; no, sir.
Q: Sure. I understand.
A: No, I ask for people to vote for me and those that can't, I ask them to give me money.
Q: I understand.
A: And everybody on this list I think probably could vote.
Q: Thank you. Nothing further, Your Honor.

REDIRECT EXAMINATION OF NELSON HARDWICK BY MS. STEVENS-GRAZIANI:

Q: Can I support you in your campaign without giving you money?
A: Absolutely.
Q: No further questions.

RECROSS EXAMINATION OF NELSON HARDWICK BY MR. BENDER:

Q: But you'd like to get the money, wouldn't you?

A: No, sir, I need votes worse. If it don't, you don't get elected by getting the most money; you get elected by who gets the most votes.

Q: I think that's a good ---

A: That's why I appreciate Mr. Dean. He and his wife are constituents of mine and they love me, I hope for me.

Q: And they give you money?

A: No, sir, I need the vote.

Q: I said but they give you money, also?

A: His wife has given me some contributions, yes.

Q: Thank you.

THE COURT: Thank you, Representative Kelley [sic].

All right. Gentlemen, no one has asked, but I will -- may they be excused, Mr. Stevens?

MR. STEVENS: Yes, we would ask -- I apologize.

THE COURT: All right. Mr. Clemmons and Mr. Kelley, you are excused from your subpoenas -- I mean, Mr. Hardwick.

MR. HARDWICK: I've been called much worse, Your Honor.

THE COURT: All right. It's -- I promised this Jury that we wouldn't sit more than about what it takes for preaching and it's been about that much time. So, why don't we take a little break and you ladies and gentlemen can return to your jury room. Bobby, make sure that they're comfortable and have

anything that they need. All right.

BAILIFF: Yes, sir.

(REPORTER'S NOTE: Jury exits courtroom. 11:11 A.M.)

(RECESS - 11:11 A.M.)

*******OFF THE RECORD*******

(On the Record - 11:26 A.M.)

THE COURT: Are we ready?

MR. STEVENS: Yes, sir.

THE COURT: Where's my Bailiff?

(REPORTER'S NOTE: Jury enters courtroom. 11:28 A.M.)

THE COURT: All right. We have all our jurors and our alternates back.

Mr. Stevens, you may proceed.

MS. STEVENS-GRAZIANI: The Plaintiff calls Drea Byars.

CLERK: Please raise your right hand and place your left hand on the Bible.

DREA BYARS, HAVING BEEN SWORN

TESTIFIES AS FOLLOWS:

CLERK: Have a seat please, ma'am. State your name for the Court please, ma'am.

MS. BYARS: Drea Byars.

DIRECT EXAMINATION OF DREA BYARS BY MS. STEVENS-GRAZIANI:

Q: Ms. Byars, what do you do for a living?

A: I'm a fund raiser.

Q: In 2009, did you work for Gresham Barrett?

A: I did.
Q: And in what capacity?
A: I was his Finance Director.
Q: And did you attend a lunch in June for -- at Sid and Roy's with Gresham Barrett, Brad Dean and Mark Kelley?
A: Yes, in June of ---
Q: 2009?
A: Yeah, his campaign, yes.
Q: And was anyone else there at the lunch at the table?
A: No, there was just four of us.
Q: And how many chairs were at the table?
A: Four chairs.
Q: So, was it small four-top?
A: Yes.
Q: Okay. And can you tell me who was sitting across from you?
A: Mark Kelley.
Q: And who was to your right?
A: Brad Dean.
Q: And who was to your left?
A: Congressman Barrett.
Q: Did you witness any campaign contributions being delivered at that lunch?
A: An envelope with campaign contributions, yes.
Q: Can you describe for the Jury about that delivery, that

transpired?
A: Sure. There was an event later on that day, that evening, that was in Murrells Inlet and Brad couldn't come or, you know, they couldn't -- some of the folks couldn't dome and so he had an envelope and passed the envelope to the Congressman saying, sorry-can't-come kind of thing, you know, during the conversation and here's some checks and, you know, we've collected this money.
Q: Did Mark Kelley deliver ---
A: No.
Q: --- money? Did he touch the money?
A: No, he did not.
Q: Did he know that the money was being transferred?
A: Well, I mean, he could see, but I don't -- yeah, I mean ---
Q: Before that, do you know if he had any knowledge of that money being transferred?
A: No, I don't think he did.
Q: When you were invited to go, did you know that there was gonna be money delivered at that lunch?
A: I kind of -- yeah, I guess, I mean, I don't know if -- yeah, I knew there was gonna be money delivered at that lunch or there should be money delivered at that lunch.
Q: And how did you know?
A: Just because I was asked to go and pick up the Congressman

and take him down later and that they were having -- he was having lunch and he was meeting with Brad Dean and some folks couldn't attend the meeting -- I mean, couldn't attend the later event so that there would be contributions.

Q: Okay.. Well, did -- did you know who was gonna be there before you went?

A: I knew that the Congressman would be there and I didn't even know that Mark Kelley was gonna be there and I didn't know -- no, I mean, I knew that the Congressman would be there and I was picking him up and Brad Dean would be there, but I wasn't certain that Mark Kelley would even be there.

Q: I don't have any further questions.

CROSS EXAMINATION OF DREA BYARS BY MR. BENDER:

Q: Ms. Byars, we met this morning. I'm Jay Bender ---

A: Uh-huh (affirmative response).

Q: --- and I represent David Wren ---

A: Uh-huh (affirmative response).

Q: --- and The Sun News in this case. You were the Finance Director of the campaign?

A: That's right.

Q: When you show up, money is gonna change hands, right?

A: Right.

Q: That's what you're hoping for?

A: You hope for.

Q: And there was an envelope that was passed by Brad Dean to

Gresham Barrett?
A: Correct.
Q: And in that envelope there were campaign contributions?
A: Correct.
Q: About $84,000 give or take?
A: Correct.
Q: Were any of those contributions on cashier's checks?
A: Well, I didn't know that -- we didn't know that before, but, yes.
Q: When you opened the envelope -- you opened the envelope sometime in ---
A: Right, right, right.
Q: And you saw these cashier's checks?
A: Uh-huh (affirmative response).
Q: On one bank drawn on the accounts of limited liability companies?
A: Correct.
Q: And at some point after that June 2009 lunch, there got to be a dispute about the source of money that bought those checks, right?
A: Correct.
Q: And the Gresham Barrett campaign was interested in finding out why there was a controversy, wasn't it?
A: Yes.
Q: Because you wanted to make sure that there wasn't anything

funny about that money?
A: Correct.
Q: Were you able to go behind the names on those checks to find out who made those contributions?
A: We had someone on the campaign that did compliance. I didn't do -- I mean, somebody else handled that.
Q: The campaign was concerned enough to look into these contributions?
A: Right, afterwards, yes.
Q: Because it became a controversy?
A: Right. Right because, right.
Q: And the controversy seemed to involve the Greater Myrtle Beach Area Chamber of Commerce?
A: Correct.
Q: And the possible role the Chamber of Commerce had in raising money for political candidates?
A: Correct.
Q: And it was the President of the Chamber of Commerce, Brad Dean, who handed this envelope to Gresham Barrett?
A: That's correct.
Q: With Mark Kelley sitting at the same table?
A: Right.
Q: I have no further questions.

REDIRECT EXAMINATION OF DREA BYARS BY MS. STEVENS-GRAZIANI:

Q: Do you know when the campaign contributions became a

controversy?
A: It was after, I mean -- after, you know, it might even have been after the campaign. I mean, it was like later on in the campaign.
Q: Do you know if they came in controversy before David Wren's article or The Sun News article about the contribution?
A: Not that I'm aware of.
Q: Okay. No further questions.
MR. BENDER: I have nothing further, Your Honor.
THE COURT: You may step down. Thank you very much.
MR. STEVENS: May this witness be excused, Your Honor?
THE COURT: Without objection, she's excused. You're released from your subpoena, ma'am.
MR. STEVENS: Your Honor, we would call Gresham Barrett.
CLERK: Please raise your right hand and place your left hand on the Bible.

JAMES GRESHAM BARRETT, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat please, sir. State your name for the Court please, sir.
MR. BARRETT: James Gresham Barrett.

DIRECT EXAMINATION OF JAMES GRESHAM BARRETT BY MR. STEVENS:

Q: Mr. Barrett, have -- does Ms. Byars work for you now?
A: No, sir.
Q: Okay. Tell the Jury a little bit about yourself.

A: Okay. How far do you want me to go back out, sir?
Q: Not back as far as you were kicking the slats out the crib, but give me a little bit -- give the Jury a little bit about your background, your education and your political service to the people of South Carolina.
A: Yes, sir. I was born and raised in a little town called Westminster, South Carolina, which is up in Oconee County. I graduated Westminster High School in 1979. I attended the Citadel and graduated with military honors in 1983. I served with the United States Army First Calvary Division, Fort Hood Texas from '83 to '87. I married my high school sweetheart, Natalie, and we have three children. I came back to South Carolina in late '87, mid '87 to run my father's business. I was elected to the State House in 1996 where I served three terms for six years. I was elected to the United States Congress in 2002 where I served eight years or four terms. I am currently working for New Spring Church based out of Anderson, South Carolina, which -- they're based out of Anderson, South Carolina.
Q: What do you do?
A: I'm the Stewardship Director.
Q: The what?
A: The Stewardship Director; yes, sir.
Q: Have you gotten out of politics?
A: Yes, sir.

Q: Are you going ---
A: I've never been so blessed to be out of politics.
Q: Now, as I understand from, from the dates, you started in '96 in the House of Representatives?
A: That's correct; yes, sir.
Q: Mark Kelley was already there?
A: Yes, sir; that's correct.
Q: And did you know Mark Kelley before that?
A: No, sir; I did not.
Q: Did you become friends while you were there?
A: Very much so. Mark was a confidante.
Q: Okay. And, and I believe you and he served for six years. You went on to get elected Congressman and Mark got out of politics a little bit earlier?
A: I believe that -- I believe that is correct, yes, sir.
Q: And did he talk to you about becoming a lobbyist?
A: He may or may not have; I'm not sure.
Q: Now, you decided I guess in 2009 to run for Governor of South Carolina?
A: That's correct.
Q: Okay. And your political opponents were Nikki Haley ---
A: Henry McMaster and Andre Bauer.
Q: At any time during the period of time that you were politicking, did Mark Kelley give you campaign contributions?
A: Absolutely not.

Q: Okay. Did he call or organize campaign contribution meetings or dinners or anything of that sort?
A: Absolutely not.
Q: Tell the Jury what your understanding was of what Mark Kelley did for the luncheon on June 2009?
A: As far as I know he didn't do anything. We were informed that there would be a luncheon. Ms. Byars and I went down.
Q: Who informed you?
A: I would assume somebody on my campaign.
Q: Okay. Did you issue an email to your campaign staff saying I'm gonna be down in Myrtle Beach at such and such a date?
A: Probably so. I mean, we were in constant contact of, you know, where my location was and stuff like that.
Q: Did you know that Mark Kelley was gonna be there?
A: No, sir.
Q: Okay. You saw him when you got there?
A: I did.
Q: Okay. And during that meeting, did any campaign contributions get passed to you?
A: Yes, sir.
Q: Who passed them to you?
A: Brad Dean.
Q: Did Mark Kelley have anything to do with it?
A: Absolutely not.

Q: Did he indicate by any conversation, he had or he know what was in the envelope?
A: Absolutely not.
Q: Okay. Did y'all talk about campaigns or did you talk about personal business or what did you talk about?
A: Mark Kelley's a personal friend of mine and we talked about old times. It was great to see him. It was the first time I'd seen him in a long time.
Q: Okay. Other than that particular meeting, did you hear from Mark Kelley any after that?
A: Not to my memory, sir, no.
Q: Okay. But he wasn't involved in your campaign?
A: No, sir.
Q: Okay. Now, I believe that we've introduced a document of Luke Byars. It's an email from Luke Byars. I think it went to a lot of people about the straw poll; you remember that?
A: Vaguely, yes, sir.
Q: Here it is. I'll let you look at that.
A: I didn't bring my glasses.
Q: Now, who is Luke Byars?
A: Luke was my campaign chairman or campaign manager.
Q: Okay.
A: Yes, sir.
Q: Is he related to Drea?
A: That's her husband, yes, sir.

Q: Okay. Were both of them working for you at that time?
A: Yes, sir; that's correct.
Q: And this email is -- what was the purpose of the email; let me let you read it over?
A: Okay. Okay. It says, Dear Friends -- and I assume friends, like you said, it went out to a lot of people -- Sorry to bother you on a Sunday, but I have great news that just couldn't wait. Gresham took first place in the South Carolina Republican Primary, Republican Party Straw Poll held at the Annual Silver Elephant Dinner in Columbia last night. The full results are provided below. Here's the big takeaway from Saturday night's win. With just forty-four days left in the primary, our campaign has seized the momentum and we're not letting go of it. Republicans from every corner of the state are beginning to realize what you and I have known for quite some time. Gresham is the one candidate with conservative credentials, character and a plan to lead economic turnaround in South Carolina. As we head into the home stretch, we need your help now more than ever. So, today I'm asking you to do two things to make a big difference. Number one, volunteer, get involved in our campaign. We've got plenty of work that needs to be done from making phone calls to putting up signs to stuffing envelopes. We could really use your help. Click here if you want to get involved and there is a phone number.

Q: Okay.
A: Number two, contribute, whether it's ten, fifty or a hundred, whatever you can give today will go a long way. Thank you for everything you do. Sincerely, Luke Byars, Campaign Manager, Barrett for Governor. P.S. Here are the straw poll results from the Silver Elephant Dinner. First place, Barrett with 37; second place, McMaster with 34.2; third place, Nikki Halley, 18.4; fourth place, Andre Bauer, 10.4. P.S.S. For more about last night's straw poll click here.
Q: Now, that particular email went out to how many people?
A: I have no idea, but I would assume probably maybe Republican Primary supporters, kind of, it's a list probably called F1.
Q: But you have a, you have a -- you develop lists during the campaign?
A: Absolutely.
Q: So, how many people would you say you would have on those lists?
A: I have absolutely no idea. We used campaigns probably from the last four or five Republican primaries. So it would be thousands of people.
Q: Thousands?
A: Thousands of people.
Q: Okay. Now, there's also a email at the top where Mark

Kelley is forwarding this to several people. You see that at the top?

A: Yes, sir; I do.

Q: Do you see anywhere in there where Mark Kelley is soliciting campaign donations for you?

A: No, sir.

Q: Well, what do you understand that email is doing?

A: Basically just putting out the results of the straw poll, I guess.

Q: Now if -- you've read the articles, am I, am I correct?

A: Yes, sir.

Q: I'm not gonna go back through them again. We've been over them till we're tired of them. But I wanted to talk to you about the first one where it says Brad Dean along with Chamber lobbyist, Mark Kelley, delivered $84,000 in contributions, donations to Gresham Barrett in June. When you read that, what did you understood -- understand it to mean?

A: Well, first -- first of all, I took it very personally because the way I read it is along meant they both handed me the envelope.

Q: And that accused you of what?

A: Illegal campaign contributions.

Q: Did it accuse Mark Kelley of anything?

A: I would -- yes, absolutely. I mean, along, it had the two of them down, along -- we were all implicated I would say.

Q: All right. Did you read the next article in -- the 25th of May, it was a quote by Robert Kelley?
A: Refresh my memory, Counselor, please?
Q: I'm gonna quote it.
A: Yes, sir.
Q: In the past, the Chamber has denied any involvement in this scandal. But, now, Brad Dean admits he set up the lunch with Chamber lobbyist -- and Chamber is in brackets -- lobbyist, Mark Kelley, and he handed, he handed Mr. Barrett the envelope full of checks. What did you understand that to mean?
A: Well, when you're talking about scandal, you know, it sounds to me like there's improprieties.
Q: Okay. What did you understand when he said Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley, and he handed the money to Gresham Barrett?
A: As far as -- I'm not tracking with you, Counselor.
Q: In other words, when you read that, do you know who he's talking about? Who set up the meeting? Brad Dean admits he set up the, the lunch with Chamber lobbyist, Mark Kelley?
A: It sounds, it absolutely sounds to me like the pair of them set the meeting up.
Q: All right. Is that illegal?
A: Yes, sir.
Q: All right. And he says, and he handed Mr. Barrett the

envelope full of checks. Do you who he modifies?
A: No, sir, it could've -- it could have been -- according to that article, it could've been either one.
Q: Okay. And if Mark Kelley delivered the campaign funds to you, would that be illegal?
A: Absolutely.
Q: Illegal on his part and your part?
A: Absolutely; yes, sir.
Q: Do you remember the article -- excuse me -- not article, but editorial on May 30th of Absence of Evidence?
A: I remember taking a look at that, yes, sir.
Q: Let me direct your attention to the paragraph here and direct your attention -- read the first part to yourself and then when you get to the parenthesis, read it and tell me and the Jury how you understood -- what you understood the writer is trying to tell the public?
A: This part right here, Counselor, please?
Q: Start here beginning, as we now know ---
A: Okay.
Q: And read down to where the parenthesis starts.
A: Okay. As we know based on David Wren's reporting, it was Myrtle Beach Area Chamber President, Brad Dean, who personally handed the 84,000 in checks to Barrett with lobbyist, Mark Kelley, sitting by his side, in quotation marks or, excuse me, in parenthesis, if Kelley handed over the money, the

transaction would have been inexplicitly illegal effectively forcing Barrett to say Kelley had no involvement in petitioning the donations on Dean no matter what the unprovable truth is.

Q: And I believe it said pinioning, doesn't it?

A: Yes, sir, that's correct, pinioning.

Q: Pinioning means to grab somebody and hold his arms and ---

MR. BENDER: I would object, Your Honor.

Q: Is that your understanding ---

A: Yes, sir.

Q: --- of pinioning?

THE COURT: Mr. -- excuse me, Mr. Stevens -- your objection was?

MR. BENDER: Hearsay -- not hearsay, Your Honor; leading.

THE COURT: All right.

BY MR. STEVENS:

Q: But you understand pinioning?

A: Yes, sir.

Q: Tell the Jury what your understanding of the word pinioning means?

THE COURT: Very well.

A: To grab and hold on.

Q: Did anybody force you to say that Brad Dean handed you the envelope?

A: No, sir.

Q: And what do you understand The Sun News is meaning by saying what's in parenthesis?
A: What, what it appears to me is what he was saying is that it looks like Brad Dean gave to me, but unfortunately nobody was there to corroborate so it could have been Mark Kelley. I mean, that's the way I'm reading that right there.
Q: Okay. No matter what the unprovable truth?
A: Absolute. I mean, that's what it says, the unprovable truth right there.
Q: You're saying that they're forcing you to say this?
A: Well, what it's saying is, to me, that I'm lying.
Q: That you're lying?
A: Yes, sir.
Q: Were you lying?
A: No, sir.
Q: Let me ask you this, Did -- do you know who Justin Stokes is?
A: Yes, sir.
Q: Tell them, tell the Jury about Justin Stokes?
A: Justin Stokes was a young man that was recommended to me to come work on my campaign and he seemed like an awful fine young man and we certainly hired him because we were kind of in a lurch at that time. We needed somebody with campaign experience so we put him on our campaign.
Q: Did he become the Deputy Campaign Manager for you?

A: Yes, sir, he did.
Q: And what, if anything, happened to Justin Stokes during this campaign?
A: From what he told me and our campaign staff that he had a mental breakdown, not just one but two. And the second time, he resigned and, when he left, we found that he had gone months without properly posting things as far as campaign volunteers, getting back with people. I mean, we just -- we had mess on our hands.
Q: Did you know that or discover that he had taken some emails from your campaign?
A: When I read about it, yes, sir.
Q: And where did he take those emails from your campaign to?
A: According to the paper, he took them to The Sun News.
Q: Okay. Did, did he also contact a fellow by the name of Tim Pearson?
A: Yes, sir.
Q: Who is -- tell the Jury who Tim Pearson is?
A: Tim Pearson, at the time, was running the Haley Campaign.
Q: Nikki Haley's campaign?
A: Yes, sir, and then was later Governor Haley's Chief of Staff.
Q: And did you discover anything about what Justin Stokes did with the email, emails taken from your campaign headquarters?
A: As far as I know, items that were supposed to be for the

campaign, he shared with Mr. Pearson.

Q: With Mr. Pearson, who was -- was this a pretty hotly contested election?

A: It was my entire life, sir.

Q: Okay. Was there some mud throwing in that election?

A: Certainly.

Q: Okay. You were apparently leading the, the, in, in the polls; am I correct, before these articles came out?

A: Yes, sir.

Q: And what happened after; where did you go in the polls afterwards?

A: Well, I'm working for a church now; so, I'm not a Governor.

Q: Okay. It would be fair to say it went down?

A: Yes, sir.

Q: Okay. Now, when you read these three articles, did, how did you take them when you read them?

A: Well, first of all, you take them very personally. I'm a graduate of the Citadel. I served in the United States Army and I take honor and integrity very seriously.

Q: Do you want to protect your reputation?

A: Absolutely.

Q: Did Mark Kelley want to protect his reputation?

A: As much or more, yes, sir.

Q: Before the May 2010 articles and thereafter, what was Mark

Kelley's reputation?
A: Stellar.
Q: Both personally and in his occupation?
A: Absolutely.
Q: After the articles, what happened to his reputation?
A: Well, I would assume it's kinda like mine; it was impugned.
Q: Okay. Would a, a legislator reading that kind of material try to avoid dealing with a lobbyist with that being written about him?
A: There's a lot of them that would, yes, sir.
Q: Excuse me just one moment, please. Did you observe Mark Kelley in his occupation as a lobbyist before all this came out?
A: Yes, sir. Yes, sir.
Q: How was, can you tell me -- tell the Jury how efficient he was?
A: Mark, while he was serving in the legislature, while I served with him and even afterwards, had a -- was a, an outstanding lobbyists and beyond reproach whether it's while he was a member of the House or even afterwards.
Q: Is it important for a lobbyist to maintain their reputation?
A: It's imperative.
Q: Things like this written about a lobbyist, what is the

natural tendency of a legislator to do with, with regards to associating with that lobbyist?

A: Well, not only, not only the legislators would shun him or turn away from him, potential clients would also.

Q: Thank you. Answer any questions that Mr. Bender has for you.

A: Yes, sir.

THE COURT: Mr. Bender.

CROSS EXAMINATION OF JAMES GRESHAM BARRETT BY MR. BENDER:

Q: Thank you. It's hard to get here from Westminster, isn't it?

A: Yes, sir, it is, a long way.

Q: What was your major at the Citadel?

A: Business Administrations.

Q: Not English?

A: No, sir.

Q: Let's took a look at these articles. Do you know who Cathy Hazelwood is?

A: Yes, sir, I do.

Q: She's the General Counsel of the South Carolina Ethics Commission?

A: Yes, sir.

Q: And if she were to say that in her view, you're sitting at a table with Mark Kelley and Brad Dean and where an envelope with $84,000 in it was handed to you was not illegal, would

you take that to the bank?

A: Yes, sir.

Q: And when you got to the restaurant, was Brad Dean there?

A: I, I think so. I'm not sure.

Q: And was Mark Kelley there?

A: I can't remember if Mark was there or came there later.

Q: And you had nothing to do with getting Mark Kelley to the restaurant?

A: No, sir.

Q: And the meeting was arranged with Brad Dean and your campaign?

A: That's correct.

Q: So if Mark Kelley's been invited, he's been invited by Brad Dean?

A: Yes, sir.

Q: The guy who gave you the envelope with the money in it?

A: Yes, sir.

Q: And did you look in that envelope?

A: No, sir; I did not.

Q: Just handed it to Drea?

A: Yes, sir.

Q: Now later it turned out that there were challenges to contributions made by or delivered by Brad Dean, correct?

A: Yes, sir.

Q: And there was a citizens group that was charging that

these campaigns, these campaign contributions looked like they came from the Chamber of Commerce using Chamber of Commerce money, right?

A: I believe that's the way the article -- or the way it was presented, yes, sir.

Q: That was a charge made by this group called BOOST, wasn't it?

A: Yes, sir.

Q: And there is interest in the public in campaign contributions, isn't there?

A: Absolutely.

Q: And the public generally wants to know where the money comes from going to its candidates, right?

A: Yes, sir.

Q: And the charge was these contributions were made on cashier's checks drawn on accounts of limited liability companies that did not appear to be have, did not appear to have assets; is that how you understood the charge?

A: Yes, sir.

Q: Would that have prompted the public's interest in getting to the bottom of this issue?

A: Absolutely.

Q: Thank you. I have no other questions.

THE COURT: Mr. Stevens?

REDIRECT EXAMINATION OF JAMES GRESHAM BARRETT BY MR. STEVENS:

Q: Do you have any perception as to why Mr. David Wren quotes Cathy Hazelwood?
A: Well, it sounds to me like he's trying to legitimize his articles. And, and, Counselor, if I may, you know, it's one thing for Ms. Hazelwood to say something because she, you know, was very succinct in what she did, but the way The Sun News put it was not the way Ms. Hazelwood put it.
Q: Okay. And Mr. Bender has been asking witnesses about why did Cathy Hazelwood ask that question, but let, let's get to the point here. Cathy -- the article that he's talking about is the May 21st article, am I correct?
A: That is correct, sir. That is correct, sir.
Q: That's before Mr. Wren said Brad Dean along with Mark Kelley, Chamber lobbyist, Mark Kelley, delivered $84,000 in campaign contributions to Gresham Barrett in June?
A: Yes, sir.
Q: All right. So, he also pointed out in that June -- May 21st article that if Mark Kelley had touched the envelope, it would have been illegal; is that correct?
A: Yes, I believe that's correct, yes, sir.
Q: Okay. Now, are you familiar with this organization BOOST?
A: No, sir.
Q: Do you know whether that organization still exists?
A: No, sir.
Q: You know whether that organization was organized simply

for the purpose of this campaign?

A: No, sir.

Q: Okay. Thank you very much.

MR. BENDER: Nothing further, Your Honor.

THE COURT: You may step down. Thank you, sir.

MR. STEVENS: May Mr. Barrett be excused?

MR. BENDER: No objection.

THE COURT: Without objection, you're released from your subpoena. Thank you, sir.

MR. STEVENS: Plaintiff would call Cathy Hazelwood.

CLERK: Please raise your right hand and place your left hand on the Bible?

CATHY LYNN HAZELWOOD, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat, please, ma'am. State your name for the Court, please, ma'am.

MS. HAZELWOOD: Cathy Lynn Hazelwood.

DIRECT EXAMINATION OF CATHY LYNN HAZELWOOD BY MR. STEVENS:

Q: Ms. Hazelwood, tell the Jury what you do?

A: I am General Counsel and Deputy Director for the State Ethics Commission.

Q: How long have you been in that position?

A: Fifteen years.

Q: Okay. And at, in that position, tell the Jury what your duties are and what you oversee?

A: The State Ethics Commission has four areas of the law. We regulate lobbying and we have the Rules of Conduct for Public Officials, Public Employees and Public Members, Campaign Finance Law, Campaign Contributions and Annual Financial Disclosure and as such, as the attorney for the agency, I prosecute, administratively prosecute violations of the Ethics Act, I provide advice to the Commission, I provide advice to the public if someone wants to run for office and they have questions about their campaign, a council member wants to know if they should vote in a matter, they would call in the office or email me and I'd answer questions in that way and I do represent the Commission on occasion in court.

Q: Okay. As a -- in your position, did you have an opportunity to talk with David Wren?

A: I did.

Q: And tell the Jury what Mr. Wren asked you.

A: Mr. Wren asked the question about a luncheon in which contributions were made to Gresham Barrett from the Chamber of Commerce, a representative of the Chamber of Commerce and a lobbyist had been at the restaurant at the table when the contribution was made. He wanted to know if the presence of the lobbyist was a violation of the Ethics Act and I said it was not.

Q: You told him ---

A: It was my opinion it was not a violation of the Ethics

Act.
Q: Did he say anything about Mr. Kelley handing or touching the envelope containing the campaign contributions?
A: I have no recollection, anything about touching an envelope.
Q: Okay. There's a quote in the newspaper on May the 21st where he is quoting you as saying that it would be illegal for Mr. Kelley to have touched the envelope; did you say that?
A: It would be. It's my opinion that if he touched the envelope as in handing the envelope to the candidate, then that would be facilitating a campaign contribution.
Q: Okay. Did -- as the attorney, did you ask him, well do you have any evidence like this?
A: No.
Q: You didn't. Did, did David Wren make a complaint about Mark Kelley?
A: I can neither confirm nor deny the existence of a complaint. This matter happened in 2010. So, you could -- what I can tell you is all the 2010 cases have been resolved. So, you're not gonna find Mr. Kelley's name under the complaints resolved issue.
Q: Okay. You're under a duty as the attorney to say exactly what you told me just then?
A: Yes, sir.
Q: You can neither confirm nor disaffirm that ---

A: That is correct.
Q: But you're saying that there, all the complaints, if whatever complaints are filed have been resolved and there's nothing against Mr. Kelley?
A: That's correct.
Q: Okay. That's all I have. Thank you.
THE COURT: Mr. Bender.
MR. BENDER: Thank you, Your Honor.

CROSS EXAMINATION OF CATHY LYNN HAZELWOOD BY MR. BENDER:

Q: Ms. Hazelwood, thank you very much for coming. As I recall, your deposition was taken in this case and you were asked about your comments in each of these articles where you said it would've been illegal for Mark Kelley to have touched the envelope, but being the same room was not a problem?
A: Correct.
Q: Were you accurately quoted?
A: I was.
Q: And when you were asked about whether any of these contributions made on cashier's checks to the Gresham Barrett campaign were problematical and you were quoted as saying it did not appear there was anything illegal?
A: Correct.
Q: And you were accurately quoted there?
A: Yes, sir.
Q: Now, if a lobbyist sends a request to someone asking

directly or indirectly for a campaign contribution, would that be a violation of the law?

A: I believe it would be. I believe that's facilitating or soliciting. I mean it's outright soliciting a campaign contribution.

Q: Let me show you a document. I'll get you one that you can read directly without having to look at this board. It's Plaintiff's Exhibit Seventeen. Take a minute and take a look at that if you would.

A: I've read it.

Q: All right. Does that email in its entirety contain a solicitation for campaign contributions?

A: It does.

Q: And if that were forwarded by a registered lobbyist, would that be a solicitation for campaign funds?

A: It appears to me that it would be.

Q: Would that have been lawful?

A: I don't believe it would be.

Q: Thank you very much. Nothing further.

REDIRECT EXAMINATION OF CATHY LYNN HAZELWOOD BY MR. STEVENS:

Q: The email asking for campaign contributions is from Luke Byars; correct?

A: That is correct.

Q: And the email from Mark Kelley is to people and he is telling them about the straw poll, correct?

A: That's what the email does.

Q: Right. If the purpose of the email to tell them about the straw poll, saying the straw poll is good news; do you see that as a solicitation?

A: No.

Q: Okay. Thank you. That's all.

RECROSS EXAMINATION OF CATHY LYNN HAZELWOOD BY MR. BENDER:

Q: The solicitation for funds is in the included email that was forwarded by the lobbyist?

A: Yes.

Q: And in your view that would be illegal?

A: Yes.

Q: Thank you.

THE COURT: All right. You may step down.

A: Thank you.

MR. BENDER: I have no objection if the witness is excused, Your Honor.

THE COURT: You need this witness further?

MR. BENDER: No.

THE COURT: You may be excused from your subpoena. Thank you, ma'am.

BY THE COURT:

THE COURT: All right. What we're gonna do is I'm gonna let this Jury go to lunch. It's 12:15. Let's be back about 1:30. Okay.

(REPORTER'S NOTE: Jury exits courtroom. 12:13 P.M.)

THE COURT: All right. Gentlemen, we'll be at ease until 1:30. I have some minor settlements that I intend to do in the courtroom. I actually believe that you can leave your things there. I don't think you need to clear your tables. They won't take me that long to do and I think the attorneys can use the podium. Thank you.

MR. STEVENS: Judge, you said you wish us to clear the table?

THE COURT: You need not. You need not. Your materials will be fine there.

(RECESS - 12:14 P.M.)

*******OFF THE RECORD*******

(On the Record - 1:36 P.M.)

THE COURT: Please be seated.

Mr. Bender, we've got a note sent to me by the foreman that she's having trouble hearing you.

MR. BENDER: Okay.

THE COURT: But if you would, you might need to speak up.

MR. BENDER: Thank you.

THE COURT: I just bring that to your attention.

MR. BENDER: I appreciate it.

THE COURT: We ready to go?

MR. BENDER: Yes, sir.

MR. STEVENS: Plaintiff's ready, Your Honor.

THE COURT: Very well, let's bring in the Jury.

Gentlemen, I am working on a draft of the charge. If you will give me or give Drew your cards with some email address, we'll shoot that over to you so you can look at it tonight and we haven't put anything about the statutes in it yet. We know we're gonna do some adding here and adding there, but give you an opportunity to see how I'm formatting it and I welcome your suggestions.

(REPORTER'S NOTE: Jury enters courtroom. 1:37 P.M.)

MS. STEVENS-GRAZIANI: Right now.

THE COURT: Yes, if you have one. Ms. Graziani, do you have an email for Mr. ---

MS. STEVENS-GRAZIANI: His is the same except Jim instead of mine.

THE COURT: Thank you, George.

MR. REDMOND: Can I give you two?

THE COURT: That's good. That's good. That's fine.

(REPORTER'S NOTE: Jury enters courtroom. 1:37 P.M.)

THE COURT: All right. I see that we have all our jurors and our alternates back in the courtroom. I hope you had a nice lunch and we're ready to go forward.

Mr. Stevens, I think you were gonna call Mr. Kelley back or did you have someone else?

MR. STEVENS: I'm gonna get two more short witnesses.

THE COURT: Okay. Very well. We can do those. Thank

you.

MS. STEVENS-GRAZIANI: The Plaintiff calls George Hearn to the stand.

THE COURT: Come around, Mr. Hearn.

CLERK: Please raise your right hand and place your left hand on the Bible.

GEORGE M. HEARN, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat please, sir. State your name for the court please, sir.

MR. HEARN: George M. Hearn.

DIRECT EXAMINATION OF GEORGE M. HEARN BY MS. STEVENS-GRAZIANI:

Q: Good afternoon, Mr. Hearn.

A: Good afternoon.

Q: Can you tell the Jury what you do for a living?

A: Yes, I'm a lawyer. I practice here in Conway with my brother, Pete.

Q: And were you ever a member of the House of Representatives?

A: Yes, I served in the General Assembly for two terms starting in 2008 and then again in 2010 finishing in 2012.

Q: So, were you serving in 2009?

A: Yes, I was.

Q: Were you campaigning in the year of 2009?

A: I was campaigning from the time I applied for the position

until the time I left the position.
Q: Okay. And while you were there, were you on any committees?
A: Yes, I was on the Judiciary Committee.
Q: Tell me, do you know Mark Kelley?
A: Yes, I do.
Q: And how do you know Mark Kelley?
A: I've known Mr. Kelley for over twenty years. I knew him when he had his restaurant. I knew him when he was a member of the General Assembly. My law partner at the time, Morgan Martin, served with Mr. Kelley and so I've known Mr. Kelley for twenty-plus years.
Q: Okay. And how would you describe his professional reputation?
A: He has an excellent reputation.
Q: And why would you say that?
A: Because I have been with Mr. Kelley on numerous occasions. I know his reputation in the community. I know the work that he has done both when he was a member of the General Assembly and the work that he's done when he serves as a lobbyist and in every respect, he has done an excellent job in each role he has undertaken.
Q: How does a lobbyist -- what does a lobbyist need to do their job well?
A: First, they have to have the ability to impart

information. They are representing a particular entity or individual that is seeking to have something passed through the General Assembly. A good lobbyist is one that will provide insight to the members of the General Assembly about a particular bill or a particular proposition advocating as he or she thinks appropriate in terms of why this is a good bill or not. A great lobbyist is one that you can count on and depend on so that if he or she tells you something, you can accept it without wondering why they are telling you this and Mr. Kelley, when he was a lobbyist, I assume he still is, certainly met that criteria.

Q: So they -- you have to trust that the information they give you is correct?

A: You have to trust the information, you also have to trust the individual.

Q: Okay. So, Mr. Kelley was an effective lobbyist?

A: Extremely so.

Q: Do you know, how would you describe Mr. Kelley's personal reputation?

A: Mr. Kelley's personal reputation is like his professional reputation, it's excellent. He's a very bright, affable individual. He has a lovely wife. He has a wonderful family. He is somebody that I have been to social gatherings on, that have nothing to do with the General Assembly, and I've always considered him and I think he's known in the community as

being a really fine man.
Q: Have you been to any social gatherings that had to do with the General Assembly where Mark Kelley was present?
A: Yes.
Q: Do you know if any funds were given at those -- what do we call them, those, functions?
A: In the General Assembly when you're serving in the General Assembly, there are a number of opportunities that you are given in the evening to meet with different groups, the Funeral Home Directors, the Real Estate Lobby, various technical schools, the colleges all have opportunities for invitations to the members of the General Assembly to go and to meet with as a legislator, you go and you meet, particularly if you have constituents, they want to be able to talk face to face to the person that's representing them. And so there are three or four of those in any given night while you're there. I'm sure I saw Mr. Kelley at a number of those. None of those were campaign -- they weren't an effort to get contributions; they were an opportunity to interact with the people that you are representing. And I tried to attend as many of them as I could and especially when there was a local group here and I knew that there were individuals that were counting on me to help them as I was felt obligated to do as their representative.
Q: Do you, do you know or is it common for there to be

campaign contributions given at any of those meetings?
A: The meetings I'm talking about, the functions, I don't know whether campaign contributions are given then or not. I don't know that there's anything inappropriate about it, just that typically when I was campaigning, I would write letters and ask for contributions or I would have a fundraiser established and that's where the bulk of my contributions came through.
Q: Was there any problem with a lobbyist being present at any of those?
A: No. No, certainly not.
Q: Were you familiar with the articles that came out in the paper in 2010 regarding campaign contributions?
A: Yes, there were a number of articles and I think I read all of them at one time or another.
Q: I hand you what's labeled as Plaintiff's Exhibit One and ask you to start reading -- well, first let me look at it. Okay. In the article, does it mention Mark Kelley?
A: It does.
Q: Can you find where it says, where it starts to mention Mark Kelley?
A: I see a highlighted underlined in the third paragraph on this exhibit that says Mark Kelley, a lobbyist for the Chamber of Commerce.
Q: Can you read starting there, was it two or three

paragraphs?
A: Certainly. Mark Kelley, a lobbyist for the Chamber of Commerce, also attended that meeting according to Barrett. Kelley did not return a telephone call Thursday. There are strict rules that forbid lobbyist from facilitating campaign donations for statewide candidates. However, a spokesman for the South Carolina Ethics Commission says it does not appear any laws were violated in this case. Just being in the same room is not a violation. It happens all the time said Cathy Hazelwood, the Commission on General Counsel. He, Kelley, is not supposed to touch the envelope or hand over the envelope. The campaign contributions -- do you want me to go on?
Q: That's fine. From what you just read, isn't it true that it was reported that Kelley is not supposed to touch the envelope or hand the envelope over?
A: That is correct.
Q: So, in essence that means he's not supposed to deliver the campaign contributions?
A: That is correct.
Q: Now, I'm gonna hand you Exhibit Number Two and ask you to tell the Jury what date that exhibit or what date that article was published; can you tell?
A: I'm afraid the date is obscured at the top. I can just see what page it's on; it's a carryover.
Q: Okay. Well, there's a section in that article that's

circled?
A: That's correct.
Q: Can you read it -- you can read it ---
A: Dean along with Chamber lobbyist, Mark Kelley, delivered about 84,000 of those contributions to Barrett in June. Those contributions included a $3500 cashier's check from Garden City Partners.
Q: Now, what do you interpret from that sentence or those two sentences?
A: I didn't interpret anything. It says that Mr. Kelley and Mr. Dean delivered 8400 -- $84,000 in contributions to Barrett.
Q: So how many people delivered it?
A: According to this article, two.
Q: I'm gonna hand you Exhibit Number Four and ask you to -- you can read out loud between the highlighted portion of that article.
A: All right. In the past, the Chambers denied any involvement in this scandal, but now Brad Dean admits that he set up a lunch with Chamber lobbyist, Mark Kelley, and he handed Mr. Barrett the envelope full of checks. He, Robert Kelley, who is not related to the lobbyist -- oh, said Robert Kelley, who is not related to the lobbyist.
Q: How many people does that say set up the meeting?
A: One, Mr. Dean.

Q: Okay. Are you sure?
A: It said, But now Brad Dean admits he set up a lunch with lobbyist, Mark Kelley, and he handed Barrett the envelope full of checks. So, I take that to mean that Brad had set up a lunch with Mark Kelley and I assume with Mr. Barrett.
Q: Okay. And who is saying delivered the money?
A: Oh, Mr. Dean delivered, I mean -- yeah, Mr. Dean delivered the money to the degree it says. Oh, he handed Mr. Barrett the envelope full of checks. So, Mr. Dean is the one that actually handed a check to Mr. Barrett.
Q: Okay. Do you know Robert Kelley?
A: I don't believe I do.
Q: Do you know if that quote is -- have you ever heard Robert Kelley make any public speaking event?
A: I may have. I apologize. One thing I did learn when I was in the General Assembly, I was not terribly good with names, which is not a good thing for a politician. So, I may well know Mr. Kelley but I don't recall anything about him particularly.
Q: Did you ever attend any BOOST function?
A: BOOST?
Q: BOOST.
A: I don't believe I did. Although, in the course of campaigning I attended a lot of functions that I wasn't sure who was sponsoring them but I don't believe I ever attended

any BOOST function.
Q: Okay. I'm gonna hand you Exhibit Five and ask you what's the title of that article?
A: Absence of Evidence.
Q: And, and it's an editorial, right?
A: It appears to be from May 30th, 2010.
Q: Do you remember reading that article?
A: Yes, I do.
Q: And what was your perception of that article; what was it saying?
A: Well, the article, let me read it over again because it was a while back. Give me one minute so that I can read it and hopefully answer correctly. The article says present are Brad Dean, who personally handed $84,000 in checks to Barrett with lobbyist, Mark Kelley, sitting there by his side. If Kelley had handed the money over the transaction would've been explicitly illegal. Effectively, forcing Barratt to say Kelley had no involvement in pinioning -- I don't know what that means, the donations on Dean no matter what the unprovable truth is. As I read that article, it was a -- suggested to me it was somewhat disingenuous to the degree that it's saying that there's an unprovable truth, but then if you look at what the underlying alleged truth is, it would be somehow to suggest that Mr. Kelley was involved in this transaction when they're -- says he was not.

Q: Okay. Can you read that part again to yourself and tell me what you think the word pinioning means. I know you said you didn't know, but read it one more time and tell me if you can decipher what pinioning might mean.
A: Say Kelley had no involvement in pinioning, I assume, designating that the donations were by Mr. Dean.
Q: Do you know what pinioning means?
A: No, I do not.
Q: Okay. Now, after these articles, did -- was Mark Kelley's reputation affected?
A: Well, certainly after the articles came into play, this was the -- a topic of a lot of conversation both at the State House and in the places that I went. As to whether or not it had an impact on his reputation, he could probably better answer to that than I can, but if I am accused of a crime falsely, as an attorney, it would certainly have an impact on my reputation and I assume would have the reputation on anyone else whose ability to perform his or her function is a direct relationship to how much trust and the nature of their reputation.
Q: How long -- you said there was talk going on about at the State?
A: At the State House.
Q: How long did that happen -- how long did that last?
A: Well, there were a number of articles in The Sun News and

each time there was a new article, it brought back the, the earlier article in which there was a statement that Mr. Dean and Mr. Kelley together handed over the contributions. And so each time another statement came out or each time there was another report, it just re-brought up to the surface the problems that were existing with the underlying initial reporting.

Q: Okay. Just a second. Did David Wren ever call you and ask you anything about the campaign contributions?

A: No, I don't believe I've ever met Mr. Wren. I know that he is an active reporter, but I don't believe he ever called me. I did get a call from someone at the State paper, but that was the only call I got.

Q: Okay. That's all I have.

THE COURT: Mr. Bender.

MR. BENDER: May it please the Court.

CROSS EXAMINATION OF GEORGE M. HEARN BY MR. BENDER:

Q: George, I told you earlier that your wife had sent me a list of questions to ask you while you were under oath. Are you ready?

A: Only if I can have you put under oath and ask the same questions your wife sent me.

Q: I think that's fair enough. Now you, what was your undergraduate education?

A: I majored in Economics.

Q: Now, of course, you've got a law degree and you've been practicing law in Horry County for a long time?
A: I have.
Q: Amazing how long it's been, right?
A: It is.
Q: Now, were here when Senator Bud Long from Horry County was on trial in Operation Lost Trust?
A: Yes, I was.
Q: And as I recall, he was convicted of taking money from a lobbyist and that set off ethics reform in the General Assembly; he and others were convicted?
A: I know Mr. Long was initially convicted. I believe that my former law partner, Tommy Brittain and I both went to the Fourth Circuit and his conviction was overturned.
Q: Oh, good. Congratulations.
A: So Mr. Long was erroneously convicted, but I know that as a result of that particular event apparently there were some changes in the way ethics were handled.
Q: And when you went to the General Assembly, you had some idea of what the constraints were on lobbyists and on candidates with respect to campaign contributions; is that correct?
A: Certainly, I had an understanding as to what I could and couldn't do as a candidate with respect to campaign contributions.

Q: And as I look at that law, it seems to me that the General Assembly was suspicious of lobbyists and the sources of money that lobbyists might have in the past have given to candidates?

A: I don't know what the rationale was for the ethics reform. I know that there's ethics reform being considered right now in the General Assembly and certainly when I was there, I suggested and signed on a number of bills promoting ethics reform. I think there is always a concern when you're seeking campaign contributions that there be full disclosure and that if somebody provides me with a check that my constituents and anyone else that wants to, can know what I got and when I got it. But as to whether or not there was a particular concern that exists anymore then than now, I don't know what these, the social or the, the, the way lobbying was done back then or how the members of the General Assembly what was or wasn't allowed. I know when I got to the General Assembly in 2008, I was told that the lobbyist could not even buy me a cup of coffee and no one ever offered to buy me a cup of coffee.

Q: It worked.

A: It worked. It worked very well.

Q: And you talked about your constituents wanting to know how much you got?

A: That's right.

Q: Did your constituents also want to know where the money

came from?
A: Certainly. And on the campaign report you have to say how much did I get from an individual or entity and where is that entity; give me the name of the company and the address all of which has to be filed on the campaign report on a quarterly basis.
Q: And as I understand the issue in the 2010 election cycle, there were campaign contributions written on cashier's checks at one bank in sequential order on accounts of limited liability companies that seemed to have no assets.
A: I don't know whether the liability, limited liability companies have assets or not. I know that I received some sequentially numbered cashier's checks from various entities that had their name, address and amount of the check all of which I disclosed on my campaign report.
Q: Certainly. And there was no information other than the name of that entity on the check?
A: The name of the entity or the individual. For instance, there were individuals who gave me checks in that same cycle and if I get a check from Joe Blow or Sue Smith, even if I don't know them, as long as I report that it's Joe Blow or Sue Smith that gave me the campaign contribution and give the address, then anybody that wants to look it up can see who that individual was or what company that was.
Q: And the design of that is to allow constituents to know

who is contributing to a campaign of someone seeking public office?

A: That's correct.

Q: And in the 2010 election cycle, there were allegations made that contributions may have come from the Chamber of Commerce; is that correct?

A: That was what some of the reporting suggested.

Q: And that's what Robert Kelley and BOOST suggested also, isn't it?

A: Again, I don't Mr. Kelley and I don't know BOOST. So, I don't know what they were suggesting, but I did during the course of my two terms of service, there were an awful lot of suggestions from individuals and groups that I didn't necessarily agree with or pay attention to, but if BOOST or Mr. Kelley made a suggestion and I'm sure it was aired and obviously reported as I just read.

Q: And that's what democracy is about, isn't it?

A: Absolutely. Absolutely.

Q: I have no other questions.

REDIRECT EXAMINATION OF GEORGE M. HEARN BY MS. STEVENS-GRAZIANI:

Q: You mentioned the cup of coffee rule.

A: Yes.

Q: Can you explain that?

A: Yes, it's actually it has -- when I went to the General

Assembly, we had a meeting. When you're a freshman and you go to the General Assembly, they tell you because candidly I wasn't sure what my roles were, what I could and couldn't do and one of the first things they said is, lobbyist are an important role. They will provide you with information but you have to decide whether or not a particular lobbyist is someone that you want to communicate with. One thing you can't do is you cannot accept any favor or anything of value from a lobbyist, including a cup of coffee. In fact, Mr. Kelley one time pointed out to me that he would not be able to provide me with a cup of coffee and I said I understood that. And during the entire time I was serving in the General Assembly no lobbyist ever offered me a cup of coffee or anything else of value other than advice or opinions they had regarding whatever issue they were concerned about.

Q: Would, would giving a ride somewhere be a favor?

A: Apparently, because there was one occasion in which Mr. Hardwick and I were in Columbia and he did not have a car and so I believe he asked me to give him a ride home and he said he -- well, as it turned out, I believe Mr. Kelley joined us because Mr. Kelley couldn't take me for a ride and bring me back to Conway, but apparently, I was allowed to bring him back to Conway and bring Mr. Hardwick back to Conway.

Q: Okay. No further questions.

MR. BENDER: Nothing further, Your Honor.

MR. STEVENS: Could we excuse Mr. Hearn?

MR. BENDER: No objection, Your Honor.

THE COURT: Certainly. You are excused and released from your subpoena, Mr. Hearn.

MR. HEARN: Thank you.

THE COURT: Thank you very much.

COURT REPORTER: Ms. Graziani, can I have those exhibits back, please? I'm sorry. Once they're marked I have to keep them up here.

MS. STEVENS-GRAZIANI: I inherited it.

MR. STEVENS: I call David DeCenzo.

CLERK: Please raise your right hand and place your left hand on the Bible.

DAVID ANTHONY DECENZO, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat please. State your name for the Court, please.

MR. DECENZO: David Anthony DeCenzo.

DIRECT EXAMINATION OF DAVID ANTHONY DECENZO BY MR. STEVENS:

Q: Do they refer to you as Doctor?

A: It depends on the time and it depends on the issue and it, Dr. DeCenzo.

Q: Dr. DeCenzo, tell the Jury what you do.

A: I am President of Coastal Carolina University. I've been President since May of 2007.

Q: Okay. Would you tell the Jury if you have any connection with Mark Kelley?
A: Yes. Mr. Kelley is our legislative liaison, which said a different way, he is one of my employees.
Q: Okay. Is his salary paid by Coastal Carolina?
A: Yes, it is.
Q: Okay. Is that state funds?
A: It is.
Q: Okay. And when was he hired?
A: I'm not exactly sure when he was hired. When I became President, Mr. Kelley was already the legislative liaison and I continued his contract.
Q: When, when did you start?
A: May 7th, 2007.
Q: Okay. So, he was already there then?
A: Yes, sir.
Q: And while he was there, did you review his personnel file and see how he was paid?
A: Yes, sir.
Q: Okay. And have you, pursuant to a subpoena, produced to Mr. Bender all the records dealing with Mark Kelley?
A: The University did comply with that, yes, sir.
MR. STEVENS: We would move to introduce Exhibit Number Fourteen at this time.
THE COURT: Do you have that, Mr. Bender?

MR. BENDER: I have to look.

THE COURT: Show it to Mr. Bender please so he can familiarize himself with it.

MR. BENDER: No objection, Your Honor.

THE COURT: All right. Without objection it's admitted as Plaintiff's Fourteen.

PLAINTIFF'S EXHIBIT NUMBER FOURTEEN

ADMITTED INTO EVIDENCE

MR. STEVENS: For the purpose of the record, these records go from March 29, 2009 to a date which would have been effective -- would be effective June 30th, 2014.

BY MR. STEVENS:

Q: Generally, could you describe to the Jury what those documents are?

A: These are documents that the University would provide. Let me start with the top page.

Q: Okay.

A: Which was dated March 29th, 2006, this was the original appointment of Mr. Kelley by my predecessor, signed on looks like April 3rd, 2006, which again, appoints him to position of legislative liaison at Coastal Carolina University, a twelve-month appointment at a salary of $70,000. The subsequent pages are our annual salary statements that our Human Resources sends out to all employees, which indicates what their pay will be for the coming year and they're all pretty

much the same although we've changed the format of those forms. But these are what are now called our personnel action forms or PAF's.

Q: Well, let's go, we've already talked about the first page, which is for the fiscal year, I would assume, 2006/2007?

A: That would be correct.

Q: All right. Now the next page is a statement of his salary, Mark Kelley's salary, for the year beginning -- for twelve months; am I right there?

A: That's correct and this second page is what his salary would be for the 2006/2007 academic year.

Q: Did he get a raise that year?

A: Yes, he did.

Q: By how much?

A: He got a $3500 merit increase.

Q: Merit increase. So, he went from 70,000 to 73,500?

A: That's correct.

Q: Okay. Let's go to the next year.

A: Next year, July 1, 2007, which would be the 2007/2008 academic year, Mr. Kelley's salary went from 73,500 to 75,705 with a merit increase of $2,205.

Q: What is a merit increase?

A: A merit increase is an increase that an employee can receive based on successful performance at your job duties.

Q: Was his performance successful?

A: His performance has always been successful; yes, sir.
Q: Now the next year?
A: Next year for the 2008/2009 his salary went from again the base of 75,705, there was a general increase, which means that year there was a -- in this case it would have been a one percent increase that was granted. Usually, on a general increase it is something that the General Assembly either approves or in this particular case, it may have been an increase that the Board of Trustees authorized for each employee.
Q: So, he went from 75,705 ---
A: From 75,705 to 76,462.
Q: And what about the next year?
A: The next year looks like the 2009/2010 year and his salary had gone to $83,875.
Q: Now, this, this one shows that the start date is 11/23/09, 11/22 -- excuse me -- 11/23/09 to 11/22/10?
A: Correct.
Q: And was that your fiscal year?
A: No, that wasn't the fiscal year. That was -- in that case it's a calendar year.
Q: Okay. All right. Now, the next one shows a November the 23rd, 2010 to June the 30th, 2011; that's not a whole year; why is that?
A: That would have been from the salary of the original that

the previous page ---

Q: Okay.

A: --- through 11/22 then 11/23 through June, which would've ended the academic year and in this case his salary had been reduced to 50,892.

Q: Okay. Was that because you were prorating it or because of anything else?

A: It was probably along the lines of prorating it.

Q: All right. Now, the next one is the year 2011/2012. Did he get an increase?

A: He basically his increase what the full amount would've been for the calendar year. So, it was the, I guess it's moved to 83,875. I don't know see where there was an increase on this.

Q: Okay. And 2011 was the year after all these articles came out? Do you recall the articles coming out?

A: Yes, sir, I do.

Q: Did when you read the articles, did it give you concern as the University President of Coastal Carolina?

MR. BENDER: I object, Your Honor, leading.

THE COURT: Leading?

MR. BENDER: Yes.

MR. STEVENS: All I asked was did it give him any concern.

THE COURT: I don't think that's leading. It doesn't

suggest the answer. I'm gonna go ahead and allow it. You may answer.

A: Yes, sir, there was serious concern that I had that I shared with Board of Trustees.

BY MR. STEVENS:

Q: And what was that concern?

A: The concern was that when you have a legislative liaison or lobbyist, the credibility of that individual and the integrity of that individual is paramount to their success. And given what I had read, given what I had heard from some questions that I had received from a number of different people, the concern that I had was, could Mr. Kelley continue to be effective?

Q: And what occurred with regards to his salary?

A: The salary, and let me go back to if permitted, Your Honor, I guess one of the things for being here for opening statements, one of the questions that I heard, at least that was raised in my mind during Mr. Bender's opening statements was the pay raise for Mr. Kelley. Let me explain that there are two types of pay raises that we deal with in the institution. One is a General Assembly granted pay increase that applies to all employees, all state employees, with the exception of the President. We won't get into that here. The, the other is we do about every three or four years, we do what we call a salary compression analysis for our faculty and

our staff and it's a retention issue. We don't want to lose good employees and ultimately what we do is take a look at where those employees' salaries are currently as they relate to what we would consider to be peer institutions, comparable institutions, institutions in the Southeast that might have an interest of stealing some of our good employees. And so what we do is as run this analysis, we come up with new salary figures for each of those positions and that information then is taken to the Board of Trustees for their approval and you could have somebody that's a thousand or two under market or we've had them as high as about $40,000 under market and I go to the Board of Trustees and say that for reasons of salary compression that I need to adjust people's salaries again as a means of keeping them in the University. What we do is we typically divide it three times and pay it out over a three year period so that over those three years, we increase their base. Now that increase can be reduced, it can be lessened based on performance, or at my discretion it could be zero. I made a decision that, given the information that was circulating about Mr. Kelley, that it would not be in my best interest or the University's best interest to provide his salary compression money until we had some closure to this other issue that was out there and so I withheld the money.

Q: And that was, what, 18,000?

A: It was about $18,000, yes, sir.

Q: And you withheld that until?
A: Until I guess about November, October or November of this year.
Q: Okay.
A: Which would be the last sheet.
Q: So that would have been like three years?
A: Roughly, yes, sir.
Q: When the articles came out?
A: Yes, sir. It was the third payment of the salary compression. During that time -- again, I have to go back to Mr. Kelley's performance. We had come off the change of legislation that allowed Coastal Carolina University to participate in the penny sales tax that could be used for building buildings for K-16. We had gone through and changed the legislation to enable a comprehensive institution like Coastal Carolina University to offer a Ph.D. Degree in Marine Science and probably the other major element that directly attributed to Mr. Kelley was the securing of funds from the General Assembly to purchase a research vessel that's used with our Marine Science program. When I looked at all of those, out of the quieting nature of what was taking place, I couldn't in good conscience, not reward Mr. Kelley's performance and so I went ahead and authorized the full compression salary relief.
Q: And did, he did -- are you telling the Jury that he did

this while his salary was frozen?

A: Yes.

Q: Okay. Did, did, did Mark complain about it?

A: Not to me.

Q: Okay. He just went about his business?

A: As far as I know because the results speak for themselves.

Q: Okay. What else did Mr. Kelley do or accomplish for the University?

A: You know, Mark, Mark has simply been one of our best assets in Columbia, you know, it's -- and if anybody's heard me talk, we are the lowest funded state institution of all the states, about 4.9 percent of our total budget comes from the state and we are constantly trying to build a case, sadly unsuccessfully, but constantly trying to build a case that there needs to be parity in the system, that while none of us are funded extremely well, the reality is, we're at the very bottom as is Horry Georgetown Tech for our two specific sectors. But Mark has just been chipping away, constantly looking at of ways to educate our General Assembly on the needs of Coastal. As many of you probably have read multiple times, we continue to be attacked for the number of out-of-state students that we have. Right now, we are about 50/50 in-state/out-of-state and usually every year there is a bill or three that are pre-filed and/or filed during Assembly that tries to limit our out-of-state enrollment, which would have

the net effect, quite frankly of either shutting us down or requiring us to triple in-state tuition, which we simply could not do. And so he is, he bird-dogs every bill that's out there and when there are issues that come up that demand my attention or attention of someone from my staff, he alerts us. He will get us into Columbia and he just simply provides an invaluable service for us.

Q: Being in the education field, do you have any knowledge of what Mark is doing and his accomplishments for Horry County School District?

A: What, what little that I do know is only from conversations that I would have with, with the Superintendent. And again, we both are just so pleased with, with what Mark does in representing us in Columbia.

Q: Okay. Thank you so much. Answer any questions Mr. Bender might have.

MR. BENDER: May it please the Court.

CROSS EXAMINATION OF DAVID DECENZO BY MR. BENDER:

Q: Dr. DeCenzo?

A: Yes, sir.

Q: You have commencement coming up, don't you?

A: We are graduating about 1200 of them on Saturday.

Q: Very good. Hopefully, we'll be through in time to get you there.

A: I don't even think that's funny but go ahead.

Q: Well, you have been here the whole time, haven't you?
A: I have been subpoenaed as a witness. I was kind of on the, on-call list, so, yes, sir, I have been here.
Q: Now, you've listed Mark Kelley's accomplishments during the last three years that led to his $15,625 raise. He got the Marine Science program approved, got a boat for you and other things and most successful in Columbia fighting your battles?
A: That is correct.
Q: And as a consequence, if my arithmetic is right -- actually, I used the calculator -- he got an 18.6 percent pay increase?
A: That's probably correct, but that would've put him where peers in other institutions are that do this same position.
Q: Sure. And you did that because in the time following the publications that bring us here, he had continued to be successful in the Legislature fighting your battles?
A: He was successful, yes, sir.
Q: Let me show you Plaintiff's Exhibit Seventeen, Gresham wins SCGOP Straw Poll. Are you the first recipient of that email?
A: Yes, sir; I am.
Q: And who sent that to you?
A: It looks like it came from Mark Kelley.
Q: And Mark Kelley's email address is what?

A: Here it says it's Repmkelley@aol.com.
Q: It's been quite a few years since he was a representative?
A: About ten, yes, sir.
Q: Okay. No further questions.
MR. STEVENS: That's all we have. He can be excused.
THE COURT: Thank you, Dr. DeCenzo. Thank you, sir.
DR. DECENZO: Thank you.
THE COURT: You are excused. Any objection? You are excused from your subpoenas. Thank you, sir, Dr. DeCenzo.
MR. STEVENS: We'd recall Mark Kelley.
THE COURT: All right. Mr. Kelley still remains under oath.
MR. STEVENS: For the record, Your Honor, previously we had introduced the definitions of and, and marked it Ten.
THE COURT: Yeah, sir.
MR. STEVENS: We'd like to correct the record and make it Sixteen, Exhibit Sixteen.
THE COURT: Mr. Bender?
MR. BENDER: I have no objection.
THE COURT: Without objection.

PLAINTIFF'S EXHIBIT NUMBER SIXTEEN
ADMITTED INTO EVIDENCE

CONTINUED DIRECT EXAMINATION OF MARK KELLEY BY MR. STEVENS:

Q: I think before we broke, Mr. Kelley, I had asked you, During the pendency of this lawsuit, did you, pursuant to the

Rules of Civil Procedure request that The Sun News and David Wren produce all of his emails, electronic data?

A: You did.

Q: Okay. Did he produce them?

A: He produced -- at least he produced what we got.

MR. STEVENS: Okay. And we would now move, Your Honor, Exhibits Ten, Eleven, Twelve, and Thirteen-A through Thirteen-H.

MR. BENDER: I have an objection to Twelve, Your Honor.

THE COURT: All right. Let's send the Jury out and let them take a little break.

MR. STEVENS: I'll withdraw Number Twelve, Your Honor.

THE COURT: All right. Number Twelve was withdrawn.

MR. STEVENS: I will take that up later.

THE COURT: All right. Very well.

MR. STEVENS: Do you have any objections to the others?

MR. BENDER: No, no objection.

THE COURT: No objection.

BY MR. STEVENS:

Q: Now ---

THE COURT: Let's make it clear. No objections, there's objections made for what through Eleven?

MR. STEVENS: Number Twelve.

THE COURT: No, he objects to Number Twelve -- or you've withdrawn Twelve?

MR. STEVENS: He objected to Number Twelve.

THE COURT: You've withdrawn Twelve?

MR. STEVENS: I've withdrawn Exhibit ---

THE COURT: What Exhibits are you moving at this present time?

MR. STEVENS: Number Ten.

THE COURT: Ten.

MR. STEVENS: Eleven.

THE COURT: Eleven.

MR. STEVENS: And Thirteen-A through Thirteen-H.

THE COURT: Is that correct, Counsel?

MR. BENDER: Yes, sir.

THE COURT: No objection?

MR. BENDER: No, sir.

THE COURT: All right. They're admitted without objection.

PLAINTIFF'S EXHIBIT NUMBERS TEN, ELEVEN, THIRTEEN A-H ADMITTED INTO EVIDENCE

BY MR. STEVENS:

Q: Did you have an opportunity to read the emails?

A: I did.

Q: All right. During reading any of the emails from sources other than David Wren, did anyone say anything about Mark Kelley delivering campaign contributions to Gresham Barrett or any candidate?

A: No, sir.
Q: All right. And those were emails from Tim Pearson?
A: Yes, sir.
Q: And Tim Pearson is?
A: At that time, he was the campaign manager for Nikki Haley.
Q: Justin Stokes?
A: Justin Stokes at that time had left the Barrett campaign and was feeding emails to the Haley campaign.
Q: Okay. Tracy Edge?
A: Tracy Edge, who was working -- I don't know if he was a paid worker, but he was certainly out front and vocal about his support of Henry McMaster.
Q: Okay. Help me out here; I can't remember all of them.
A: I don't have them in front of me, I'm sorry.
Q: Okay. Give me one second.
A: We've been through an awful lot of papers.
Q: Vj@greshambarrett.com?
A: V.J. Boling, who was a campaign -- I think it was campaign manager for Gresham Barrett campaign.
Q: Were these the emails that Justin Stokes gave to Tim Pearson?
A: They would have been, yes.
Q: Okay.
A: You're referring to the Boling emails?
Q: Right.

A: Yes, sir.
Q: Okay. Up until May the 21st, the date of the first article, was there any emails in Mr. Wren's package of emails that said anything about Mark Kelley giving campaign donations?
A: No, sir, not that we seen.
Q: How about setting up the meeting?
A: No, sir.
Q: How about campaigning or trying to raise funds for a candidate?
A: No, sir.
Q: Now, on May the 23rd, do you recall seeing an email from Mr. Wren to Justin Stokes?
A: I do. I can't tell you sitting here exactly what it said at this moment, I don't have it in front of me.
Q: We're gonna find out what it said right now. Let's put it up. Now, it's showing May the 23rd, we don't have the whole thing up there yet. In the top, the top part of it identifies Sun News articles and David Wren's name and it says to Justinsc06@yahoo.com and also to Tcpearson@gmail.com and those are the two people you just talked about while ago?
A: Yes, sir, I recognize those email addresses belonging to those two.
Q: All right. Let's put the whole email up there. That was May the 23rd. All right. I don't know whether everybody can

read it, but I'll get over here and for the record I'll read it. It says, Justin and Tim, I wanted to pass along links to a couple of articles that have been published in The Sun News over the past few days and see if you can help me unravel this mystery a little more. I keep hearing from several people that Katon Dawson is a key player behind the Chamber of Commerce donations to Barrett and others. I cannot figure out why he would be involved though. Do either of you have any insight into his involvement in this? Also everyone seems to be bending over backwards to protect Mark Kelley regarding his involvement in setting up the meeting and handing him the money. Do you see that? You see that?

A: I do see it, yes, sir.

Q: He's accusing you there of setting up the meeting and handing him the money.

MR. BENDER: I object, Your Honor.

THE COURT: What's your objection?

MR. BENDER: Mr. Stevens is testifying.

THE COURT: Mr. Stevens, I, I, I realize why this objection is and I would allow you to ask Mr. Kelley ---

MR. STEVENS: Okay.

THE COURT: --- what his impression is, but ---

BY MR. STEVENS:

Q: What is your impression?

THE COURT: But you're not under oath here.

Q: What is your impression?
A: By reading Mark Kelley regarding his involvement in setting up the meeting with Barrett and handing him the money, it sounds an awful lot to me in my interpretation of that, that people are bending over backwards to hide that I had helped set up a meeting and handed money to Gresham Barrett, which I never did.
Q: Who's making the statement that you're setting up the meeting and handing him the money?
A: David Wren is saying that to Justin Stokes and Tim Pearson in his email.
Q: Did they verify that in any way from any of the emails you got from David Wren?
A: I didn't see that verified in any place.
Q: Okay. And he goes on to say I asked B.J. Boling if Kelley had arranged the meeting and he quickly said, quote, no, that would have been illegal, end quote. Did you see that?
A: I did see that.
Q: Okay. And then he said he had to check and see who did arrange the meeting. A little while later he called back and said it was Brad Dean. Is that who set up the meeting?
A: I would imagine Brad Dean set it up. Brad Dean is the one that called me sometime later, maybe days later, I don't know exactly when they set up the meeting, but who called me and told me that Gresham was coming to town and would I like to

join them for lunch.
Q: Okay. And then he goes on and said, I'm trying to piece together who raised all the money, how they were funneled through the various LLCs, and why and why the Chamber picked Barrett as the candidate they were going to endorse, parenthesis, could it be anything beside the fact that Kelley is the Chamber lobbyist and big supporter of Barrett? Do you see that?
A: I do.
Q: Okay. Any help or insight you can give me would be appreciated. Also, if there are any emails or documents that show Dawson's involvement or Kelley's role in setting up the Barrett meeting would be a great help. Do you see that?
A: I do see that.
Q: So, he's asked him twice -- let me -- right here where he's saying setting up the meeting with Barrett and handing him the money. Are both of those statements stating a crime?
A: If I would have done either one of those things they would -- it would have been committing a crime, that's correct.
Q: Okay. Now he said here, making a statement as if he knew you did that?
A: And you know, certainly we were looking through the information we asked from them where when I read that, I went back through to find anything that would see where he would have ever thought that and we couldn't find anything. I

couldn't find anything to show where he got that information that I would have involvement in setting up the meeting with Barrett.

Q: You sat through his deposition. Did he say he had anything when we took his deposition under oath?

A: No.

Q: He said, in fact, he didn't have anything?

A: He didn't have anything.

Q: And he says he wants emails to show -- and now let's get by Dawson's involvement or Kelley's role in setting up the Barrett meeting would be a great help; am I correct there?

A: I guess it would've been.

Q: All right. Now, let's talk a minute about the first article where it said you were, you along -- Brad Dean along with Chamber lobbyist, Mark Kelley, handed $84,000 to Gresham Barrett in June; you remember that one?

A: I remember that one.

Q: Now, do you recall Mr. Wren saying that that article, May 23rd article was -- in his deposition was a Sunday article?

A: It was.

Q: Okay. Do you recall him saying that he wrote that article the prior week?

A: He did say that in his deposition.

Q: Okay. So, the prior week would have put us back -- if he started on Monday, six days before the 23rd?

A: Yeah, I don't know exactly in that prior week, but he said in the prior week; that's correct.
Q: All right. And did he say also that he wrote the May 21st article after he wrote the May 23rd article?
A: He did.
Q: Okay. So, he's building up to this May 23rd, that's the big Sunday paper article?
A: It was.
Q: Okay. And so he writes May the 21st on sometime right before it came out on Friday, correct?
A: I understood, if I remember right, he wrote it sometime Thursday where it has to go to the copy desk and he explained all that.
Q: That would've been Thursday?
A: Correct.
Q: The 20th. All right. So, can you explain to the Jury what you know about where Mr. Wren got the information that you were handing money to Gresham Barrett and setting up a meeting -- he's writing it on the 23rd, the day the paper came out?
A: Which I found that -- when I read that email, I really found that to be interesting because this would've been writing to them after he had printed those two articles, after they've already been on the racks and after they had already been sold.

Q: Did Mr. Wren, throughout this entire pendency of this lawsuit produce any document or testify to any evidence that he had evidence that you had set up the meeting, you had raised the funds or you gave the funds to Gresham Barrett?
A: He has not and did not.
Q: This email, in your understanding, says what to you as it relates to what he wrote in the newspaper?
A: It would say to me, and again, my opinion of it is that he ran with a story that he had no basis for. He set up that story by trying to set up two days before that kind of the venue, the scene, for what he wanted to say that he had already written before. He had no evidence and now after those two articles were published, put on the streets, he's now asking people to give him information to help him, to bail him out, from what he wrote about me.
Q: Is there any question but that what Mr. Wren wrote about you, he did with knowledge?
A: Absolutely did with knowledge.
MR. BENDER: Your Honor, I would object.
THE COURT: State your objection.
MR. BENDER: That this witness has no basis to state David Wren's knowledge with respect to anything.
THE COURT: Mr. Stevens?
MR. STEVENS: I think that goes to the issue for the Jury as to what knowledge he had with regards to what he was

reporting.

THE COURT: Ask your question again.

MR. STEVENS: Okay.

BY MR. STEVENS:

Q: Regarding the email and regarding what was in the paper, what is your understanding as to whether Mr. Wren had knowledge of you handing campaign contributions to Gresham Barrett or setting up the meeting?

A: And it says right there, after the two articles were published, after they were out on the streets, he is now at, what time, 10:15 a.m. on Sunday, now asking two people who are working on other campaigns to find something to show as evidence of me being involved in setting up the meeting with Barrett and handing him the money.

THE COURT: I will allow that answer. Okay.

MR. BENDER: I have no objection to that answer.

THE COURT: I will allow that answer.

BY MR. STEVENS:

Q: Now, I'm not gonna go through all the emails. I'm gonna wait till Mr. Wren gets up on the stand. But I want to ask you specifically about another email that's dated May the 27th and that is, it's in the Thirteen range. Yeah, it would be Thirteen-E. Okay. We have that. Now I don't know whether you can see that or not, but again it's the same type of identification. It says email David Wren,

Dwren@thesunnews.com to Tim@NikkiHaley.com; you see that?
A: I do.
Q: All right. Now May 27th would have been between the Sunday first article and the editorial; am I correct, there?
A: Yes, with another article that he ran on Tuesday after the Sunday article.
Q: Okay. And it says, Tim, I wanted to check back with you and see if there is any way that we can use the emails from Barrett's campaign that seem to show the involvement of Brad Dean and Mark Kelley in raising money for Barrett, now he says and others. Do you know what he's talking about?
A: I have no idea what he's talking about there. Again, he's asking for information or claims that he has emails from the Barrett campaign that would show the involvement of Brad Dean and Mark Kelley in raising money. In disclosure, I certainly haven't seen any of those emails and I don't know how they could be produced because I didn't work in raising money for the Barrett campaign or the campaign of others.
Q: Okay. It goes on to say -- well, what he's doing is he's asking if he can use the emails.
MR. BENDER: Your Honor, I object again to Mr. Stevens testifying.
THE COURT: All right. Mr. Stevens, rephrase your question.
MR. STEVENS: Okay. I was just -- I wasn't to my

question yet, I was just prefacing.

THE COURT: You were testifying.

BY MR. STEVENS:

Q: It says, I can definitely protect the source of the emails but would say something to the effect that they came from the Barrett campaign after the AP started asking questions in October; you see that?

A: I see that.

Q: He's gonna tell the public that emails came from the Barrett campaign?

A: That's what he's saying in the email. He's telling people that he's gonna, he's gonna hide the source, not tell who the source is, but say that it came from the Barrett campaign after the AP started asking questions in October. That's gonna be his, his, his excuse for having the emails to, to basically hide his source or sources.

Q: Okay. Then he said, Recent events have overshadowed the campaign funding issue and I'm looking for ways to move the story forward. Do you know what he's talking about?

A: I do not have the faintest idea what he's talking about there.

Q: It says, Thanks, David Wren, The Sun News and he's got his number. Now, here he is again saying Mark Kelley in raising money for Barrett and others; do you know who he's talking about and others?

A: I do not.
Q: At any time during all of these reportings, all the reporting that he did to the people of Horry County, did he ever say in any of the articles, I got this information from a Deputy Campaign Manager who had a nervous breakdown and left the Barrett campaign and now is funneling the emails to Tim Pearson, who is the campaign manager for Nikki Haley?
A: You mean in full disclosure of ---
Q: Yeah.
A: --- of what he, where his sources was and his information was?
Q: Yes.
A: No, he never said that.
Q: Was the political campaign between Nikki Haley and Gresham Barrett a hot campaign?
A: It was hot enough and I don't think Mr. Barrett really wanted to relive that time, but it was hot enough they ended up in a runoff. It was that close and they ended up in a runoff and eventually Nikki Haley won.
Q: Okay. And what -- everybody knows what happens in runoffs and campaigns. Describe whether or not there were accusations running back and forth between the two camps?
A: In South Carolina politics, it pretty much isn't a campaign unless there's accusations and mudslinging going on back and forth.

Q: Is it important in your view that if you're gonna report the news that if you have a biased source to reveal it to the public?
A: I can't answer that it would be -- that you should maybe reveal it to the public, but certainly if you know that your source and your key source for your information is coming from a very biased source, and you still move ahead with it, I have some question as to the validity of the thought process that anybody would go through to do that.
Q: Did David Wren ever email you?
A: No, sir, not to my knowledge.
Q: Your email, was it secret?
A: Well, if it was any kind of secret, it certainly isn't now, is it? No, it was not secret.
Q: Okay. Would it have been just as easy for Mr. Wren to email you and ask you those questions in writing?
A: It would have been.
Q: Would you have answered him?
A: I don't know.
Q: Okay. If he says I'm gonna write an article about you accusing you of handing campaign donations to Gresham Barrett, would you have answered him and told him it wasn't true?
A: I might have emailed him back and say you're probably gonna write whatever you want to write because I know your style.

Q: Okay.
A: But you'd be wrong.
Q: Again, would you deny that if he wrote you?
A: Would I deny it?
Q: Would you deny the fact if he told you he was gonna write that column?
A: Yes, I would have denied that.
Q: Now, during the deposition of David Wren, did you listen to his testimony?
A: I did.
Q: Was it under oath?
A: It was.
Q: All right. Do you recall the questions I asked him on Page 21, Line 14 through 22, Line 16?
A: I'm pretty good, Mr. Stevens, but ---
MR. STEVENS: I have those on power point, Your Honor.
THE COURT: Okay.
MR. STEVENS: Any objection?
MR. BENDER: No.
THE COURT: No objection?
MR. BENDER: No objection.
THE COURT: All right. Without objection.
BY MR. STEVENS:
Q: Okay. When this deposition, can you see that?
A: Yes, sir, I can.

Q: What's the date?
A: Continuation of the June 24th, 2013. The date of this one is April 28th, 2014.
Q: That's just briefly before this trial, right?
A: Yes, sir.
Q: It's May the 6th today, right? Correct?
A: Yes.
Q: Let's go to page 21. Okay. Can you read that or should I read it?
A: With my eyes, I think it would be better if you read it.
Q: Okay. It says, question, Okay, let me go back then. Out of all the people we talked about and all the people you have listed in your interrogatories, did any of these people tell you that Mark Kelley facilitated or called the meeting, luncheon meeting, where Gresham Barrett was given campaign donations, any of them? His answer, Not that I recall. Do you remember that?
A: I do, sir. Yes, sir.
Q: Then the next question. Did any of the people we've talked about, were any of your sources, whether we've mentioned or not, tell you that Mark Kelley gave Gresham Barrett the campaign donation? And his answer was, was, No.
A: I can answer that, no, sir. He said ---
Q: I didn't know he had it blown up? Okay. All right. The next couple of questions, let's see if I've got them blown up

here.

MS. STEVENS-GRAZIANI: It doesn't work.

Q: It doesn't work. Okay. There we go, can you read that?

A: Yes, sir. In any of the people we've talked to about any of your sources talk about or any of your sources tell you and when I say tell you, I mean second hand, third hand, hearsay, whatever, that Mark Kelley raised campaign donations for Gresham Barrett?

Q: His answer was?

A: His answer was, No.

Q: Next question?

A: Did any of the people we've talked about or any of the people you used as your sources tell you hearsay, whatever, email, telephone, in person, in whatever fashion, that Mark Kelley either touched the envelope, touched the checks in the envelope, that contained the campaign donations or handed the campaign donations to Gresham Barrett?

Q: And his answer?

A: And he said, No.

Q: Has that been his testimony since the very beginning of this lawsuit?

A: Yes, sir.

Q: Okay. What's his explanation for saying that Brad Dean, along with Chamber lobbyist, Mark Kelley, delivered $84,000 in campaign donations to Gresham Barrett in June; what is his,

what is his explanation?
A: His explanation to that was when first asked was that he meant that I was there. He didn't mean at all that I had anything to do with the handing over of the $84,000 to Congressman Barrett. That was his explanation.
Q: That's what he said in 2013 and 2014?
A: Yes.
Q: Is that what he's saying in his emails back and forth to all the people who he was trying to get evidence on Mark Kelley?
A: No, sir, not at all.
Q: Was it the same or diametrically opposed to?
A: It seems to be exactly the opposite to me.
Q: Now, he's talking about along with meaning that you were sitting there, the way he used it?
A: Yes, because he said he would have used and.
Q: He would have used and?
A: And.
Q: Okay.
A: If he meant that I was actually involved with it. That's what he said.
Q: Have you had an opportunity to read some of David Wren's articles and see how he has in the past or presently using the phrase along with?
A: I have.

BY THE COURT

Q: And I'll hand you these and ask you if that is some of the articles that he's used along with?

MR. BENDER: Your Honor, I'd like to see those if I could.

MR. STEVENS: I'm sorry.

A: Yes, sir, those are the three that I've seen.

BY MR. STEVENS:

Q: Okay. We would move to introduce them and show the Jury how he's used them?

MR. BENDER: I would like an opportunity to take a look over them.

THE COURT: All right. Are there several there, Mr. Bender?

MR. BENDER: Yes, sir.

THE COURT: Would you like a few moments?

MR. BENDER: There are three of them and we'd like a minute.

THE COURT: Okay. It's been an hour and a half. Mr. Ropp, let's take the Jury into the jury room and let them have a break.

(REPORTER'S NOTE: Jury exits courtroom. 2:55 P.M.)

BY THE COURT:

THE COURT: All right. We'll be at ease for a few moments.

MR. KELLEY: Can I step down, Your Honor?

THE COURT: Certainly.

MR. KELLEY: Thank you, sir.

THE COURT: If you need to refresh yourself, Mr. Kelley, please do.

MR. KELLEY: Thanks.

(RECESS - 2:55 P.M.)

*******OFF THE RECORD*******

(On the Record - 2:56 P.M.)

THE COURT: All right. We ready to go again? Bring in the Jury. Please be seated.

(REPORTER'S NOTE: Jury enters courtroom. 3:19 P.M.)

THE COURT: All right. Very well. We have our jurors and our alternates. Mr. Stevens, I believe you were examining the witness.

MR. BENDER: I have an objection to these, Your Honor.

THE COURT: Very well. Then I'm sorry, send the Jury back out and let me hear it. And Mr. Ropp or Ms. Smith, if you could bring the lights up.

(REPORTER'S NOTE: Jury exits courtroom. 3:19 P.M.)

THE COURT: Okay. Okay, now they're out.

MR. BENDER: These articles were not previously produced and have no relationship to the publications that form the basis of this litigation. So I would ---

THE COURT: Let me hear what they say. What do they say?

MR. STEVENS: Your Honor, one of the main issues in this

case, is Mr. Wren's assertion that the article of May the 23rd, which says Brad Dean along with Chamber lobbyist, Mark Kelley, delivered $84,000 in campaign contributions to Barrett in June. He's maintaining that along with meant, meant that he was just sitting there.

THE COURT: I understand.

MR. STEVENS: And we are -- want to show that he has written articles using that phrase that shows exactly the opposite and these, these can't take him by surprise because he wrote them.

THE COURT: Could I see them, please?

MR. STEVENS: Yes, sir.

THE COURT: The first one looks like it involves Mark Brunty and some problems he ---

MR. STEVENS: But it says, it says -- I had highlighted the -- highlighted and he was saying that he along with ---

THE COURT: Wait a minute. Wait a minute. I, I'm, I don't see any -- Brunty along with partner Dennis Dillinger; is that what you're talking about?

MR. STEVENS: Yeah, that's it.

THE COURT: Okay.

MR. STEVENS: Who's named as the Defendant in the lawsuit. So we're showing that when uses the term along with, he's talking about and.

THE COURT: You, you're offering these to show that he

uses the phrase along with interchangeably with ---

MR. STEVENS: With and.

THE COURT: --- and.

MR. STEVENS: See if he testified that had he meant to accuse Mark Kelley of handing the campaign donations to Gresham Barrett, he would've used the term and.

THE COURT: Okay.

MR. STEVENS: All right. We're showing through these that he is using along with instead of the word and, and what the meaning of those articles showing that so-and-so along with so-and-so did such-and-such.

THE COURT: Who do you offer to authenticate these? Okay.

MR. STEVENS: To show ---

THE COURT: Let me hear from you, Mr. Bender?

MR. BENDER: Number one, Your Honor ---

THE COURT: You're offering them merely as an example, as examples of Mr. Wren's use of the word along, the words along with interchangeably with or in areas where he wouldn't or couldn't use and?

MR. STEVENS: That's correct.

THE COURT: All right, Mr. Bender.

MR. BENDER: Number one, I don't think there's any witness competent here today to testify that that's how these were being used. Secondly, we saw these when they were handed

to me just before the break. They have not been identified previously as exhibits.

THE COURT: All right. Well, what I'm going to do is this. I don't know if they're relevant yet. I don't know if they've been authenticated. I will say this. I would not prohibit Mr. Stevens from using them to impeach your, your client should he take the stand and deny that he uses it. I would let him use it in that context.

MR. BENDER: Certainly, and I don't have any objection to that. My objection is introducing it in Plaintiff's case in chief with the Plaintiff attempting to give grammatical evidence.

THE COURT: And I would, I would sustain your objection to that extent. Okay.

MR. STEVENS: Very well, Your Honor.

THE COURT: All right. All right. Let's bring the Jury back in.

(REPORTER'S NOTE: Jury enters courtroom. 3:28 P.M.)

THE COURT: Mr. Stevens?

MR. STEVENS: Yes, sir.

Can we mark these for identification?

THE COURT: Certainly.

MR. STEVENS: Okay. There's just three of them.

COURT REPORTER: They're gonna be Eighteen, Nineteen and Twenty for ID.

PLAINTIFF'S EXHIBITS EIGHTEEN, NINETEEN AND TWENTY MARKED FOR IDENTIFICATION

(REPORTER'S NOTE: Jury enters courtroom. 3:28 P.M.)

THE COURT: All right. Now we have all our jurors back. Mr. Stevens, you can proceed.

MR. STEVENS: Thank you, Your Honor.

BY MR. STEVENS:

Q: Mr. Kelley, so the Jury can get a better understanding, can you tell us based upon your understanding of the statute and as a legislator who voted on the Ethics Bill, what can a lobbyist do?

A: In regards to a campaign?

Q: Yes.

A: Just about anything except be involved with the raising of campaign funds. They can manage a campaign, they can consult on a campaign, they can talk to the candidate about how to spend the money, but the trail of a person who wants to donate until that money is received by the candidate, the, a registered lobbyist cannot be involved with that paper trail and the trail that's there that's involved with that. Anything else dealing with a campaign, they can be involved with it. That's the simple fact of what the Legislation has said and he was done, it was done, not just for the lobbyist, it was done for candidates and it was rightfully done so because it was out of control. It was out of control in the State of South

Carolina. And there needs to be more fixes and they're working on that right now. I don't agree with money orders. I don't agree -- you know, it's funny and this is how the different areas of the country are. In D.C. a lobbyist that -- I don't lobby in D.C.; I just lobby in the State of South Carolina -- in D.C. a lobbyist can have fundraisers at their office. They can bring Senators and Congressmen in, raise money, give them money, do that, but they can't take corporate checks. In South Carolina, lobbyists can't be involved with the raising of campaign funds, but they can take corporate checks. So most states are different; they all have their different legal twists and turns in what they do. If, if I had, in a perfect world in South Carolina, I would have the legislation that we have in South Carolina and I would do away with corporate checks and just make sure that they were individual checks. That way you would have the paper trail that everybody talks about. But it doesn't matter if it's an LLC. Nobody's ever been charged in this case. It's been five years since these monies have been distributed, not one person has been charged in this case and nobody has been pointed a finger at and said they did something illegal, wrong, except innuendo that was done by this paper. But nobody's done anything wrong -- and the FBI has been here, the IRS has been here, the State Ethics Committee has been here and nobody's been charged with anything. Now, should we clean it up some

more; absolutely. But the law is the law as it is today, an LLC no different than C Corp or an S Corp. You could have a C Corp or an S Corp that don't have -- they don't any money. But the principal in an LLC, the General Manager of an LLC account has total control over that LLC account and could put money in, not put money in, run money through that account and do that as a General Manager of the LLC. A corporation, a C Corp and an S Corp are different in that they have stockholders and you have percentages and people have to have votes and do that. In an LLC, the controlling general partner has that control. So, those kind of things when you keep hearing about these LLCs, they're no different than corporations. And a lobbyist, when you hear about lobbyist can't, the other thing that we're hearing and I know you're sick of hearing it, but a lobbyist can't touch an envelope. A lobbyist can touch an envelope but he can't touch an envelope in the trail between the donor of the funds and the recipient of the funds, the candidate. If somebody along that trail handed it -- if I was, let's take it, if I was in Mr. Stevens office and he was getting ready to give a campaign donation to -- I don't want to pick -- Senator Joe Smith and I walked in his office and he said, here, Mark, look at this, I'm gonna give a campaign contributions to Joe Smith and he had an envelope and he handed it to me and I grabbed it and I go that's nice and I had it back to him. That's not a violation.

It is a violation if he said Mark, I want to give this to Senator Joe Smith, how about you hand it to him. That's a violation. That's the trail. But touching an envelope just for the sake of touching an envelope -- I just didn't y'all come out of here thinking that a lobbyist can't touch an envelope. He can touch them, he just can't be part of that trail that goes from the actual writing of the donation till it's basically received by the candidate. That's what I wanted to clear up. Thank you.

Q: I heard you say something that -- and I think I understood what you were saying. You said that a lobbyist couldn't seek to, you know, raise campaign donations from the individual, but I think you said they could with a corporation. Did you mean the candidate could raise ---

A: A corporation can give money. A lobbyist can't give money to any statewide official, House member, Senator. A lobbyist can give money, a State Lobbyist, I can give money to members of County Council in their campaigns.

Q: Why is that?

A: Because they're outside of the realm of my practice.

Q: Okay. You don't lobby in County Council?

A: I don't lobby -- the State doesn't recognize people that lobby in the county level or city level. I can give money in a city campaign.

Q: Okay. How about in a federal campaign?

A: Yes, sir, I can.
Q: Okay. So the point of the ethics is that you're registered to lobby with State officials?
A: I'm registered to lobby in the General Assembly and statewide officers.
Q: Okay. Now, I want to get to your damages. First of all, I want to ask you has this damaged your reputation?
A: Yes, it has.
Q: Can you tell the Jury how it's damaged your reputation?
A: Well, I can tell you that, as you heard from some of the other witnesses here today, the whispers, the way they look at it, you know, the way that we don't get the phone calls we used to get from clients. They used to call wanting to ask for our services. It isn't the same as it was before. You know, so evidently that has something to do with my reputation because we didn't seem to have a problem with that before.
Q: You think people who read this stuff and now don't want to deal with you are gonna come to you and say we don't want to deal with you anymore because what had gotten written in the paper?
A: No, sir. In fact, as, as you heard from one witness this morning, who testified -- and I, and I heard it in court this morning -- that he had actually somebody that he had worked with, I guess they do timeshare industry business, they were considering to hire me. They never talked to me. I never had

a chance to even explain that to them and they went in and hired somebody else. So, so, you know, there effectively I've lost a client for who knows how many years.

Q: How has this affected you personally?

A: Personally, you know, it's, it's, it's embarrassed me. I'm embarrassed -- I'm embarrassed to be here today. I feel like, you know, that this was the only way that I could see justice done. They basically have convicted me in their court. I needed this court of law for me to have my day. So I'm here, but I'm embarrassed.

Q: Mentally, how has this affected you?

A: Well, it certainly -- I can tell you I slept about thirty minutes last night and it's -- it affects me mentally because I need to be focused on my family and my job and my clients that I deal with. And I don't need to be focused on these kind of articles and these kind of accusations that he put on me. So, it's been stress.

Q: I know it's difficult, but have you seen any examples of the public ridiculing you or scorning you?

A: Well, I can tell you ---

MR. BENDER: Your Honor, I would object when it calls for hearsay.

THE COURT: Well, let me hear what he's gonna respond. I don't know.

A: I can tell you that I've had members of the General

Assembly who have picked on me mercilessly about these articles and my reputation. And as far as I'm -- you know, after a while, that gets to be kind of harassing and it doesn't seem to go away.

BY MR. STEVENS:

Q: How about members of the public?

A: And, you know, I think if I start saying something about members of the public, my dear friend, Mr. Bender, will jump up there and say it's hearsay, but there's, there's plenty of evidence out there in the public.

Q: The news -- Sun News has a internet, right?

A: They do.

Q: I believe we heard some testimony about, quote/unquote, crap that came into the news.

A: That would be Representative Nelson Hardwick and what you see is what you get there. He is that way morning, noon and night. He is who he is, yes.

Q: What was he talking about?

MR. BENDER: Your Honor, I think he's getting into an issue we discussed before. The Sun News is not the publisher of comments posted on its website. It's a matter of federal law.

MR. STEVENS: We're not asking for that, Your Honor. We're asking to show evidence of public scorn and ridicule.

THE COURT: And I will allow it to that extent.

MR. STEVENS: Okay.

BY MR. STEVENS:

Q: Without getting into all the comments to the editor, what was the general tone?

A: Pretty sarcastic. I mean, if we can get into that, there, there is scorn, harassment. I've been accused of just about everything, that I should be in a jumpsuit, should be in prison, should be, you know, I mean it's scurrilous the things that they've said through the venue that they use.

Q: Okay. Did The Sun News change its policy with regards to responses to the articles?

A: Since this, twice they have changed their policies.

Q: Since they wrote your articles?

A: Since these articles came out.

Q: They're policing it more?

A: Much more.

Q: Now, with regards to your -- let me ask you this -- and I hate to get into your personal life but, Was anything going on in your life at the time that this occurred in May?

A: I'm trying to get through this. Yes. My brother had a mass in his stomach. The doctors told me he was probably going to die. My wife had breast cancer. She was going through that. We were trying to keep a straight face because my oldest son was getting married at our house and I'd just learned that my partner and friend for many, many years had

melanoma; and on top of all that, I had to deal with this. So, yes, sir, in that May. May was an awful tough month for me.

Q: And during that time, were you having any -- did you have any time to do the things that David Wren accused you of?

A: No, sir.

Q: In regards to your lost job that Mr. Clemmons described, do you know what is the normal area of income from timeshare clients?

A: I couldn't tell you that because I -- it would've been interesting to talk with them because I don't have a timeshare client and, you know, so we don't. But I can tell you the range for doing yearly contract work for any client can range anywhere from 40,000 to 150, $160,000 a year per client

Q: Does that depend upon their income, what you ---

A: It depends upon the amount of work, the issues that they have, the criticalness of the issues and, and really it's a negotiation between their level of funding and ability to pay and the level of need that they have.

Q: Now, we've heard Dr. DeCenzo talk about stopping your raises when the articles came out. The raise for you per year was how much?

A: The raise was -- now, its $18,000.

Q: How many of years of that did you lose?

A: Three years with them.

Q: Okay. That would total 54,000?
A: Yes, sir.
Q: Okay. Now, we didn't talk about living -- cost-of-living increases that are given to State employees of Coastal Carolina. Are you familiar with what the cost-of-living increases were?
A: Yes, because I looked into that in 2010, there was no cost-of-living increase. In 2011, Coastal employees got a three percent cost-of-living increase. In 2012, they got another three percent cost-of-living increase and last year they got one percent cost-of-living increase.
Q: Okay. Now based upon your, your past history with Coastal Carolina, I think you started at 70,000. Were you getting raises about every year up until 2010?
A: Yes, sir.
Q: Was that expected to continue?
A: I certainly was hoping so. We were, we were certainly working hard for them.
Q: Okay. Now, you're -- you have merit reviews at Coastal Carolina, correct?
A: I do. I report directly to the President of Coastal Carolina.
Q: Does he grade you?
A: He does.
Q: All right. Have -- has the Coastal Carolina given The Sun

News and David Wren's attorney your personnel file?
A: I don't know.
Q: Okay. Your personnel file would include your merit evaluation by Dr. DeCenzo, right?
A: Yes, if he did one that year, sure.
Q: Now, the, you got a raise to 99,000 ---
A: 99,500.
Q: --- was that this year?
A: 99,5 that was this year. Well, that -- yes, this contract year and I thanked them for it.
Q: Did, did you lose -- and I may have asked this already but -- did you lose any clients after the articles by Wren in The Sun News?
A: I have.
Q: Okay. How many?
A: In 2010, I had thirteen clients. I now have ten clients.
Q: Three?
A: Three.
Q: Did they tell you why they were no longer wanting you as their lobbyist?
A: Again, clients usually never tell you. You run on yearly contracts and at the end of the contract they decide whether they're gonna renew the contract, not renew the contract, move on to somebody else or not use a lobbying firm. So, they make that decision. They don't talk to us about it. They don't

discuss it with us. If somebody wanted to get rid my company, KMSO, as their lobbying firm, they simply would tell us they're not renewing the contract. That's all we would know about it.

Q: Where, where, were you and your business increasing in clients prior to this?

A: We were increasing in clients and also increasing in revenue. We were, we were looking at the client base and because we were successful in building the client base, we were able to also negotiate better contractual arrangements with clients.

Q: After these articles, were you able to negotiate as you had before?

A: No, we were negotiating for less money.

Q: That's all I have.

THE COURT: All right. Mr. Bender.

MR. STEVENS: Excuse me just a minute. We would move at this time to introduce the Defendant Wren's two depositions.

MR. BENDER: No objection.

THE COURT: All right. Without objection.

I have before me a sealed deposition of David Wren taken Monday, July the 24th, 2013 at 11:31. It was taken at the office of the Stevens Law Firm on Broad Street in Loris, South Carolina and the deposition was taken by Prestige Court Reporting. Please mark that. Exhibits are attached. I also

have a deposition, a continuation taken April the 28th, 2014. It was taken David Wren again at the Stevens Law Firm on Broad Street in Loris April 28th, 2014 by Prestige Court Reporting. It is sealed and I will open it here.

MR. STEVENS: We are not going into the deposition, Your Honor, just going to ---

THE COURT: All right.

MR. STEVENS: --- ask a couple of questions.

PLAINTIFF'S EXHIBIT NUMBER TWENTY-ONE AND TWENTY-TWO ADMITTED INTO EVIDENCE

BY MR. STEVENS:

Q: The email, Number Seventeen, how did you get notice of the results of the straw poll?

A: Luke Byars sent me this on Sunday at almost 2:10 in the afternoon, 14:09:45, so that would be almost 2:10 in the afternoon.

Q: When you sent that to your friends, what was the purpose of it?

A: The purpose I sent it to them was strictly for information. I was so excited that Gresham won that straw poll. We'd been talking to friends of ours that were supporters of his and doing that and they were, you know, anxious to hear any word about how Gresham was doing on the campaign trail. The Silver Elephant Banquet is the big Republican Banquet that's done every two years in Columbia.

It's the, basically the Who-Who of the Republican Party and for him to win, that was great news. Great news.

Q: Were you trying to solicit donations?

A: No, sir, and, you know, the Jury certainly is -- can believe me or not believe me, but I had no idea there was a line on there dealing with contributions. I was so excited about this I couldn't wait to tell my friends. Everyone on here, everyone on this list of emails were friends of mine and supporters of Gresham Barrett.

Q: Thank you.

THE COURT: All right. Mr. Bender?

MR. BENDER: If it please the Court, Your Honor.

CROSS EXAMINATION OF MARK KELLEY BY MR. BENDER:

Q: As we've come to learn -- excuse me -- as we've come to learn, your email address is Repmkelley@aol.com?

A: One of my email addresses.

Q: And that in fact is the email address you used on your website for your real estate business?

A: That would be -- probably, I've been using that address for twenty-some years.

Q: Even though you're no longer a representative?

A: I didn't know you had to be a representative, sir, to be able to use Repmkelley as an email address.

Q: Where's that Exhibit Seventeen? Now, is it your testimony that you were so excited to talk about the results of the

straw poll that you didn't notice that there was a fund raising solicitation in Exhibit Seventeen?

A: That is my testimony. I did not notice it.

Q: Even though you had to read past that to find the results of the straw poll?

A: I'm not sure even read the results of the straw poll. I seen the front of it; it said right there in big bold letters on the top.

Q: You were in the General Assembly when Lost Trust happened; is that correct?

A: No.

Q: Shortly thereafter?

A: Right, shortly thereafter.

Q: And you were involved in lobbyist and office holder and candidate ethics legislation; is that correct?

A: I was.

Q: And is it fair to say there is a suspicion of lobbyists in the general public?

A: Probably suspicion of candidates too.

Q: I was gonna get to that?

A: Yes, sir. Yes, sir.

Q: And there is a suspicion of money in politics, isn't there?

A: Yes.

Q: And do you know Shep Guyton?

A: I do.
Q: Now, it's my understanding that Shep Guyton was involved in getting these sequentially numbered cashier's checks from a bank that came to candidates including Gresham Barrett; is that your understanding?
A: That's my understanding from reading The Sun News articles, yes.
Q: Have you ever talked to Shep Guyton about that?
A: No, sir.
Q: Now you said earlier you didn't know anybody involved in the Chamber and in the fund raising, but in fact, you know Shep Guyton?
A: I think the question was did I know anybody that was associated with the LLCs. I couldn't match up Shep Guyton with any of the LLCs. I have no idea which LLCs he's involved in or not involved in.
Q: And the newspaper reported that he was the registered agent for several of those, didn't it?
A: Yeah, probably did.
Q: And including one that had filed for bankruptcy?
A: Yes, I remember that article. That's correct.
Q: And one LLC that had lost its charter for failure to pay taxes?
A: Yes, sir, I guess so. I don't remember that, but I believe you. I know you wouldn't lie to me.

Q: That is absolutely true. Now, I was impressed by your research into the dictionary; did you do it online?
A: Yep.
Q: Or did you do it the old fashioned way?
A: Yep. I can do inline and I can do it the old fashioned way.
Q: Did you happen to look at any sites that dealt with grammar?
A: No, I was looking at the dictionary and I was looking at the Thesaurus and, when I seen that enough times, there was, along with was the first citing after the explanation of and; that pretty well satisfied me. As you can tell, I'm not an English major. I know you are.
Q: No, I'm not, actually.
A: Oh, I thought you were.
Q: No.
A: I'm sorry.
Q: That's all right. I have a step-father who is one. But let's look at this site right here. If you had looked into grammar, you might've found this site from the University of Wisconsin, The Writer's Handbook.
A: Wow.
Q: Dealing with subject verb agreement; do you know what subject verb agreement is?
A: No, sir.

Q: All right. This is talking about when a subject has to agree with the verb in terms of number. And it talks about when the subjects are joined by and, and just below that it has a warning; what does that warning say?
A: I lost it. I'm sorry.
Q: Right here. When the subject are joined by and, what's the warning below that? It says be aware, be aware ---
A: Be aware of phrases such as in addition to as well as and along with do not mean the same thing as and when inserted between the subject and the verb. These phrases do not change the number of the subject. Both Tom and Jane had English 106. Tom, as well as Jane, has an English 207 paper due. And they're saying here that doesn't mean the same thing; is that what they're saying?
Q: That's what that says.
A: I guess I should have went to this
Q: Well you've been trying to practice grammar on us since we got here, so let's, let's talk about this. Now, you did say that grammar was not your strong point; isn't that correct?
A: It is not my strong point. It's only my interpretation of what I read.
Q: All right. Well, let's, let's do some illustration here. What does that say?
A: I guess it could say Dick runs up the hill, but I would say that you need a little work on the K and the H.

Q: All right. If it will help you, I'll do that right now.
A: Thank you, sir.
MR. STEVENS: Your Honor, I appreciate the English test that Mr. Bender wants to give us all, but I don't know what he's handing the witness and I haven't been provided ---
MR. BENDER: I'll be happy to show it, excuse me.
MR. STEVENS: May I -- is this your writing?
MR. BENDER: You bet.
MR. STEVENS: Okay. So, we're back to Dick and Jane. Here you go.
BY MR. BENDER:
Q: What's the subject there? Dick?
A: Dick or hill.
Q: What is the verb?
A: Runs.
Q: All right. Is runs what you use with a singular subject? How about this? Do you see a difference here?
A: Dick and Jane run up the hill.
Q: All right. Different verb, isn't it? Because it's ---
A: Oh, because it's run instead of runs.
Q: That's right. It's a plural, right, because the subject Dick and Jane is plural.
A: Okay.
Q: How about this?
A: Dick, along with Jane, runs up the hill.

Q: All right. That verb singular or plural?
A: Well, it's got to be singular if you tell me runs on this one is, then runs on this one must be singular.
Q: So, along with does not make the subject plural, does it? And in the context in this exhibit, Exhibit Two, does not make the subject plural, does it?
A: It does to me in Horry County.
Q: Let me show you a couple of emails here. Is this an email you sent?
A: It looks like an email that I sent. You want me to look at the second page?
Q: Sure.
A: Yeah, that looks like one dealing with tax ---
Q: Who is Cynthia Ellsberry is a friend of mine and also the Superintendent of Horry County Schools.
Q: And you are the lobbyist for Horry County Schools; is that correct?
A: I am.
Q: In addition to being the lobbyist for Coastal Carolina?
A: I am.

MR. BENDER: Okay. Let's mark this please, Defendant's One.

DEFENDANT'S EXHIBIT NUMBER ONE
MARKED FOR IDENTIFICATION

Q: Did you get a response to your email that was Defendant's

One?

A: Can I see One again, so I can match them up?

Q: Sure.

A: This is back in 2010. So, Saturday, January 9th, or Sunday, January 10th.

THE COURT: The Jury is having difficulty hearing.

A: I'm sorry, I apologize.

MR. BENDER: I don't know that he's answered, Your Honor.

BY MR. BENDER:

Q: All right.

A: I would, I would say that would be a response. One of the responses there. It looks like that I just realized that Jeff's address, when I respond to it, it comes back Cindy. Thanks for the corrections. Spelling -- I will correct Jeff's address when he responds. Mark. Okay.

MR. BENDER: Let's make this second one Exhibit Two.

DEFENDANT'S EXHIBIT NUMBER TWO

MARKED FOR IDENTIFICATION

Q: Now your response just -- after just got back in town, what is your response to this email you got back from the School District?

A: My response was, Just got back in town. Thanks for the correction. Spelling and grammar are some of my weak points. I will correct Jeff's address when he responds. Mark. That's true.

Q: Now, you had a partner, Will McCain; is that correct?
A: That's correct.
Q: And Will had been a legislator and was a highly regarded lobbyist; is that correct?
A: Yes, sir.
Q: And were any of the clients that you claim to have lost Will McCain clients?
A: Some were clients of Will and mine together; some were clients that Will and Angela's; none of them were Will's clients by himself, no.
Q: So, do you have any way to apportion your loss of clients between any cost and Will McCain's death?
A: I know at the time of Will McCain's passing that we sent a letter out to all of our clients expressing that and asking them if they had any problem with Angela and I continuing on with the company with them.
Q: Through the contract year?
A: Through the contract year and none of them responded back negatively.
Q: And some of those did not renew the next year?
A: Some did not renew. I don't have them all in front of me now.
Q: Now, in your -- you talked about your raise. Now, I thought I understood Dr. DeCenzo to say that when you got that 18.6 percent raise in this most recent contract, that that

made up for the three years of merit increase he had intended to give you previously. Are you saying he only gave you one-third?

A: I'm saying that in my understanding of what he said to me was that they could do it in thirds, but they're -- they did not give me any pay increase, so they were giving me 18, the whatever, the difference was between 83,500 or 83,793.

Q: It was 18.6 percent is $15,300 ---

A: Right.

Q: --- $350. And the biggest merit increase you had gotten any year before that was $3500?

A: From that client, yes, sir.

Q: Who is Dr. Ronald Ingle?

A: Dr. Ronald Ingle was the Chancellor and then First President of Coastal Carolina when it went independent from South Carolina.

Q: Okay. Take a look at this document. Is that an email you sent to Dr. Ronald Ingle?

A: Yes, it is.

MR. BENDER: I'd like to mark this as Defendant's Exhibit Three.

DEFENDANT'S EXHIBIT NUMBER THREE

MARKED FOR IDENTIFICATION

MR. BENDER: I'm having as much fun with this technology as Mr. Stevens has had with is.

MR. STEVENS: I beg your pardon?

MR. BENDER: I said I'm having as much fun with this technology as you had with yours. Well, I thought I'd blew it up, but I must have missed that.

BY MR. BENDER:

Q: What is a contract lobbyist?

A: A contract lobbyist is somebody that works for an agency or for a client under a contract; basically a contract between the lobbying firm and the client.

Q: Now, in 2004, 2005 fiscal year, the Governor wanted to eliminate contract lobbyist money for state agencies; is that correct?

A: Yes, he wanted to take it out of the state agencies any funding that was used for them to have anybody to be in Columbia to respond to the General Assembly.

Q: All right. Were you a contract lobbyist in 2004, 2005?

A: I think that would be correct.

Q: And what is the import of this email dated Tuesday, July 20th, 2004 to Dr. Ronald Ingle?

A: It just says basically that the Governor put these reductions into, into, into its executive budget. Remember the executive budget is a guideline. Budget in the State of South Carolina must originate in the House. So, it is a guideline as to the Governor's thoughts about what he thinks. So, the House put in the $60,000 line reduction for CCU.

Q: Excuse me. CCU is Coastal?
A: I'm sorry, Coastal Carolina University and other amounts for other schools and agencies that use contract lobbyist by the amount of the contract. But the House does not put in the proviso that directs the reduction. This is so -- so as not to create a fight on the floor of the House over this issue. So, in other words, they reduced Coastal Carolina by $60,000 of revenue that the State gave Coastal Carolina University, but they didn't put the language in there that said basically because of contract lobbyists. So, then the Senate passed the identical lack of language in their version. They leave the line reduction of 60,000, but an increase for the overall budget for CCU, Coastal Carolina University, of $500,000. This is more than any other university received. Now we worked on that. We knew the 60,000 there, but as you heard President DeCenzo say earlier, Coastal Carolina is the lowest funded -- state funded university in the State of South Carolina. So, for us to get that kind of half a million dollar increase in our state budget, we decided to kinda stay quiet on the 60,000 they were taking because we netted out of it basically $440,000 for that year.
Q: And you're bragging about that in the line of $500,000 to CCU?
A: Not bad work for contract lobbyist. Wonder what the other government liaison people were doing?

Q: Are you saying I'm better than they are?
A: I'm saying that at that particular situation on that particular year dealing with the other universities, we slid ahead a little bit only because we deserved it, only because we are still the lowest funded and we were still the lowest funded even with that. So, we were joking back and forth and basically saying wonder what the other government liaison were doing.
Q: That's not your title, isn't it, government liaison?
A: That's my title at Coastal as far as I'm recognized at Coastal. As far as I'm recognized at the Ethics Commission, I'm a lobbyist.
Q: And you're registered?
A: And I'm registered.
Q: That's subject to all the restrictions on lobbyist?
A: That's correct.
Q: Nothing further, Your Honor.
MR. STEVENS: Your Honor, we would, since he has educated us on Run Dick run, run, run, run. I'd like to put those articles back in to show the Jury how David Wren uses the phrase along with. I think he has opened the door.
THE COURT: Well, not at this point. Thank you.
MR. STEVENS: Okay. Well, then I don't have anything else.
THE COURT: You may step down, Mr. Kelley, thank you.

MR. KELLEY: Thank you, Your Honor.

MR. STEVENS: Your Honor, we would at this time call Mr. William Lee.

THE COURT: Okay.

CLERK: Raise your right hand ---

THE COURT: Ms. Smith, one moment please.

BY THE COURT:

THE COURT: Ladies and gentlemen of the Jury, we have reached, after conferring with the attorneys at the point in this trial where I was gonna have to send you out for a substantial period of time, bring you back and begin a witness that might be substantially long witness. So. I'm going to continue with matters that I have to take up in this trial this afternoon, but I'm going to send you home. Okay? I'd ask you to be back in your jury room at 9:30 in the morning and we'll continue. The trial's gonna continue but it's gonna continue with matters the Court has to take up with the attorneys. Okay. So, you're free to go for the afternoon. Please again, don't do any research on your own, don't post any Facebook or social media comments about witnesses or the trial of this case, don't discuss it with anyone, we will try to finish up the testimony tomorrow and, and resolve this matter. But I ask you please bear with us and refrain from any contact with anyone who wants to speak to you about this case or doing any internet research or posting anything about

this case. Thank you very much.

Bobby, if you would, take them back to their, the Jury room and let them collect their things and what do we want in the morning?

JUROR 150: I think we're up for biscuits again, sounds good. Thank you, by the way.

THE COURT: Very well, Bobby. Bobby, if you would do the same thing you did this morning. Okay?

BAILIFF: Yes, sir.

(REPORTER'S NOTE: Jury exits courtroom. 4:18 P.M. The following takes place outside the presence of the Jury.)

All right, Ms. Smith, you can swear him.

CLERK: Please raise your right hand and place your left hand on the Bible.

WILLIAM EYRE LEE, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat, please, sir.

THE COURT: All right. Gentlemen?

CLERK: State your name for the Court, please, sir?

MR. LEE: William E. Lee.

THE COURT: Yes, sir, go ahead. Go ahead.

DIRECT EXAMINATION OF WILLIAM EYRE LEE BY MR. STEVENS:

Q: Mr. Lee, would you state your full name, please, sir?

A: William E. Lee.

Q: Spell your middle name?

A: Eyre. Its spelled E-Y-R-E.
Q: Okay. And what is your occupation?
A: I'm a professor at the Grady College of Journalism and Mass Communication at the University of Georgia.
Q: Okay. And how old are you now?
A: I am sixty-four.
Q: And where do you live?
A: I live in Athens, Georgia.
Q: Okay. How long have you been a professor there at the Grady College of Journalism and Mass Communication?
A: I've been on the faculty since 1977. I've been a full professor since 1989.
Q: Okay. Could you give the Court the benefit of your educational background?
A: I have a Bachelor's Degree from San Jose State University in broadcasting, a Master's Degree in telecommunications from Michigan State University and a PhD in Mass Communication from the University of Wisconsin in Madison.
Q: Do you have any teaching and research appointments?
A: Yes, as part of my position, I am required to produce research. I also am a co-author of a textbook that's now in its ninth edition and I also teach courses.
Q: Is this the book, Law of Public Communication Ninth Edition by Ken R. Middleton and William E. Lee; that's you?
A: Yes, it is.

Q: Okay. And do you write in this book about the subject of libel?

A: Yes.

Q: Do you, during the period of your, have you in the period of your occupation, trained investigative news reporters?

A: Yes, I have.

Q: How often do you do that?

A: Well, on a regular basis at Grady, but if I'm understanding your question correctly, I also do consulting with media firms to train their staff members.

Q: Okay. When you say media firms, who are you talking about?

A: Companies like ---

THE COURT: Is it the full range of the media?

A: Yes.

THE COURT: Newspapers ---

A: Newspapers, broadcasting, cable, internet.

THE COURT: Thank you.

BY MR. STEVENS:

Q: How long have you been doing that?

A: Since the 1970's.

Q: Over forty years?

A: Well, late 70's.

Q: Late 70's. Getting toward forty years?

A: Yes.

Q: Now, I'm looking at your resume and your research publications cover approximately one -- three and a half pages?
A: Yes.
Q: Okay. You've written research publications, the first part of it, are these research publications?
A: Yes.
Q: Okay. And the books you've written are the editions of the Law of Public Communication?
A: Yes.
Q: It was published in every year since 2002 right on up through 2013?
A: I had a co-author that left the book and I came on to the book and so the book had existed for about ten or thirteen years prior to my joining it, but I have been on the book since 2002, I believe.
Q: Okay. And have you written chapters within books?
A: Yes.
Q: Such as Journalist Privilege?
A: Yes.
Q: The Priestly Class?
A: Yes.
Q: Modernizing the Law of Open-Air Speech?
A: Yes.
Q: Have you written in encyclopedias?

A: Yes.
Q: What, what is that?
A: I'm sorry, I'm drawing a blank of the title. I think it's something like the Encyclopedia of American Civil Liberties.
Q: Okay.
A: Encyclopedia of American Civil Liberties, yes.
Q: Okay.
A: I have two entries in that.
Q: As I understand from your resume, you have delivered over thirty papers and/or presentations in conferences sponsored by groups including the Association of Education in Journalism and Mass Communication, National Communication Association, Annenburg Washington Program, Northwestern University, Quello Center for Telecommunication, Management and Law at Michigan State University, Telecommunication Policy Research Conference, Magnus Institute, and so on and so on.
A: That's correct.
Q: You've been doing that for how long?
A: Ever since I joined the faculty at PGA.
Q: All right. Have you also consulted with other types of businesses other than the media?
A: With law firms and with public policy organizations.
Q: All right. You have consulted law firms including Rosenman & Colin in New York?
A: Yes.

Q: Robinson, Silverman, Pearce and so forth in New York; Foran & Schultz in Chicago?
A: Yes.
Q: Mayer, Brown & Platt in Chicago?
A: Yes.
Q: Steal, Hector, Davis in Miami, Florida?
A: Yes.
Q: And Powell, Goldstein, Frazer & Murphy in Atlanta, Georgia?
A: Yes.
Q: Now, have you been retained in the past to testify with regards to lawsuits dealing with defamation?
A: Yes.
Q: And have you been qualified in the courts that you been retained?
A: Yes.
Q: In what courts have you been retained and in what courts have you been qualified by the sitting judge?
A: Are you just asking about defamation or are you talking about in mass media practice?
Q: Mass media practice?
A: Okay. I have been qualified as an expert in the United States District Court for the Southern District of New York, which sits in Manhattan; the United States District Court for the Northern District of Illinois, which sits in Chicago; the

United States District Court for the Northern District of California, which sits in Sacramento; a District Court in Minnesota, which sits in St. Paul; and a District Court, which sits in Kansas City, Missouri. At the State level, I've qualified I believe in four cases in the State of Georgia.

Q: Have you ever been retained in the State of South Carolina?

A: Yes.

Q: And was the case you were retained in involving a defamation case?

A: It was.

Q: And who is the attorney on the other side?

A: Mr. Bender.

Q: And did that case get to Court?

A: No.

Q: What happened?

A: I believe it was settled.

Q: Newspaper paid it?

A: I'm not aware of the, of the settlement.

Q: Okay. It never got to Court?

A: That's my understanding.

Q: The Court's in South Carolina haven't had the opportunity to qualify you yet?

A: That's correct.

Q: Okay. So, am I correct in that you have been -- served as

an expert in about twenty-eight cases?

A: Yes.

Q: Okay.

THE COURT: Mr. Stevens, would you inquire as to how he was qualified, in what field?

BY MR. STEVENS:

Q: In what fields were you qualified; give us all them?

A: Well, the general thing would be mass media practice, but several of the cases ---

THE COURT: What does that entail?

A: That would entail the ---

THE COURT: I'm just trying to shorten this up if you ---

A: That would entail the standards employed by media organizations and some of the cases involved government regulations and my testimony had to do with how that government regulation would affect media practice. These would be challenges for example by cable companies or telephone companies to government restrictions on entry into the market or once a company had gotten into the market, the regulation the government imposed and how that would affect the operation of the journalistic side of the organization.

Other cases have to do with, again, defamation and the standards that were being employed by these organizations in gathering, evaluating and publishing information.

BY MR. STEVENS:

Q: So, that included investigative reporting?
A: Yes.
Q: Is mass communication, does that include ---
THE COURT: Let me -- is that covered in your textbook, as well, the investigative standards?
A: Yes, sir.
THE COURT: And is that text used -- I'll refer to it as text because Mr. Stevens did -- is it used at any university, college; how, it's called a text, but how, where is it used as a text?
A: It's used as a textbook at over one hundred colleges and universities in the United States. It's now in its ninth edition and it's rare for a textbook to get into a second edition. The attrition is pretty high. So, for it to get into the ninth edition is a testament to its adoption at a range of colleges and universities.
THE COURT: Thank you. Go ahead.
BY MR. STEVENS:
Q: All right. You also have provided service to professional and public organizations, have you not?
A: Yes.
Q: Such as member of the First Amendment Task Force?
A: Yes.
Q: That deals with the issue of defamation, does it not?
A: That organization, as I recall, really dealt with,

actually you're taking me back to the 80s.
Q: I'm just looking at all the professional organizations. Members of the Advisory Board of First Amendment Center for New Media, Washington, D.C.; Manuscript Reviewer for the Journalism Monographs, Journal of Broadcasting and Electronic Media, Communication Law and Policy and AEJMC Law. What's that stand for?
A: That's the Association of Education and Journalism and Mass Communication.
Q: And then a symposia, member of planning committee, Media and Law Round Table sponsored by the American Bar Association and the University of Georgia; that was in '95?
A: Yes.
Q: Now, do you also deal with electronic media where the newspapers have now gone into the twentieth century, like my daughter's trying to get me to do, where they print their articles -- they print their articles online after it comes out in the newspaper or maybe before?
A: That's correct.
Q: With regards, and we've talked a little bit about comments by the public to news articles. Where the newspaper allows them to come in to make comments so everybody can see it; do you deal with that?
A: Yes.
Q: Okay. And do you, do you teach in that area?

A: Yes.
Q: Okay. Is that one way that a person would be able to see or understand how the public understood the article?
A: I believe so.
Q: Pretty close to it?
A: I think so.
Q: Okay. Now, you have several areas of University Governance; what is that?
A: Well, part of our responsibility as faculty members is we have to help run the university. So, we serve on committees. I've served on committees relating to the searches for administrative officers and faculty members. I've served on committees that did things like wrote the University Statutes and Bylaws, consider appeals and Motion in Tenure decisions, et cetera.
Q: Do you design and review the curriculum for journalism schools?
A: Yes.
Q: Have you obtained any grants, fellowships or honors?
A: Yes.
Q: I'm not gonna make you go through all of that, but suffice it to say that in your resume -- I'm looking at four pages of grants, fellowships and honors; is that about right?
A: I'll take your word for it.
Q: Okay. Does this resume accurately reflect your background

in the area you're gonna testify to?

A: I don't know if that's up to date, but everything you've said so far has been accurate.

MR. STEVENS: Okay. We would move to introduce it?

MR. BENDER: I'd like an opportunity -- I don't see the reason ---

THE COURT: As a Court's Exhibit for the purposes of this hearing, I would admit it. Okay. Perhaps later, we can revisit it, but for the purposes of this hearing it's admitted as a Court's Exhibit.

COURT'S EXHIBIT NUMBER ONE

ADMITTED INTO EVIDENCE

BY MR. STEVENS:

Q: With regards to your expected testimony so His Honor will be able to make a correct ruling, what is the area you intend to testify to?

A: The testimony would focus on whether The Sun News, David Wren and the editor acted in accordance with standards that would by followed by a responsible publisher.

Q: Would that include reporting on crimes?

A: Yes.

Q: Is that an area which -- is that an area which a reporter or a publisher or an editor needs to be particularly careful of?

A: Absolutely.

Q: Why is that?
A: Because imprecision in crime reporting leads to proceedings like this.
Q: Now, are you going to be giving your opinion with regards to a reporter's -- the necessary requirements of a reporter to be aware of his sources and verifying his sources?
A: Yes.
Q: Okay. And will you be giving your opinion based upon your review of emails and the timeline surrounding the emails as it related to the timeline of the articles as to whether or not the news reporter knew or should have known that the reporting was false?
A: Yes.
Q: Have I missed anything?
A: I don't believe so.
Q: Huh?
A: I don't believe so. You've been thorough.
Q: Okay.
THE COURT: Mr. Bender, your witness.
MR. BENDER: Thank you, Your Honor.

EXAMINATION OF WILLIAM EYRE LEE BY MR. BENDER:

Q: Dr. Lee, good to see you again.
A: Thank you.
Q: So that you're not spreading any false tales along with Mr. Stevens, the Plaintiff quit in that other case after your

deposition.
A: That's not what I was told by the attorney who hired me.
Q: You lawyer didn't tell the truth. Nobody got paid. The doctor quit. As I understand ---
MR. STEVENS: Could you ---
Q: You have an outstanding academic career, there's no question about that.
MR. STEVENS: I can't hear what you're saying, Jay.
THE COURT: Speak up. Well, you're deaf anyway, Mr. Stevens. I've been talking to you all week.
BY MR. BENDER:
Q: How's this? That's better? You have an excellent academic reputation. You have a magnificent CV. The last time you were in the newspaper newsroom working was about 1964, wasn't it?
A: No, that's incorrect.
Q: When was the last time you were in a newsroom working as a reporter?
A: In 1968, I wrote for my college newspaper, because of the material I wrote there I was spotted by the publisher of a magazine and then worked in that magazine from '69 to '70.
Q: I added four years to your age. I didn't mean to do that.
A: I hear you.
Q: So, with respect a newspaper, you worked on your college newspaper I think for one semester in 1969; is that correct,

'68 or '69?
A: '68 and through '69.
Q: Now, as I understood what you said you would testify to is whether The Sun News acted in accordance with standards a responsible news organization would follow; did I get that down correctly?
A: Yes.
Q: And you were asked if you would testify as to whether or not The Sun News knew or should have known its reporting was false?
A: Yes.
Q: You have not been in a position to evaluate David Wren's state of mind with respect to any of the publications, have you?
A: Actually, there are emails and portions in his deposition in which he talks about knowledge of certain things, which are not true.
Q: But none of those were published. We're not talking about those emails in this litigation. We're talking about what was actually published; is that correct?
A: Those emails were published in the sense that they were communicated to someone other than Mr. Kelley.
Q: And they're not the basis of this lawsuit?
A: That's not a fact I'm aware of.
Q: Have you seen the pleadings in this case?

A: I have not.
Q: And knew or should've known, now that's not the actual malice standard, is it?
A: You're incorrect. Should've known is an important part of reckless disregard of the truth.
Q: Well, let's ---
A: Please don't interrupt me. Where a source is questionable, where the information has been acquired from -- in a questionable way, where there is inherent improbability to the charge, a reporter's claim I didn't think it was false cuts no mustard.
Q: Oh, I agreed entirely with that.
A: So, the answer is should've known is an important part of the reckless disregard portion of actual malice.
Q: And it relates to whether or not the reporter had substantial doubt about the accuracy of what was being published?
A: And the sources and information gathering.
Q: What have you looked at in terms of publications? Have you looked at anything other than the emails in this case?
A: Yes. I've looked at articles that were published in The Sun News beginning in October of 2009 and running through, I believe, September or November of 2013.
Q: Now, there wasn't anything in any one of those articles that was based on an anonymous source, was it?

A: Yes.
Q: Where?
A: The emails that are quoted, I believe, in articles published in August of 2010 come from a source that David Wren has promised to not reveal his identity.
Q: And what David Wren after he got those emails was ask Gresham Barrett, who was the candidate, who was at the meeting where the $84,000 got passed, right?
A: I don't know the sequence -- I'm not sure your sequence is correct, that the question to Gresham Barrett was after he received the emails.
Q: Well, Gresham Barrett ---
A: I'm not sure of the dates.
Q: Okay. Gresham Barrett confirmed that there was a meeting at which he received $84,000, didn't he?
A: If you're talking about the interview that David Wren had with him on May 20th, I believe that's true. I think Gresham Barrett also told David Wren that Mark Kelley had nothing to do with the money.
Q: And there is nothing that was published by David Wren that said that Mark Kelley did anything illegal, is there?
A: I think the statement at issue in the May 23rd article that refers to Brad Dean along with Chamber lobbyist, Mark Kelley, delivered the $84,000 to Barrett; I believe that is a reference to Kelley.

Q: Well, since you're not testifying about the meaning of English. What is it in there that you can help the Jury understand about David Wren's state of mind?
A: Because on the same date that he publishes that in The Sun News, he writes emails to Tim Pearson and Justin Stokes in which he alleges that Mark Kelley was involved in the setting up of the lunch and the handing of the money to Gresham Barrett.
Q: Now, didn't he say in fact in the email, seemed to indicate that Mark Kelley and Brad Dean were involved?
A: I think that's a later email.
Q: What is it that you know, aside from the emails, that relates to David Wren's state of mind or the editorial writer's state of mind with respect to any of these publications?
A: I know nothing about the editorial writer's state of mind, because I'm not -- I do not believe he's been deposed. But David Wren's deposition has discussion of what he knew and what he was thinking at various points during this process.
Q: Would you agree that Mark Kelley was along with Gresham Barrett at a luncheon when $84,000 changed hands?
A: Along with is a slippery phrase and while it might mean a variety of things, one of the ways it can be used is meaning that two people were doing something together in connection to the conjunction with et cetera. So, I think one possible

reading of that phrase is that Mark Kelley was involved with Brad Dean in the delivery of the money.

Q: But that's not what you're being qualified to testify as to, is it?

A: I'm qualified -- I'm being qualified to talk about the standards that a news organization would employ and precision of regulation when it comes to crime reporting is an article of faith, page 101, Middleton and Lee will tell you that precision in crime reporting leads to things like this.

Q: Now, with respect to what you teach, does the University of Georgia still divide its Journalism School into a Department of Telecommunications and a Department of Journalism?

A: No.

Q: When did that end?

A: A couple of weeks ago.

Q: Oh, up until a couple of weeks ago, which department did you teach in?

A: Well, it's inappropriate to describe me as teaching in a particular department because the courses I teach are reverted as core courses. They are taken by all majors within the college.

Q: So, you would have news editorial students in your classes?

A: Absolutely.

Q: How long has that been going on?
A: Well, news editorial isn't a phrase we use anymore. I think I know what you mean and ---
Q: Journalism students, perhaps.
A: Well, journalism students aren't easily categorized anymore because there are broadcast journalism students, there are print journalism students, et cetera and those boundaries are collapsing and that's part of the reorganization that I just told you of. But yes, my, my courses would have students from across the college.
Q: That's different from the last time we talked, as I recall?
A: I don't ---
Q: My recollection of your conversation was that you taught the telecommunication students?
A: You know, I looked for that deposition. I don't have it.
Q: I'll give you a copy before you leave.
A: But at that time, my students would have also included those in other departments.
Q: Thank you very much.

MOTION:

MR. STEVENS: We would move at this time to qualify Dr. Lee.

THE COURT: Precisely in what field; what in?

MR. STEVENS: Investigative reporting dealing with the

standard of care that's supposed to be used by a news reporter that reports on crime and as to his knowledge and training investigative reporters as to how they are to avoid getting -- going past the line put down by the U.S. Supreme Court in New York Times v. Sullivan. If you report something with knowledge that its false or with a reckless disregard as to whether it is true or false.

THE COURT: All right. Okay. Mr. Bender, he has offered him as an expert. I'll hear from you.

MR. BENDER: Thank you, Your Honor. Rule 702 talks about testimony by experts and it says if specialized knowledge will assist the trier of fact to understand the evidence or determine a fact at issue, a witness qualified as an expert by knowledge, skill, training or education ---

THE COURT: Let's cover the first part. Would you agree that the standards that would apply to a, a, an investigative reporter were not or are not commonly within the knowledge or the general knowledge of jurors and that specialized knowledge would assist them in understanding the evidence in this matter.

MR. BENDER: Not in this case because there is a particular standard that the Plaintiff must prove and what this testimony ---

THE COURT: And that's constitutional malice.

MR. BENDER: That's right. What this testimony is being

introduced for seems to me to go to what was rejected by the Supreme Court, the unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers and that's in Hart-Hanks Communication, Inc. v. Connaughton, a 1989 decision of the Supreme Court of the United States.

THE COURT: I understand that it is not a responsible publisher standard, but the standard is whether or not he had knowledge or whether or not he -- what was the exact language ---

MR. BENDER: Reckless disregard of ---

THE COURT: --- had a reckless disregard. Recklessness to me invokes some standard, some standard. Okay. What is that standard?

MR. BENDER: Well, in --

THE COURT: Can you explain it to me?

MR. BENDER: Yes, sir. In St. Amant v. Thompson, the Supreme Court of the United States addressed that standard and talked about it in terms of having a substantial doubt about the accuracy of what was being published and publishing anyway and that same standard was articulated in the South Carolina Supreme Court decision in Elder v. Gaffney Ledger, where it says to prove reckless disregard there must be clear and convincing evidence that David Wren or the editorial writer at the time of the publication decision had substantial doubt

about the accuracy of what was being published and published anyway. And what the testimony that Dr. Lee is seeking to address I think runs afoul of what the Supreme Court of South Carolina warned about in Holtzsheiter v. Thompson Newspapers, that this would add a question related to negligence, which is inappropriate in evaluating the standard under Times v. Sullivan.

THE COURT: I understand fully this is not a negligence standard. I understand that.

MR. BENDER: And my suggestion is that the testimony being offered by this witness is to talk about whether or not The Sun News acted in accordance with standards a responsible news organization would follow.

THE COURT: Libel is an intentional tort, not an accidental tort, I understand that, but I believe that this witness possesses some specialized knowledge based upon his education and experience that would assist the trier of fact, the Jury, in understanding that evidence in this case. There's a lot of evidence in this case. I believe also that his education and knowledge would certainly exceed that of a juror and that in doing so, he has met the standard for an expert in this state.

I'll hear you further, but that's how it appears to me.

MR. BENDER: Well, I understand that he's an expert. He's just not an expert for what's needed in this trial. I

think that the testimony that he's -- that Dr. Lee is being offered to give doesn't have anything to do with the actual malice test.

THE COURT: Tell me, Mr. Bender, is there any expert for any purpose that could be brought into one of these trials that you would be satisfied with?

MR. BENDER: Well, if I brought him.

THE COURT: Well, I'm sure.

MR. BENDER: No, I think that if there were a question other than malice, that there might be appropriate circumstances for an expert witness. There might've been an appropriate circumstance for an expert witness to diagram the sentence that's at issue here, but that witness hasn't been identified and to have Dr. Lee testify about what he thinks along with means is inappropriate because that's not what he's being qualified for. That has nothing to do with ---

THE COURT: And I don't think that's what he's testifying to.

MR. BENDER: Well, that's what he said.

THE COURT: He's testifying as to the standards.

MR. BENDER: I understood what he said he was gonna talk about was he was gonna talk about these standards a responsible news organization would follow ---

THE COURT: Everyone else has testified as to what along with means and we didn't have to have an expert for that.

There's no reason to exclude him. Everybody's testified as to what it means.

MR. BENDER: Well, I think -- well, and I think also he's raised the point ---

THE COURT: We let Mr. Kelley testify as to what it means and he admitted that he has poor background in grammar.

MR. BENDER: And I plan to use that.

THE COURT: So, I mean, everyone as testified as to what it -- I don't think that that would require an expert.

MR. BENDER: Oh, I agree and that's why I don't think we need Dr. Lee to testify about it because I'm concerned that his status as an expert would interject the issue of negligence inappropriately in conflict with Holtzscheiter in this case. And his testifying about what language means is not why he's qualified and to raise the question -- and we have talked about this except Mr. Stevens asking about comments. Well, The Sun News is not the publishers, as a matter of federal law under 47 U.S.C.A. Section 320 of those comments and I don't ---

THE COURT: I understand. I haven't heard anything about the comments yet.

MR. BENDER: I think you ---

THE COURT: Other than Mr. Kelley said they were bad, but has anybody published a single comment that was posted on the board?

MR. BENDER: It would be inappropriate.

THE COURT: There hasn't been one and I will promise you that there will not be a negligence charge in this matter. The charge will be as I have said earlier. One, requiring the Plaintiff to show constitutional malice, actual malice in this matter and I will charge the standard.

I believe this witness is qualified to testify. I think his testimony will assist the trier of fact and I'm going to allow him to be qualified as an expert and to testify.

MR. BENDER: I understand your ruling, Your Honor, and if I could ---

THE COURT: Yes.

MR. BENDER: I failed to call to your attention the South Carolina Supreme Court decision in Dawkins v. Field, where it talks about the scope of testimony by an expert on a legal standard and the case involved John Freeman giving testimony about what the law was ---

THE COURT: Absolutely.

MR. BENDER: So, I don't think this witness can testify to what ---

THE COURT: And I can tell you under Vortex Sports v. Ware, our Supreme Court also said or the Court of Appeals said that expert testimony on legal issues is not appropriate, but I don't think that's where he's going here. He's talking about standards of reporting.

We're gonna be very careful to not interject a negligence standard in here. As I said earlier, this sort of libel is not or alleged libel is not an accidental tort; it's an intentional tort and that's what this case -- I mean, the Plaintiff's gonna have to prove. But I believe that this witness may testify and that's my ruling.

Okay. Gentlemen, we will start back 9:30 in the morning.

MR. STEVENS: Thank you.

MR. BENDER: Thank you, Your Honor.

MR. STEVENS: May we leave our stuff here?

THE COURT: Certainly. Bobby, you can make sure the courtroom is locked, are you not?

BAILIFF: It'll be locked.

THE COURT: Thank you.

(RECESS - 4:57 P.M.)

*******OFF THE RECORD*******

(END OF DAY TWO.)

(MAY 7, 2014)

(On the Record - 9:35 A.M.)

(REPORTER'S NOTE: The following takes place outside the presence of the Jury.)

BY THE COURT:

THE COURT: Mr. Bender, by noontime today, I want you to tell me whether or not you want to bifurcate this trial in the event of punitive damages or not.

MR. BENDER: I can tell you right now I do.

THE COURT: You do.

MR. BENDER: I think we should bifurcate it with respect to each Defendant because there's are separate claims.

THE COURT: How long do you expect to try this case? Into next week, obviously?

MR. BENDER: No, I expect to be through by tomorrow.

THE COURT: Okay. Okay. All right.

MR. STEVENS: May I put my objection on the record, Your Honor.

THE COURT: Well I think he has the right to bifurcate it; do you not, Mr. Bender?

MR. STEVENS: As to -- I'm talking about as to both Defendants.

THE COURT: Okay.

MR. STEVENS: The pleadings have admitted and in their depositions, which we have introduced, he was the agent, that

all of his articles were approved by the editor. And they went through the whole rigmarole and he was acting in the scope of his employment and so forth. So, I think the verdict should be general as to both of them.

THE COURT: How about that?

MR. STEVENS: They have joint and several liability.

MR. BENDER: Well, I think that David Wren has no possible liability for the editorials because he didn't write the editorials. I think that if there is liability for the editorial is solely on the corporation.

THE COURT: What do you say about that?

MR. STEVENS: We would agree with that.

THE COURT: Pardon?

MR. STEVENS: We'll agree with that.

THE COURT: Well, then how do you not ---

MR. STEVENS: As to the editorial, it could only be The Sun News; as to the articles it would be joint and several.

THE COURT: We're gone have to do a special interrogatory and a verdict form, would we not?

MR. BENDER: I think so.

THE COURT: All right. Gentlemen, I hope y'all can agree on that, how we do it. Okay.

You got how many more witnesses, Mr. Stevens?

MR. STEVENS: Two.

THE COURT: How many do you anticipate, Mr. Bender?

MR. BENDER: Two perhaps.

THE COURT: Two perhaps. Okay.

MR. BENDER: One thing I would like to do before the Jury comes back in. I marked three exhibits yesterday but did not move them into evidence. They were marked as One, Two and Three. They were emails from Mark Kelley. He authenticated them. One has to do with an index of tax paying ability, talking points that he prepared and sent to the School District. The other is -- that's one. Two is a response from the School District making changes in his talking points and Mr. Kelley's response saying spelling and grammar was sort of his weak points. And then third, Number Three is an email sent by Mr. Kelley to the President of Coastal Carolina talking about his accomplishments as a lobbyist.

THE COURT: All right.

MR. STEVENS: We'd object to it as being totally irrelevant and ---

THE COURT: Well, I think it is relevant under 401 and that it withstands a 403 challenge. So, I think that while, like all evidence, it is intended to have some prejudicial value it's, but greatly outweighed by the probative value in that those are issues that have been raised in this trial concerning Mr. Kelley's ability to interpret it as well as his performance.

Is that the point you were gonna make, Mr. Bender?

MR. BENDER: Yes, sir.

THE COURT: Okay. Thank you very much. They're admitted. They're in the record.

DEFENDANT'S EXHIBIT ONE, TWO AND THREE ADMITTED INTO EVIDENCE

THE COURT: Okay. Let's bring the Jury in. Let's get started.

(REPORTER'S NOTE: Jury enters courtroom. 9:41 A.M.)

THE COURT: All right. Good to see you all back this morning. I see we have all our jurors in the courtroom.

Mr. Stevens, are you ready to proceed?

MR. STEVENS: Yes, sir.

THE COURT: Call your witness.

MR. STEVENS: The Plaintiff calls Dr. William E. Lee.

CLERK: Please raise your right hand and place your left hand on the Bible.

DR. WILLIAM EYRE LEE, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Please be seated.

MR. LEE: Okay.

CLERK: State your name for the record.

DIRECT EXAMINATION OF DR. WILLIAM EYRE LEE BY MR. STEVENS:

Q: Would you tell the Jury your name and where you live?

A: My name is William Eyre Lee. I live in Athens, Georgia.

Q: And what is your occupation?

A: I'm a professor at the Grady College of Journalism and Mass Communication at the University of Georgia.
Q: And how old are you now?
A: I'm sixty-four.
Q: And how long have you been at the University of Georgia?
A: Thirty-seven years.
Q: And how long have you been teaching Mass Communication and Journalism?
A: Thirty-seven years at the University of Georgia and three years prior to that at the University of Wisconsin.
Q: And have -- have you written any books with regards to journalism?
A: Yes, I have.
Q: And what's the name of it?
A: It's called the Law of Mass Communication, I'm sorry, the Law of Public Communication; it's now its ninth edition.
Q: It's now in its ninth edition?
A: Correct.
Q: Okay. Now, the authors are Ken R. Middleton and William E. Lee; that's you?
A: Yes.
Q: With regards to this textbook, is it used at the University for the purpose of teaching Journalism?
A: Yes, it is as well as at a hundred other colleges and universities throughout the United States.

Q: Okay. Now, you said you're a professor. Are you a tenured professor?
A: Yes, I'm a tenured full professor and have been in tenured since 1983 and full professor since 1989.
Q: Okay. Tell the jury your educational background?
A: My PhD is in Mass Communications from the University of Wisconsin at Madison; my Master's Degree in Telecommunications is from Michigan State University; and I have a Bachelor's Degree in Broadcasting from San Jose State University.
Q: What years did you receive those degrees respectively?
A: Bachelor's Degree in 1972, Master's Degree in 1974 and PhD in 1977.
Q: Thank you. Did you, have you, do you now have and have you in the past had teaching and research appointments?
A: Yes, at the University of Georgia. And my responsibilities are both to teach and to conduct research, which would be published in scholarly journals.
Q: And have you written research publications in that regard?
A: Yes, I have. I have twenty-five Law Review articles, several chapters in books and several monographs as well as the Law of Public Communication.
Q: You said you had written Law Review articles?
A: That's correct.
Q: And tell the Jury what a Law Review article is?
A: A Law Review is typically published at a law school. It

can either be specialized in focusing on communication law topics or it can be what we would call a general interest Law Review, which publishes in a variety of topics. Some of the Law Review side of publishing are the Supreme Court Review, which is published at the University of Chicago; the Harvard Journal of Law and Public Policy, which is published at Harvard Law School; the Harvard Journal of Law and Technology, which is also published at Harvard Law School; the Columbia Science and Technology Law Review, which is published at Columbia University; I can go on lists, an online vitae takes more than two pages.

Q: Okay. Have you also written -- been asked to write chapters in other books published by other, other people?

A: Yes, I have chapters that have appeared in three books.

Q: And what are those books? Journalist Privilege; is that one of them?

A: That's correct. I'm drawing a blank of names of the books.

Q: Media Freedom and Contempt of Court?

A: Yes.

Q: That was published in 2009?

A: Yes.

Q: Okay. And The Priestly Class in Entertainment and Publishing Arts Handbook, 2007, 2008?

A: Yes.

Q: And Modernizing the Law with Open Air Speech, 2000 -- excuse me, 2005-2006?
A: Yes.
Q: Okay. And have you published, have you had any publications in encyclopedias?
A: Yes, I published in, I believe it's the American Encyclopedia Civil Liberties.
Q: Have you written any conference papers, made presentations in conferences?
A: Yes, I've made a variety of presentations through my career at professional meetings of groups like the Association for Education in Journalism and Mass Communication.
Q: On the research publication, I'm looking at two pages of research publications, approximately, correct?
A: I think there's a third page.
Q: Okay. A third page; yeah, you're right. I'm not gonna go into all that. In addition to what you just testified to, do you also consult?
A: Yes, I do.
Q: And who do you consult with?
A: Well, I've been hired by a variety of media companies to do things like offer seminars to their news and editorial staff relating to defamation, invasion of privacy, news gathering techniques, et cetera. I've also consulted with public policy groups and law firms throughout the United

States.
Q: I want to ask you who you consult -- what media corporations have you consulted with?
A: Knight Ridder Newspapers, which is the former owner of The Sun News. I believe they owned it from 1986 to 2006 when they sold it to its current owner, McClatchy; Hart-Hanks Newspapers; Viacom; Quiddle Communications; Group W; TCI -- I think that's ---
Q: Dow Jones?
A: Dow Jones, Cumulus Radio.
Q: You said that you had been consulted by Knight Ridder, who owned The Sun News in 2010?
A: I believe they sold it in 2006.
Q: Okay. Now, have you also been consulted by law firms?
A: Yes.
Q: And how many law firms?
A: I probably would say six or seven.
Q: Okay.
A: Possibly more.
Q: I'm looking and, and the states -- the states, New York, Chicago, Florida and Atlanta, Georgia; does that sound right?
A: Yes.
Q: Okay. Have you served as an editorial consultant for any textbook publishers?
A: Yes, I have.

Q: In what?
A: And this involves manuscripts that a publisher is considering publishing as a textbook and they'll ask a professor who's knowledgeable in the field to evaluate it as to its quality and its thoroughness, matters like that. Some of the publishers have been Pearson -- I'm drawing a blank here on ---
Q: Addison Westgate?
A: Yes.
Q: What is that?
A: That's an academic publisher.
Q: Magraw Hill?
A: Yes, that's one of the largest academic publishers.
Q: Okay. MacMillan?
A: Yes.
Q: What is that?
A: That's also one of the largest academic publishers.
Q: Allyn and Bacon?
A: That's again an academic publisher.
Q: Pitman?
A: Also an Academic Publisher.
Q: And finally I think Mr. Bender and I know about this one, West?
A: Yes.
Q: What is West? Tell the Jury what West is.

A: West is a company that focuses on I believe on textbooks.
Q: And they also provide online services for most attorneys in today's world?
A: That's correct.
Q: Okay. They call it now WestLaw, don't they?
A: Yes.
Q: And WestlawNext; am I correct?
A: That's correct.
Q: And you have -- you have been a consultant to Westlaw?
A: Yes. West Publishing.
Q: Well, West Publishing Company, excuse me. Now, have you served as an expert witness in other courts?
A: Yes, I have.
Q: Would you please tell the Court and the Jury how many cases you have been qualified as an expert in?
A: I've been qualified as an expert in Federal District Court in New York City; Federal District Court in Chicago; Federal District Court in St. Paul; Federal District Court in Kansas City, Missouri; Federal District Court in Sacramento, California; four courts in the State of Georgia; and this Court.
Q: Okay. Now, would it be fair to say that you have been an expert in about twenty-eight cases?
A: Yes, I've offered depositions or affidavits as well as testimony in court.

Q: Okay. You are also involved in University Governance?
A: That's correct.
Q: Tell the Jury what that is?
A: Just in addition to teaching and research we have to serve on committees that do things like select new Presidents, select new Deans, write the rules for the University, administer policies, hiring and tenure decisions that are all part of the faculty governance and I've done that in my thirty-seven year career.
Q: And I'm looking at approximately three and a half pages of grants, fellowships and honors.
A: That's correct.
Q: Okay. External, that is outside of the University of Georgia and internal?
A: That's correct.
Q: And you have been invited by third parties to write for them?
A: That's correct.
Q: And do you -- the area of your expertise, is what?
A: Freedom of expression, the practice of journalism and the interplay between the law and the practice of journalism.
Q: All right. Now, have you had an opportunity to review documents that have been produced by the Defendant in this lawsuit?
A: Yes, I have.

Q: All right. And what do those documents include?
A: They include emails that David Wren received from Tim Pearson; emails between David Wren and Tracy Edge; emails between David Wren and Justin Stokes; I've also read Mr. Wren's two depositions and other documents that have been produced include The Sun Times Ethics and Policy.
Q: Okay. Excuse me just a moment. (To the Court) At this time, Your Honor, we would move to introduce Exhibit Number Twelve, which has been produced by The Sun News as their Ethics Policy?

MR. BENDER: I would object, Your Honor.

BY THE COURT:

THE COURT: It hasn't been authenticated, Mr. Stevens.

MR. STEVENS: It was authenticated by their producing it in response to discovery.

THE COURT: Perhaps this witness can authenticate it, I mean, but we, we need someone to authenticate it and then we'll ---

MR. STEVENS: I did put in the deposition of David Wren and in that he authenticated it.

MR. BENDER: I have an objection to it, Your Honor.

THE COURT: All right. Let's take the Jury out.

(REPORTER'S NOTE: Jury exits courtroom. 9:56 A.M.)

THE COURT: All right. Mr. Bender?

MR. BENDER: May it please the Court, Your Honor. This

is an effort to introduce negligence into this case by trying to establish what the internal policies of the paper are to show a departure from that and that's clearly a negligence standard and as you've ruled in this case this is not a negligence case; this is an actual malice case.

THE COURT: Well, what if they are simply offering it to show what the Defendant did, if he followed the policies of the newspaper -- these are the policies of the newspaper, I don't think they're gonna say that he failed to follow the policies of the newspaper. I think what they're gonna do is say he did follow them -- follow those policies and thus he did have substantial doubts as to the proof of what was published. Is that where you're going with it?

MR. STEVENS: That's essentially that he had knowledge of what the, what the policy was and that he deviated from that policy.

THE COURT: Now you're talking about a negligence question, Mr. ---

MR. STEVENS: No, Your Honor. If you go beyond -- that is knowledge on his part. The knowledge as to how he's supposed to apply the principals of journalism. If he deviates from them and in applying the facts that he knows, if he goes to the point that he knows that what he's printing is either false or he's printing it with reckless disregard of the truth or falsity, it goes to the emails that we have been

introducing and the timeline which he knew all this stuff. He has testified that he -- now testified that he didn't defame him. So, that's what we're doing. This goes to the factual issues of whether he complied with and Dr. Lee will be testifying to what a -- what journalist should do in these types of situations. That's discussed in almost every Supreme Court opinion there is.

THE COURT: Well, what do the cases say establishes recklessness in the context of constitutional actual malice?

MR. STEVENS: The failure -- printing the article with knowledge of its falsity or with a reckless disregard of its truth or falsity. A reckless disregard is he is conscious of the fact that he does not have evidence to print what he's printing, but he goes ahead and prints it anyway. That is also called Bulverism, where the, where the, where the reporter prints something, something knowing it to be false and then tries to justify it by using technical words to justify what he's writing. So, we get right within the New York Times v. Sullivan test. Did he do it with knowledge of its falsity or did he have serious doubts about its falsity or its truth and he printed, printed it regardless of whether it was true or false.

THE COURT: The issue here is serious doubt.

MR. STEVENS: Yeah. He has to have serious doubt about what he's printing.

THE COURT: And how does that -- tell me once again, how that relates to the deviation from standard?

MR. STEVENS: Because the, the ethics say don't do that. They say don't print something you don't have the facts of in, in, in -- and confirm your sources -- I can't remember all of them. Yeah, you have to consider whether the sources you're relying is an obviously biased source, would he have ---

THE COURT: Are you telling me that the standard creates the doubt?

MR. STEVENS: No. No.

THE COURT: That it deviation ---

MR. STEVENS: It goes to the weight of the evidence. They printed an ethics policy and in the ethics policy they have a section called Reporting with Integrity. And they say things like accuracy must -- we must strive to be completely accurate in all that we report and represent. Check and double-check the sources, et cetera. If erroneous information is published, immediately print a correction that accepts responsibility for the mistake and provide, and provide the correct information. We do not use anonymous sources except in extraordinary circumstances. It goes to the issue of whether he printed it with reckless disregard for its truth or falsity when he knew that the source was an obviously bias source. It must be approved by the editor or the managing editor and it says we correct all inaccuracies immediately.

We also run clarifications if we, if in our reporting, editing or headline writing, we must, we may have given readers the wrong impression of a person, place or event and that's what we're talking about. They knew. The testimony's come in that without describing the comment, they knew from the comments what the public was understanding what he wrote and they continued. They also -- that we must make every effort report all sides of every issue. We must also be fair in our presentation of the issue ensuring that both the structure and the content of the story is balanced and then they go into truthfulness. We are always truthful in what we report, photograph, design, or otherwise represent. Overall fairness and accuracy must never be sacrificed for the sake of style, structure or drama and that's what I just said. Bulverism is where a news reporter prints a story with a reckless disregard of whether it's true or false or maybe he's printing it knowing it to be false because it doesn't have the evidence and that's what these emails show. He did not have the evidence. There's emails that are gone come in and they're already in where his main source, Tracy Edge, tells him to call Trey Walker, who is the campaign manager for McMaster. He calls Trey Walker and Trey Walker tells him, I don't know what in the world you're talking about. So, he calls Tracy Edge back and Tracy Edge can't give him the information. Then he makes statements in his email that he doesn't know why he's

denying it and he talks about Mark Kelley handing the campaign donations, why won't they tell me he did it; are they trying to protect him; is he bending over backwards? And then he starts saying he's just like every other campaign manager; they all -- that none of them have any ethics and I don't know why he's denying it when we know what'll turn out to be true. And if that ain't printing something with a reckless disregard for its truth or falsity, they's not a cow in Texas. So, what we're showing here is they have their own ethics policy, which is supposedly mirroring New York Times v. Sullivan. You don't print somebody -- print something about somebody or event that defames someone unless you have the proof. Now, I understand that a newspaper reporter can say, well, I didn't investigate it enough; that's fine. But that's not the case here. He investigated it and he had evidence that was exactly opposite. They were telling him call Gresham Barrett. In every one of the emails if you look at them, every one of the people that he interviewed or he talked to or he got an email from never said one word about Mark Kelley. It was only David Wren trying to talk them into giving him that information. That's Bulverism. So what, what we got here is a reporter who's reckless, extremely reckless. He had knowledge that what he was trying to report was false, absolutely false. And if that's not clear and convincing evidence, I don't know what is. So, we think that this will go to the issue of whether he

made the statements in his news report with knowledge of its falsity of with reckless disregard of whether it was true or false.

THE COURT: Now, let me ask you one other thing. You said without objection, Mr. Wren's deposition has come in. Are you telling me that that's an exhibit to that deposition?

MR. STEVENS: Yes.

THE COURT: Is that right, Mr. Bender?

MR. BENDER: It is.

THE COURT: Well, then it's in.

MR. BENDER: My objection is to the examination of the witness on those to establish professional standard because that is negligence. And in Holtzsheiter, the Supreme Court talked about we'll find some indirect evidence in the record that the newspaper failed to follow its professional standards in this matter by comparing the inconsistencies and times and sequences of events related by the papers own witnesses, the Jury could've found professional standards were breached and that no one other than the reporter actually read the story before it was published. This was some degree of negligence sufficient to deny the newspaper a directed verdict motion. In other words, those standards are negligence, not actual malice. Actual malice is, did David Wren have substantial doubt about the accuracy of what was being published and what was published in spite of what Mr. Stevens is testifying to

here was that Brad Dean, Mark Kelley, Gresham Barrett and Drea Byars were at a table when $84,000 in contributions was handed by Brad Dean to Gresham Barrett and that there was nothing illegal about that activity in the opinion of the Counsel for the Ethics Commission. These emails don't have anything to do with what was published. What was published was Gresham Barrett, Brad Dean, Mark Kelley and Drea Byars were at a table when $84,000 was passed from Brad Dean to Gresham Barrett and that Mark Kelley didn't touch the envelope.

THE COURT: Well, Mr. Bender, I think it goes way beyond that. When you look at the editorial where they clearly state that the information they have is that Mr. Kelley had nothing to do with it and then they editorialized by saying who's protecting him; what's the unprovable truth here? What's the, the innuendo there, Mr. Bender? That is highly damaging in my, in my opinion.

MR. BENDER: It may be but it's the obligation of the Plaintiff to prove by clear and convincing evidence that the person who wrote that knew it was false or had a reckless disregard of this potential falsehood. To say that it's an unprovable truth, tracks the language of Hepps v. Philadelphia Newspapers where the Court was dealing with who has to prove falsity in a case and it said they're gonna be some cases where falsity cannot be proven and in that case, the person who bears the burden of proving falsity cannot recover.

There's no testimony here that deals with actual malice in the context of that editorial.

MR. STEVENS: Your Honor, there's so much evidence in here it is unbelievable. We've got Brad Dean saying it's false. Gresham Barrett said it was false.

MR. BENDER: We haven't heard from Brad Dean ---

MR. STEVENS: Drea Byars said it was false.

THE COURT: There's a wealth of evidence. Everything I've heard is that it didn't happen. Now, I'm gonna let it in. It's already an exhibit for the Jury to be considered. The deposition was put in without objection. It's an exhibit to the objection -- to the deposition. I don't think it needs to be reintroduced. I think you can refer it -- do you want to have it remarked?

MR. STEVENS: We have it marked up there already as Exhibit Twelve. We just have not had the opportunity to introduce it. It's Exhibit Number Fifteen.

THE COURT: All right. I'm gonna allow it.

MR. STEVENS: Okay.

THE COURT: I'm gonna allow it in to examine this witness.

MR. BENDER: On, on the standard; that's my objection.

THE COURT: On what standard?

MR. BENDER: Well, that's my question.

THE COURT: I'm gonna let him testify as to what

reporters do or what reporters don't do and how that may be evidence of his state of mind whenever he printed this. That's what I'm gone let him do.

MR. BENDER: I understand your ruling. Thank you.

THE COURT: All right. Bring them in.

(REPORTER'S NOTE: Jury enters courtroom. 10:13 A.M.)

MR. STEVENS: May I?

THE COURT: Yes, you may.

MR. STEVENS: Your Honor, for the record, we'll go ahead and move to introduce the Ethics Policy.

THE COURT: Admitted. Objection noted.

PLAINTIFF'S EXHIBIT NUMBER TWELVE

ADMITTED INTO EVIDENCE

CONTINUATION OF DIRECT EXAMINATION OF WILLIAM E. LEE BY MR. STEVENS:

Q: Now, what else did you review?

A: I reviewed the Defendant's responses to your interrogatories.

Q: Tell the Jury what an interrogatory is?

A: It's a request by one of the parties for information or answers to questions.

Q: And they're in writing?

A: Yes.

Q: Okay. Do they have to write it out?

A: Yes.

Q: And does the Rule provide that they have to swear to it?
A: Yes.
Q: Okay. And what else?
A: I believe that's all the documents that were produced during discovery that I reviewed.
Q: Did you also see the documents that the Defendant produced in discovery, Requests for Production of Documents by the Plaintiff to the Defendant?
A: I don't recall.
Q: But you did see the Ethics Policy?
A: Yes.
Q: Okay. And that was in the Requests for Production you saw the Requests for Production?
A: Okay.
Q: Okay. Now what did you -- you said you read the deposition of David Wren?
A: That's correct.
Q: And the editor, Patricia O'Connor?
A: Yes.
Q: Did you read the deposition of Mark Kelley?
A: No.
Q: Was it, what was your purpose in reviewing the reporter and the editor's deposition and not Mark Kelley's?
A: To get a sense of how the information was gathered, how it was processed and the state of mind of both Mr. Kelley and the

editor -- I'm sorry, not Mr. Kelley, I misspoke -- Mr. Wren and the editor.

Q: Ms. O'Connor?

A: Yes.

Q: And what else did you do to render an opinion to this Jury; what else did you review?

A: I looked at the Associated Press Style Book, which is frequently referred to as the Bible in the news industry. It's a manual that you'll find in virtually every newsroom. I looked at a number of textbooks relating to news writing. I looked at other media law books and I believe that's about it.

Q: Okay. Have you reached an opinion in this case?

A: Yes.

Q: And would you state that opinion?

A: In my opinion, there were indications to Mr. Wren that should have been paid attention to, which he did not. There are contradictions in his deposition relating to his awareness of the falsity that I think undercut the claim that they published information believing that it was true. I believe also that there is a problem in the way the information was processed at The Sun News. All of this leads me to conclude that The Sun News did not act the way professional news organizations act in these circumstances.

Q: Did you reach an opinion as to -- from the evidence that you had that there was reason to doubt any of the sources?

A: Yes.

Q: Tell the Jury what that is?

A: Let's put the story in context. This lunch occurs on June 20th, 2009. Suddenly, it becomes of interest eleven months later, ten or eleven months later. Coincidentally, as the Republican Gubernatorial Primary is in its most active phase and we have information coming to Mr. Wren from people who are involved in this political campaign. Information that comes to him from Tim Pearson, who is the Campaign Director for Nikki Haley, I'm sorry, Nikki Haley. All of these South Carolina names are new to me. So please forgive me. Tim Pearson provides Mr. Wren with emails that extensively come from the Barrett campaign by Justin Stokes. Now, this is not breaking news story, this isn't like an airplane crash or a bridge collapsing or something like that. This is a story about a lunch which took place nearly a year before. Because of that and because of the possibility that you reporting on a criminal act, that means that Mr. Wren and his editor should have paid the greatest attention to the sourcing of the story and the way it was written. There's every opportunity for Mr. Wren to reach out to the person who knows exactly what's going on here and that is Mark Kelley. And by reaching out, I'm gonna quote the Associated Press Stylebook which says we must make a real effort to let the party respond to claims. Mr. Wren has testified that he made one phone call to Mr. Kelley.

There's no email; there's no follow up phone call; there's no effort to meet Mr. Kelley in person; and the editor testified that this probably was inadequate.

Q: Ms. Patricia ---

A: O'Connor, yes.

Q: In her deposition testified to that?

A: That's correct.

Q: With regards to the elements that you were provided, that is the emails back and forth between David Wren and various people, did you find any of the emails from anyone other than David Wren providing David Wren with any evidence that Mark Kelley arranged or facilitated the luncheon?

A: Absolutely not and, in fact, Mr. Kelley, during -- I'm sorry -- Mr. Wren, very early on, learned from B.J. Bolling that Mark Kelley did not have anything to do with facilitating the lunch.

Q: As a matter of fact, one of the first emails that Mr. Wren had was an email in June of 2009 from the Barrett campaign saying he was gonna meet with Brad Dean at Sid and Roy's at Market Commons; is that correct?

A: Yes.

Q: That's the first email that David Wren produced; isn't that correct?

A: I believe so.

Q: And did -- anywhere in that email did it say anything

about Mark Kelley?
A: No.
Q: Okay. And that email was produced by Tim Pearson, who was the campaign manager for Nikki Haley to David Wren. Now, was he forwarding this email that he had received from Justin Stokes to David Wren?
A: Yes.
Q: Okay. Now, and what he was doing, he was forwarding that sometime in May; am I correct?
A: May of 2010.
Q: Almost eleven months later?
A: Yes.
Q: Okay. Now, throughout the emails that went forward, did my, am I correct that he talked with Tim Pearson or had emails from Tim Pearson?
A: Yes.
Q: He had emails from Justin Stokes?
A: Yes.
Q: Had emails from Tracy Edge?
A: Yes.
Q: And David Wren said to Tracy Edge that he had called Trey Walker, the campaign manager for Henry McMaster, didn't he?
A: He did.
Q: Okay. Let's see what happened when he called Trey Walker. Okay. I'm gonna hand you Exhibit Ten, Eleven, Thirteen-A

through Thirteen-H and ask you if these are the emails produced by the Defendant that you reviewed?

THE COURT: While he looks at those, Mr. Stevens, I'm gonna take a quick break. We'll be at ease for about five minutes.

(REPORTER'S NOTE: Brief break in record.)

THE COURT: Please be seated. Please be seated. Keep your seats. Mr. Stevens, go ahead.

MR. STEVENS: Your Honor, at this time, I'm sorry.

THE COURT: Go ahead.

MR. STEVENS: We have Exhibit Number Fifteen, which is emails, he has no objection to Number Fifteen, Your Honor?

MR. BENDER: That's correct.

THE COURT: All right. Without objection.

PLAINTIFF'S EXHIBIT NUMBER FIFTEEN

ADMITTED INTO EVIDENCE

BY MR. STEVENS:

Q: I wanted to make sure I got all the emails; I had forgotten about this one. I forgot where I was. I think I was on the -- if I repeat myself; forgive me. Have you looked at all the emails and starting from the beginning Mr. Wren had information forwarded to him on May 19th. If you'll look at Exhibit Number Ten at the bottom of the page from T.C. Pearson to David Wren dated May 19th; you see that one?

A: Yes.

Q: Okay. And what he's doing is forwarding the message he had from Gresham Barrett to Darrell Broom, Natalie Barrett, Justin Stokes, and L. Byars on June 15th, 2009 and the subject was Brad Dean Luncheon. It says when, Saturday, June the 20th, 2009 1:00 to 2:00 P.M.; where, Sid and Roy's, Market Commons. From that did you understand that this was the first document that was sent to Mr. Wren prior to the May 21st article he wrote?

A: Yes.

Q: Okay. I believe there's some, I should say Tim Pearson, but there were some other emails that were from Tracy Edge back in May the 3rd; am I correct?

A: That is correct.

Q: And those emails from Tracy Edge -- I'm trying to get the sequence here. I believe it started on May the 3rd at 2:14 P.M.; the next one was at 2:25 P.M.; the next one at 2:30; the next one was at 2:51 and the last one was at 4:09. They go back and forth between Tracy Edge and David Wren; am I correct, there?

A: These are the May 3rd emails?

Q: Yes.

A: Yes.

Q: I think they start at the second page?

A: Yes.

Q: Tell the Jury what that first email says.

A: Do you mean the one at on the second page?
Q: Yeah.
A: Okay. The subject is, I called Trey Walker and he denied knowing anything about it.
Q: Who is saying that?
A: This is David Wren writing to Tracy Edge. Tracy Edge is the person who first told David Wren of this lunch and suggested that he get in touch with Trey Walker in the McMaster campaign with the belief that Walker had emails from the Barrett campaign relating to this lunch and that these emails would show that Mark Kelley was involved in the raising and passing of money.
Q: From looking at the emails from Tracy Edge, does it say anything about him even being present at the luncheon?
A: Actually, no.
Q: Okay. So what, what did David Wren tell Tracy Edge under the subject I called Trey Walker and he denied knowing anything about it; what does it say?
A: Well, this is, this is the one where he reports to Tracy Edge his telephone conversation with Trey Walker. Again this is at the suggestion of Tracy Edge that Wren call Walker and ask about these emails and Walker tells Wren, Walker flat out denied know anything, knowing anything, anything, basically called you a liar. Now I'm really confused.
Q: Who's saying this?

A: This is David Wren.
Q: And he's telling Tracy Edge that Trey Walker called him a liar?
A: Yes.
Q: Okay. What else does it say?
A: I know campaign managers have little or no ethics, but to just flat out lie about something that eventually be shown to be true isn't going to help him.
Q: Let me ask you this now. Mr. Wren is saying to Tracy Edge quote/unquote, I know campaign managers have little or no ethics; that's what is in his email?
A: That's correct.
Q: And he is relying on the campaign manager from Nikki Haley to provide him with what he believed to be true that Mark Kelley arranged the luncheon, had something to do with raising the money and handed the campaign contributions to Gresham Barrett?
A: So, his skepticism towards Trey Walker, apparently, doesn't apply to Tim Pearson.
Q: Based upon what his statement is, would that, looking at that, would that give, does that give, is he saying that he doubts the campaign manager source?
A: I believe so.
Q: If he says they don't have any ethics, would that be a reason to doubt him?

A: Well, no, sir ---
Q: In Wren's mind?
A: Yes. And notice he says he believes that Walker is lying, but again, there's no skepticism ever expressed in any of these emails or in the deposition about what Tim Pearson says or provides to him.
Q: And there were emails going back and forth and Mr. Edge made a statement after David Wren said that about the campaign managers and about the fact that Trey Walker essentially called him a liar. He says I'm gonna call O'Connor at the State and see where he is on it. My guess is and it's a good one and I think that -- I think is that they all think Kelley is protected in some way by the paper. I just want to see how you brought me up before I call Trey. This will take some time but Richard Quinn is probably the real one making this happen. If so, he will talk to you with no hesitation. Now that's from Tracy Edge to Mr. Wren and what's the next email?
A: It's from Wren to Edge saying any word back from Trey or O'Connor.
Q: That was at 4:09 that afternoon?
A: May 3rd.
Q: May the 3rd. Anymore emails from back and forth between David Wren and Tracy Edge?
A: There are some later that have to do with whether or not a lobbyist may make a contribution to a local candidate.

Q: Oh, that's when Mr. Wren wrote to Brad Dean and was investigating now whether Mark Kelley can make a contribution to a local candidate like county council?
A: Yes.
Q: Well, what did -- what did he find out?
A: He found out that they may make contributions to them.
Q: Read to the Jury what Mr. Wren said to -- I think he was replying back to his editor, wasn't he? Who's he replying to?
A: He's writing to Tracy Edge.
Q: Oh, Tracy Edge. Okay. Well, what did he tell Tracy Edge his investigation showed?
A: I got in touch with Cathy Hazelwood who told me lobbyist can't make contributions to state candidates, but can to local candidates. So, it looks to me like it was a legal donation done in September so it did not show up on any reports until after the election was concluded.
Q: Okay. What's the date of this?
A: March 9th, 2009, no, I'm sorry, 2011.
Q: March 9th, 2011, almost a year after all these articles in May of 2010?
A: Yes.
Q: He's still looking into campaign donations supposedly by Mr. Kelley?
A: And regarding Mr. Edge as an expert on this.
Q: Okay. What does that reveal to a person who would be in a

supervisory capacity to David Wren?
A: I would question his reliance on Tracy Edge as an expert on matters like this. I would -- if I were his editor, I would say talk to Cathy Hazelwood. She's the expert or someone on the State Ethics Board; don't talk to Tracy Edge.
Q: Okay. Now let's go back to Exhibit Number Ten. There is another email, I think about half the way the page up, from T.C. Pearson dated Thursday, May the 20th at 9:02 A.M. Do you see that?
A: What is the Bates stamp on that?
Q: DWREN026.
A: Okay. Which one are you asking about?
Q: Right in the middle of the page.
A: Okay.
Q: From T.C. Pearson sent Thursday, May the 20th, 2010 at 9:02 in the morning?
A: Okay.
Q: And he's writing to Wren, Re: Subject Brad Dean luncheon; what is he telling Mr. Wren to do?
A: Ask Gresham directly who gave him the money.
Q: Specifically, he said, maybe go ask Gresham directly who gave him the money?
A: Yes.
Q: And then David Wren writes back four minutes later on -- excuse me, I'm sorry -- he writes him back at 5:11 -- I'm

sorry, I've got it mixed up.
A: I think the response is, Great, thanks; I'll get in touch later this week.
Q: Okay. I'm having trouble reading. Then on May the 19th, this is, a line of emails between Mr. Pearson and Mr. Wren later on in July the 19th, 2010, at 5:11, he writes to Tim Pearson and tell the Jury what he's asking Tim Pearson, right about the second one up there on ---
A: I'm hoping to use those emails now that the primary is over and Barrett is out of the picture. Wanted to check with you, we will of course not identify the source of the emails or say how we obtained them.
Q: Okay. This is about two months after the first article?
A: Yes.
Q: And Gresham Barrett has already been defeated and out of the picture?
A: Yes.
Q: And he's still trying to use emails or asking for emails?
A: At this point The Sun News has not quoted from the emails and it does refer to documents The Sun News has obtained in those stories. For example, on May 21st and the 23rd, they don't actually quote the emails until they get permission from Justin Stokes.
Q: Okay. Now, the last one up there at the top is a response from Tim Pearson to David Wren on July the 19th at about 5:49

responding to his request to use the emails. What does Tim Pearson say?

A: Not really my call, but push Stokes on it some. Let me know if you don't hear from him in the near future.

Q: Okay. Now, based upon your investigation and the documents that came from the Defendant, David Wren and The Sun News, did David Wren have any evidence that Mark Kelley had set up the meeting, raised the money or gave the money, the contributions to Gresham Barrett?

A: Absolutely not. In fact, he has three sources, Gresham Barrett, Brad Dean and B.J. Bolling telling him no.

Q: And also one that says I don't know what you're talking about.

A: That's correct, that's Trey Walker.

Q: Would that, would that type of background investigation give a reasonable investigative reporter knowledge that Mark Kelley had nothing to do with giving campaign donations to Gresham Barrett or setting up a meeting?

A: Absolutely. Especially since the two parties most intimately involved, Brad Dean and Gresham Barrett, both tell Mr. Wren on May 20th that Mark Kelley had nothing to do with this and Mr. Wren is not a novice, he doesn't -- didn't just walk into this newsroom ---

MR. BENDER: Your Honor, I would object. That's not responsive to the question.

THE COURT: Well, ask him a question.

BY MR. STEVENS:

Q: Well, that was my next question. Based upon reading his deposition, had Mr. Wren been in the investigative reporting field for quite some time?

A: Yes.

Q: Would he have been considered a novice in investigative reporting?

A: Absolutely not. This is not his first time around the block and I'm sure this is not the first time he's been, been a reporter when there's been a tense political campaign and reporters learn very quickly the way that political campaigns seek to leak information about opponents and ask for protection so that their identity will not be revealed.

Q: Okay. What's an anonymous source?

A: Well, sources ask to not be identified for a variety of reasons. Sometimes, they don't want to get in trouble with their boss. Sometimes they don't want to deter their future employment prospects. And Justin Stokes makes it clear that he does not want to be identified in these -- when he gets permission to use the emails he says I do not want to, I do not want to be identified. He says, for example, I'm beginning a new job in two weeks, which may put me in a position not to get pulled in. And then ultimately he tells David Wren, I'm fine with using the emails as long as you

don't show the actual emails to anyone and protect the source. In other words, don't ever publish that I'm the person who provided you these emails that I obtained while I worked for Gresham Barrett and then I gave them to Gresham Barrett's opponent, Nikki Haley's Campaign in the form of Tim Pearson.

Now, if we look at The Sun News Ethics Policy, there is a statement about anonymous sources. It says we do not use anonymous sources except in extraordinary cases, which must be approved by the editor or managing editor. The editor shares the reporter's obligation to protect the confidentiality of the source. What that means is the newspaper will, in certain instances, agree that it will not identify in its news reporting, where the information come from, but that has to be an extraordinary case and this idea of protecting the confidentiality is built on the notion that we want to encourage people to expose information to us and in rare circumstances, we will withhold from the public the identity of that person. Now, Mr. Wren, in his deposition, claims that Justin Stokes is not an anonymous source and that completely baffles me because the transaction as shown through the emails is clearly premised on Mr. Wren not disclosing Justin Stokes' identity. You can easily understand Justin Stokes' concern here because there are few people that are gonna want to hire someone to work on a political campaign or in a political office knowing that in his prior employment, he took emails

and provided them to the opposition. It doesn't make him look good and that's why he's expressing this concern. The fact that The Sun News did not disclose where this information came from, I think is quite telling. I think the fact that Nikki Haley's Campaign Manager was leaking information about Gresham Barrett is a story and I think that's an important fact that the public should know about.

Q: Why is that?

A: Because it shows again the inner workings of political campaigns and how political campaigns sneak to smear their opponents, how they try to manipulate information and they do this under the guise of anonymity. Now there are many news organizations which have taken a lot of heat for the way in which they promise anonymity sources and have -- there's been an effort in the industry to pull back from doing this because the public doesn't trust when a newspaper says we have this information which we obtained from an anonymous source. That's not something that's going to build trust with your, with your audience, your readers, et cetera. And again, an experienced reporter understands what's going on here. This is a political campaign attempting to smear an opponent, but they won't step up and say name us. We want to be on the front page with the information that says Tim Pearson, Nikki Haley's Campaign Manager provided the information that was taken by Justin Stokes from Gresham Barrett's campaign.

That's something no campaign manager wants and that's something Nikki Haley certainly didn't want the public knowing as she was running for Governor.

Q: Now, there are -- are there within the field of journalism, sources that you can rely on and sources that you can't rely on?

A: Absolutely.

Q: What do you call a source you can't rely on?

A: It's not a source.

Q: It's not a source.

A: You wouldn't rely on it.

Q: And they're also called something else within the vernacular of journalism?

A: I can't think of a term but no reputable journalist wouldn't rely on an unreliable source.

Q: Does the reporter -- is the reporter supposed to look at the source and determine whether the source is biased and take that into consideration in writing an article?

A: Clearly, one of the factors that should be addressed in the interim what is the agenda of the source? Does the source have an axe to grind? And that's why you would start questioning why is Tracy Edge disclosing this information? Why is Tim Pearson? Why is Justin Stokes disclosing this information? What agenda are they pushing? That's what a reporter would do is question who are these people and what

agenda are they pushing.
Q: Okay. In this situation, would the source of Tim Pearson and Justin Stokes be a source that a, a competent journalist would not rely on?
A: I don't know Tim Pearson nor Justin Stokes, but just from their positions, I would say that a reporter should approach what they say with skepticism and David Wren's already indicated in his email to Tracy Edge, campaign managers have no ethics. Right there, that's a profound statement that should have translated into, okay, I'm getting information from Tim Pearson, why is he leaking this to me and I better be careful here.
Q: Was he careful?
A: I don't believe so.
Q: Okay. Now, you say that anonymous sources should only be approved in extraordinary cases. Now, what are you talking -- what kind of cases would be within the umbrella of extraordinary?
A: I don't know what The Sun News means by extraordinary, but clearly that word would indicate that it would be a very rare circumstance when the editor would approve a reporter promising confidentiality and I don't believe Ms. O'Connor approved confidentiality here.
Q: Okay. Well, let me -- I want to ask you about a couple of things and this came to my mind. Would a source that, that

had identified a crime and was afraid of retribution by giving information to the police, would that be an extraordinary circumstance?

A: Certainly, where someone feared for their life. Let's say they witnessed a mafia hit and they were aware that if they were identified they would possibly being killed, something like that. There are a variety of circumstances in which people have information and they don't want to be publicly identified with it for personal repercussions.

Q: Now, I think all of us probably remember the movie All the President's Men and Watergate. The two newspaper reporters, investigative reporters from Washington Post -- I can't remember their names.

A: Woodward and Bernstein.

Q: Yeah. Woodward and Bernstein, they were talking to an anonymous source they called Deep Throat and they would obtain the information but what would Deep Throat tell them to do?

A: Oh, he would always tell them things like follow the money; that's the classic line from their book and ---

Q: He was telling them to confirm what he was saying?

A: Yes.

Q: Before they printed it?

A: Yes.

Q: And they followed what he said?

A: Yes.

Q: Okay. Deep Throat was an anonymous source, but I think we all found out who he was recently?
A: A few years ago, we found out he was Mark Felt, who was a high FBI official.
Q: Okay. And in that particular circumstance, would that have been extraordinary to protect that person from the public or the government to know what was happening here?
A: Yes.
Q: All right. And the office of the President was being attacked?
A: And there were efforts by the Nixon Whitehouse to shut down the investigation, et cetera, and control what the FBI was doing.
Q: Okay. Now going further with the emails, at some point, David Wren, I believe, contacted the Gresham campaign and was talking about the contributions by the LLCs; do you remember that?
A: Yes.
Q: And he was alerted by Associated Press reporter who wrote to B.J. Bolling with the Gresham Campaign and said there may be an issue with these donations. Want to get your head around the sources and get back to me. Do you see that?
A: I do.
Q: So, an AP reporter went directly to Gresham Barrett and say, said there appears to be some question about these

campaign donations. Do you want to go look into it and get back to me? Is that what a reporter, good reporter is supposed to do?

A: Yes.

Q: Okay. And Gresham Barrett and his campaign did that for him, didn't they?

A: I believe so.

Q: And we never saw anything else from the Associated Press, did we?

A: Not that I'm aware of.

Q: Okay. And actually on DWREN029, in October 14, 2009, Justin Stokes was with the campaign of Gresham Barrett and he was one of the ones who was investigating what the AP reporter said about questionable donations, right? You see that on the second one up?

A: I do.

Q: And he's writing to Tompkins and B.J. Bolling and somebody named Heath@Scott-Howell.com and he says, Re: Questionable donations. What did he tell them? Can you read that to the Jury?

A: These are all from last quarter. These guys are tied to the Myrtle Beach Chamber of Commerce. Brad Dean, the Chamber President worked behind the scenes to pull these together last quarter.

Q: Okay. And going up further, there's another message from

B.J. Bolling responding to an email from Tompkins to B.J. Bolling where he asked, where he said all appeared to be beach developers, cannot figure what the issue would be. Try Mark Kelley, our Horry expert or perhaps Alan Clemmons and that was on October the 14th, 2009. And what did, what was the reply there from B.J., BJBolling@greshambarrett.com?

A: Yes, they are. I've asked Davenport what the issue may be. Waiting to hear back.

Q: Okay. And then at the top of the page -- well, let me ask you this. Was there anymore emails back and forth between Tompkins and the Gresham campaign questioning the donations after October 14th?

A: I don't believe so.

Q: And then at the top of the page with all of these emails down below it, there's an email from David Wren to Justin Stokes and that's dated July the 12th, 2010 almost about a year later -- no, eight months later?

A: Well, again, the, the emails are written in October within the Barrett campaign in response to a request by an Associated Press reporter, Jim Davenport. These are then provided to David Wren by Tim Pearson in, I believe it's May 19th, 2010, and then in July, David Wren is contacting Justin Stokes again asking can I use these emails. Apparently, they had been provided to with the understanding that he would not quote from them and then later we see that he agrees that he would

not identify the source.

Q: And I believe Mr. Wren told Justin Stokes on July the 12th, thanks, these are the emails I was interested in?

A: Yes, sir.

Q: And this is after he wrote the article of May the 23rd and editorial of May the 30th that was written by the editorial staff of The Sun News?

A: Yes.

Q: Okay. Let me ask you this. You've read the editorial -- excuse me -- the article on May the 23rd?

A: Yes.

Q: Does, does it, does it or does it not accuse Mark Kelley of a crime?

MR. BENDER: Your Honor, I would object.

Q: Was your understanding of reading the article ---

THE COURT: You can tell -- ask him what it accuses him of doing and I will determine in my charge what constitutes a crime under the laws of our state.

BY MR. STEVENS:

Q: What does it accuse him of doing?

A: This is the May 23rd article?

Q: The Sunday article.

A: Okay.

Q: Do you need to look at the article?

A: No, I know this sentence. Brad Dean along with Chamber

lobbyist, Mark Kelley, delivered $84,000 to Barrett.

Q: Does that accuse him of a crime?

A: I believe it does.

THE COURT: That objection was sustained. I will ask the Jury to disregard the question and the response just entered to the witness and responded to. Okay. Take that out of your mind. Whether or not the conduct was a crime or not will be for you to determine based upon the law that I give you.

MR. STEVENS: I'll rephrase the question. I apologize, Your Honor.

BY MR. STEVENS:

Q: Did it accuse Mark Kelley of, of handing campaign contributions to Gresham Barrett?

A: Yes.

Q: Okay. Did, did you read the editorial of May the 30th?

A: Yes.

Q: And what was your understanding of what the editorial was saying?

A: I think the key phrase there is a parenthetical, which basically says that Brad Dean has been forced to lie to protect Mark Kelley, protect him from being exposed as being involved in the handling of the campaign contributions.

Q: All right. What did you understand their, their use of the phrase no matter what the unprovable truth is?

A: We don't have any facts to support what we're saying.

Q: Okay. Does that indicate that that was written with knowledge; that there was no evidence?
A: Yes.
Q: That was the title of the article for the editorial, Absence of Evidence?
A: Correct.
Q: And that was written by David Wren's supervisor, the editor, one of the editors?
A: I think she was one of the writers, yes.
Q: And in the deposition of Patricia O'Connor, did she describe how editorials are written?
A: I believe so.
Q: Tell the Jury how she described that.
A: I can't recall the name of the primary writer of this piece, who is now retired from the, from The Sun News. I believe he is the primary writer with collaboration by others on the editorial staff.
Q: Okay. When you say collaboration by others on the editorial staff; what do you mean?
A: Well, typically a newspaper will have a group of people who write editorials. Frequently, they are sole authored. Frequently, they be collaborative efforts. And this particular editorial, Ms. O'Connor says is based on reporting of David Wren.
Q: All right. In collaboration was there any testimony as to

whether all the editorial staff read the editorial before it was published to the public?

A: I believe Ms. O'Connor read it.

Q: Okay. And based upon her testimony in her deposition, did she have any objection to it?

A: She thought that the word, an interesting word, pinioning, which means to restrict or bind, she thought that was a mistake and it should be pinning.

Q: Well, if she thought that, what should she have done?

A: She should have taken the word pinioning out and substituted pinning.

Q: Regardless of whether it's pinioning or pinning, would it have changed the meaning?

A: No, I think either word still conveys the meaning that Brad Dean is lying to protect Mark Kelley.

Q: Now, let's go to Exhibit Number Fifteen. Look down at the email from Justinco6@yahoo to David Wren on May the 20th, 2010 at 4:29 P.M., the afternoon before the first article, it says subject Barrett. Read that to the Jury.

A: Any luck looking for other emails now. I don't think I have anything documenting. We'll keep thinking how else to document he set up the meeting.

Q: And that's signed by Justin?

A: Yes.

Q: Okay. And right above it, there's an email from David

Wren to Justin Stokes dated July the 12th, 2010 at 9:45 A.M., Re: Barrett. It says Justin. Tell the Jury what David Wren was asking Justin?

A: Was wondering if now that the primary is over whether I can go ahead and use the emails regarding Brad Dean and the Chamber money.

Q: Now, with regards to the emails, as a, with your background as an expert, would the proof of the, or the contents of the emails give the investigative reporter knowledge that there was really some problem with saying that Mark Kelley handed the campaign donations to Mark -- Gresham Barrett?

A: There's nothing in the emails that says that he did so, except Tracy Edge.

Q: Okay. And Tracy Edge was telling him to call somebody else?

A: Trey Walker.

Q: Now, and we know what Trey Walker said. Does that indicate to you, as an expert, that the journalist knew or should have known that printing -- the story printed was wrong?

MR. BENDER: Objection.

THE COURT: Mr. Stevens.

MR. BENDER: Should've known ---

THE COURT: Should've known is not a part of the

standard. You want to rephrase your question?

MR. STEVENS: Okay, Your Honor.

BY MR. STEVENS:

Q: The -- I apologize, Your Honor. From the emails and the evidence, depositions of both Ms. O'Connor and David Wren, as they, an expert, does, does the emails give evidence that would give a investigative reporter knowledge that accusing Mark Kelley of handing campaign donations to Gresham Barrett was false?

A: Again, the only source of claims that Mark did this is Tracy Edge. All of the documents coming from within the Barrett campaign do not show anything of Mark actually facilitating or handing the contributions to Gresham Barrett.

Q: Well, you say Tracy Edge, but the emails from Tracy Edge is where he's repeating somebody else?

A: Yes.

Q: He wasn't at, at the luncheon, was he?

A: No, he was not.

Q: He indicated that Trey Walker knew about it is what he told David Wren?

A: Yes.

Q: And when he called Trey Walker, Trey Walker said that's not true. I don't know what you're talking about.

A: And he said Tracy Edge is a liar.

Q: Well, would that give a -- an investigative reporter cause

to believe that printing an article accusing Mark Kelley of handing campaign donations to Gresham Barrett, if he printed it, he printed it with a reckless disregard for whether it's true or false?

A: He has no basis for making a claim that Mark Kelley was involved in these contributions. His sources are suspect. He has no documentation to prove this. This is ---

Q: Would he be printing that without knowledge of whether it's true or false or without evidence that it's true or false?

A: He knew that it was false because before he prints anything about this, on May 20th he interviews Brad Dean and Gresham Barrett and both of them tell him Mark Kelley had nothing to do with this. He uses that knowledge to structure an interview with Cathy Hazelwood in which he doesn't ask her about Mark Kelley handling the money. Because as he says in his deposition, I already knew he didn't handle the money; that's what Gresham Barrett and Brad Dean told me. That's on the 20th. Then on the 23rd, he writes an email -- the 23rd, by the way, is the same day as the article which uses the phrase Brad Dean along with Mark Kelley delivered $84,000 to Barrett. On the 23rd, he writes an email in which he asserts that Mark Kelley was involved in handling the money and as he acknowledges in his deposition, on the 23rd, he believed that Mark Kelley handled the money. So, somehow between the 20th

when both Brad Dean and Gresham Barrett tell him that Mark Kelley had not handled the money and the 23rd where he writes an email saying that Brad Kelley -- that Mark Kelley did handle the money, he forgot what the two most credible sources on this matter told him. The two people who were at the lunch, somehow forgets. I don't get that.

Q: Now, with regards to the ethics policy of The Sun News, do the policies contain standards that is generally recognized through the journalism industry with regards to investigative reporting?

A: Yes, this is a fairly boilerplate policy. It's the sort of thing you'd find in newspapers all over the country. McClatchy is one of the largest newspaper chains and this is the sort of thing they would have affecting everyone in their newsrooms.

Q: They have in the policy on DWREN038, if erroneous information is published, immediately print a correction that accepts responsibility for the mistake and provide the correct information. You see that up there on the first paragraph under accuracy?

A: Yes, I do see that.

Q: The last -- it's entitled under Section Two, Reporting With Integrity. Do you see that?

A: Yes.

Q: All right. And it also says we must strive to be

completely accurate in all that we report and represent. Is that standard in the journalism industry to be completely accurate?

A: Yes, earlier I referred to the Associated Press Style Book. It says accuracy is paramount. If we look at news writing textbooks, they will also have statements like that, accuracy is paramount. There's nothing more important than accuracy.

Q: Now, and also down under corrections talks about inaccuracies maybe misspelling or a way the word is used in a sentence, et cetera. And what -- it says we correct all inaccuracies immediately and about four more lines down it says we also run clarifications if in our reporting, editing or headline writing, we may have given readers the wrong impression of a person, place or event. Is that standard in the journalism industry?

A: Yes.

Q: Now, I'll ask you, based upon what you have seen, did the reporter deviate from these standards?

A: Precision in writing is the most important thing especially when writing about crime because that's an area that journalists know deeply affects someone's reputation. So, Wren and the editor should have gone over these articles with a fine tooth comb. Again, this isn't breaking news, so there was plenty of time to go back to sources, plenty of time

to verify information, plenty of time to polish and make sure that there was nothing here that conveyed the idea that Mark Kelley handed the money or facilitated contributions for Gresham Barrett.

Q: Let me ask you this. Their policy also states under Fairness, we must make every effort to report all sides of every issue. We must be fair in our presentation of the issue ensuring that both the structure and content of the story is balanced. What do they mean by that?

A: This simply means that if you're going to report about someone, you want to give them an opportunity to respond, to have input into the article and that would mean as the editor admitted, leaving a phone call, making a phone call leaving a message on an answering machine doesn't cut it. You've got to do more to give someone like Mr. Kelley the opportunity to respond to these claims.

Q: Now, they use the term balanced. I've heard the term being used fair and balanced. Is that a standard within the journalism industry?

A: I want to stay away from the way that that has been appropriated by Fox News because that's a very controversial issue. But definitely, professional journalists do strive to prevent -- present a balanced picture that is both sides of a story.

Q: Now, down under the last section of Reporting With

Integrity is the heading Truthfulness. We are always truthful in what we report, photograph, design or otherwise represent overall fairness and accuracy must never be sacrificed for the sake of style, structure or drama. Now, is that a standard within the journalism industry?

A: I believe so.

Q: Okay. In this particular case, was accuracy sacrificed for style, structure and drama?

A: Yes.

Q: As I understand your testimony, when David Wren reported on May 23rd that Brad Dean along with Mark Kelley handed campaign -- $84,000 in campaign donations to Gresham Barrett in June, he knew, based upon all the evidence he had that he didn't have that evidence?

A: Correct.

Q: And based upon the editorial where it said that Brad Dean was being pinioned, means to wrap your arms around and hold your arms down and make them tell the truth, that they're making Brad Dean, forcing him to lie and say that Mark Kelley didn't have anything to do with the campaign donations regardless of what the unprovable truth is. Now, that is saying, I believe you said, that they're saying to the public that Brad Dean is lying and Mark Kelley is guilty of handing campaign donations to Gresham Barrett?

A: Yes.

Q: And they, they entitled their editorial the Absence of Evidence. What does that telling you as a journalist?
A: It's hot air; they're blowing smoke.
Q: Is it proper for a newspaper investigative reporter to get snippets of information when you really want it to be sensational and use rumors that he can't confirm to accuse a person of a crime?
A: It's okay to take rumors to use as the basis for further investigation, but you don't print what you haven't verified, especially when it comes to accusing someone of a crime. Again, precision of language is the most critical thing in reporting on a crime. There's no room for sloppiness, for loose language. It's got to be precise.
Q: Let me ask you this. If he didn't have the evidence and he was still trying to gather it on May the 23rd or whenever he wrote the May 23rd article and the editor, before the editor wrote the editorial, if he didn't have the information and he tells the editor he didn't have the information and assuming the editor read the articles, and let's assume they read the emails or say they didn't see the emails or read the emails, would that give evidence that they would be printing a story, printing without knowledge of whether it was true or false?
A: Yes.
Q: And they would be doing that consciously?

A: Again, Mark Kelley is identified by both Gresham Barrett and Brad Dean on May 20th as having nothing to do with these donations. David Wren uses that information when he talks to Cathy Hazelwood and he says, I didn't even ask her about Mark Kelley doing this because I knew he hadn't. Yet on the 23rd when the article says that Brad Dean along with Mark Kelley appears. We also had David Wren writing emails in which he says Mark Kelley was involved with this money. There's something weird going on here about his knowledge of Mark Kelley's lack of involvement and then his sudden awareness of it. It doesn't make sense.

Q: Does it show that he was conscious of the fact that he didn't have the evidence?

A: He would have to be.

Q: Would that be disregarding the truth or the falsity of what he was writing?

A: Yes.

Q: And he was conscious of that from your reading of the emails?

A: And his deposition in which he says he knew that Mark Kelley did not -- on May 20th he knew Mark Kelley did not touch this money. On May 23rd he's saying Mark Kelley did. There's no document that's been produced that shows that some piece of information came to him between the 20th and the 23rd that altered what he had been told by Brad Dean and Gresham

Barrett.

Q: So, if he knew that he didn't have evidence and he printed it, that would be intentional on his part?

A: Yes.

Q: And if he knew he had no evidence and he printed it regardless of whether it was true or false, that would be a reckless disregard whether it was true or false?

A: Yes.

Q: Is there anything that I have forgotten to ask you about your opinion? I don't know whether I've cut you off or not.

THE COURT: That's not an appropriate question.

Q: Okay. Well, let me ask you did you give us your entire opinion?

A: I believe so.

BY THE COURT:

THE COURT: All right. I know this Jury needs a -- everybody raise your hand that wants a break. Look at all those hands going up. We're gonna take a break before we begin the cross examination because I don't want to stop in the middle of that. Okay.

Mr. Ropp, if you would take them into the jury room and let's give them a few moments.

(REPORTER'S NOTE: Jury exits courtroom. 11:27 A.M.)

Doctor, if you would like to refresh yourself, I'll allow you to.

MR. LEE: Thank you.

THE COURT: I will allow you to do so as well.

We're at ease.

(RECESS - 11:28 A.M.)

*****OFF THE RECORD*****

(On the Record - 11:40 A.M)

MR. STEVENS: Your Honor, I need to introduce the deposition of Patricia O'Connor because he relied on that.

THE COURT: Well, what does Mr. Bender say?

MR. STEVENS: So, is David Wren. I want to introduce; that's what he relied on.

MR. BENDER: David Wren's a party.

THE COURT: Well, it's a statement by a representative of the party. I will, I will -- I think it's a statement by a representative of a party Defendant. We talked about it. It's been used. I'll allow it.

All right. Well, he's just offering right now. We haven't even used it. So ---

MR. STEVENS: It's just the basis of his opinion.

COURT REPORTER: This will be the Plaintiff's?

THE COURT: Yes.

PLAINTIFF'S EXHIBIT NUMBER TWENTY-THREE

ADMITTED INTO EVIDENCE

THE COURT: Okay. Let's bring the Jury in if they're ready to come.

(REPORTER'S NOTE: Jury enters courtroom. 11:42 A.M.)

THE COURT: All right. We have all our jurors back in the courtroom. Mr. Stevens, you may, Mr. Bender, you may proceed.

MR. BENDER: May it please the Court, Your Honor.

CROSS EXAMINATION OF WILLIAM EYRE LEE BY MR. BENDER:

Q: I'll stand over here. The Jury said they had trouble hearing me, so I'll try to speak up today, I'm sorry. I think I lost my voice.

Professor, thank you very much for coming over from Georgia to be with us today. As a tenured full professor, how many courses do you teach each semester?

A: Typically, two.

Q: How about this last semester?

A: Two.

Q: What did you teach?

A: Law of Mass Communication.

Q: Both courses?

A: An honors course and a large lecture course.

Q: Now, typically you teach telecommunications courses, right, broadcast courses?

A: Actually, that's not true.

Q: When did you change?

A: In recent years, my primary teaching responsibility has been to core course, Mass Communication Law.

Q: Now, you've been testifying about what a newspaper reporter and what a newspaper editorial should have done. Tell the Jury what your newspaper writing experience is?
A: I've written op-ed pieces for the Wall Street Journal, for the Atlantic Journal Constitution, for a newspaper called the Red and Black, which it's in Athens. When I was in college, I wrote for the Spartan Daily and from there I went to magazines for two years.
Q: Now, with respect to that newspaper, is that the only time you were a newspaper reporter?
A: Yes.
Q: And how long was that?
A: I believe for two semesters.
Q: And that was in what year?
A: 1968 and '69.
Q: And since that time, you have not been a newspaper reporter?
A: Again, I've written op-ed pieces for ---
Q: My question was, Since that time, you have not been a newspaper reporter?
A: Correct.
Q: Now, just a wild guess, you're being compensated to come over here; is that correct?
A: That's correct.
Q: And who's paying you?

A: Mr. Kelley.
Q: And how much are you being paid to come give testimony?
A: $350 an hour.
Q: And how many hours have you spent getting ready for and providing that testimony?
A: I don't want to guess. I don't want to guess.
Q: Have you sent a bill?
A: No.
Q: More than five hours?
A: Yes.
Q: More than ten hours?
A: Yes.
Q: More than twenty hours?
A: Yes.
Q: More than thirty hours?
A: Probably.
Q: So around thirty hours or more than thirty hours at $350 an hour to review all of this material and come testify?
A: Yes.
Q: Now you've read all these newspaper reports. The underlying dispute was citizens challenging campaign contributions that seemed to be tied to the Chamber of Commerce, right?
A: By that you mean the checks that were drawn by the LLCs?
Q: Yes.

A: Yes.
Q: And there was some question about whether or not those were legitimate campaign contributions, right?
A: Questions were raised, but I don't believe there's been a adverse legal ruling about them being illegal.
Q: There were questions raised by a citizens group about the source of campaign contributions of hundreds of thousands of dollars, right?
A: I don't know if it's hundreds of thousands of dollars, but I believe there were questions raised.
Q: Now, the first story on this issue May 21st, Exhibit One, has a headline, Dean Handed Over Envelope of $84,000; any ambiguity in that?
A: None.
Q: There is, Mark Kelley, a lobbyist for the Chamber of Commerce also attended the meeting; is that false?
A: No.
Q: And the source for that is Barrett, right?
A: Can you show me the paragraph?
Q: Certainly, right here.
A: Yes.
Q: Barrett is not an anonymous source, is he?
A: No.
Q: Now were you here when Mark Kelley testified; did you hear his testimony?

A: Only a portion of it yesterday afternoon.
Q: Did you hear the part where he said he would never call David Wren back and never would talk to The Sun News?
A: No, I did not.
Q: If he wouldn't, that would make it difficult to get in touch with him, wouldn't it?
A: In assuming that that was his position.
Q: Now, in Exhibit One, there is a discussion starting here about strict rules for lobbyists. If you would read that through this paragraph here. Start here and read through here.
A: There are strict rules that prohibit lobbyists from facilitating campaign donations from statewide candidates. However, a spokeswoman for the South Carolina Ethics Commission said it does not appear any laws were violated in this case. Quote, Just being in the same room is not a violation; it happens all the time, end of quote, said Cathy Hazelwood, the Commissions General Counsel. Quote, He, (Kelley) is not supposed to touch the envelope or hand over the envelope, end of quote.
Q: So, if nothing illegal was done, there's nothing in Exhibit One that suggests Mark Kelley did anything illegal, is there?
A: Correct.
Q: Now you have formed an opinion that David Wren and The Sun

News have accused Mark Kelley of a crime; is that correct?
A: Yes.
Q: Now, where does that come from? Is it in Exhibit Two, Bad Debt Adds to Donor Mystery?
A: Yes.
Q: All right. Tell me what words you rely on for that opinion.
A: Dean along with Chamber lobbyist, Mark Kelley, delivered about $84,000 of those contributions to Barrett in June.
Q: Okay. Does it say Dean and Kelley delivered those contributions?
A: No, it used a more imprecise phrase, along with.
Q: Which is a prepositional phrase?
A: Yes.
Q: And where it falls in the sentence creating a context may determine how it is to be interpreted?
A: That's possible.
Q: And in fact, we talked yesterday, were you here when I showed Mr. Kelley the grammar material from the University of Wisconsin that said when you're dealing with subject/verb agreement, that along with does not make the subject plural?
A: And I would disagree with that because there are other ways that along with can be used to indicate two or multiple people are involved in the same activities.
Q: They were present at the lunch, right? There's no

ambiguity about that.
A: Yes.
Q: And from the beginning Dean handed over the envelope?
A: Correct.
Q: And that Kelley did nothing illegal according to Cathy Hazelwood?
A: On May 21st.
Q: Do you happen to know who Tracy Edge is?
A: Yes.
Q: Who is he?
A: He's a State Representative.
Q: And he is, he, Tracy Edge, apparently talked to David Wren and said call Trey Walker because he has some information that Mark Kelley is involved in raising money for Gresham Barrett?
A: Yes.
Q: And when Brad, according to the emails, when David Wren called Trey Walker, he said I don't know anything about it?
A: That's correct.
Q: And then David called back and talked to Tracy Edge and Tracy said it looks like the paper is protecting Mark Kelley; isn't that what that email said?
A: Your question said he called me back, I believe it's an email.
Q: That's email, I'm sorry, email. And did it say it looks like the paper is protecting Mark Kelley?

A: Yes.
Q: Now, do you know who Jim Davenport is?
A: He's an Associated Press Reporter in Columbia.
Q: Now, you talked about there was nothing further from Davenport after the emails you made reference to where he sent a list of suspect contributions to the Barrett Campaign. Do you know why that is?
A: No.
Q: Do you know he died of cancer about that time?
A: No.
MR. STEVENS: Now, he's testifying.
MR. BENDER: No, I'm asking questions, Your Honor.
THE COURT: I'm gonna allow the question. Go ahead.
BY MR. BENDER:
Q: I believe you said that where you have a source, that gives you rumor, it's appropriate for a reporter to follow up and investigate?
A: Again, you know, if someone comes in with some farfetched sort of thing, we'd do that. But if there is a rumor that you think that has some validity it's appropriate to check that out.
Q: And that's what David Wren did in this case, isn't it?
A: Yes.
Q: He asked for emails, he asked for information that would indicate whether or not Mark Kelley, a lobbyist, was trying to

raise money for Gresham Barrett?
A: Yes.
Q: And the only thing that you say ties that to an accusation is the use of along with in that paragraph in Exhibit Two?
A: No, there's a second article in which Robert Kelley is quoted as referring to this as a scandal and he refers to Brad Dean and Mark Kelley as raising this money and I believe that appears on May 24th.
Q: And what is it in that piece that you think accuses Mark Kelley of improper conduct? And that's Exhibit what?
A: Four. This is a quote by Robert Kelley. Quote, In the past, the Chamber has denied any involvement in this scandal, but now Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley, and he handed Mr. Barrett the envelope full of checks said Robert Kelley, who is not related to the lobbyist.
Q: All right. Now, what is it in there that says David Wren is accusing Mark Kelley of making a campaign contribution?
A: There are two parts to this statute that are, that affect lobbyists. One, lobbyist can't give money to state candidates; and two, candidates can't accept money from lobbyists. So, Mark Kelley, as a former legislator and as a lobbyist, knows this law from both sides. He knows that he can't facilitate anything like setting up a lunch and here's a reference to him setting up -- Brad Dean admits he set up the

lunch with Chamber lobbyist, Mark Kelley.
Q: All right. That says that Brad Dean set up the lunch, doesn't it?
A: No, I believe it says he and Mark Kelley set up the lunch.
Q: Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley. Brad Dean set up the lunch is what that says, isn't it?
A: No, I think it means both Brad Dean and Mark Kelley had a role in setting up the lunch.
Q: So, every time you see Brad Dean and Mark Kelley, you're saying that The Sun News is saying they're engaged in a joint enterprise to violate the law?
A: No, that's not true.
Q: That's what you said with respect to this Number Four and this Number Two?
A: That's not. These aren't all the articles that are in evidence and there are articles in which Mr. Wren refers to Mark Kelley in separate paragraphs from those that refer to Brad Dean. In this particular piece though, he's got a quote from somebody who calls this a scandal and I read this as meaning that both Brad Dean and Mark Kelley set up the lunch.
Q: Now your undergraduate degree was what?
A: Broadcasting.
Q: How would you report this? Were you here yesterday when Cathy Hazelwood testified?

A: I was not.
Q: Cathy Hazelwood is the Counsel for the South Carolina Ethics Commission. She's been quoted in these stories talking about what is lawful and what is unlawful. In her testimony yesterday, she said Mark Kelley's forwarding of this email to that list of people at the top was facilitating a campaign contribution for Gresham Barrett. How would you report that?
MR. STEVENS: Objection to him characterizing -- he's characterizing the testimony.
THE COURT: I'm gonna allow it. I don't think it is a mischaracterization. Go ahead.
A: Well, I haven't read that email and I wasn't here for the testimony. Are you asking me how would I report on her testimony?
BY MR. BENDER:
Q: Sure.
A: Then you would say that in the testimony Ms. Hazelwood referred to an email that Mark Kelley had forwarded as a violation of South Carolina Campaign Law.
Q: What's the date of that email?
A: April 25th, 2010. I don't believe this email was something that Mr. Wren had in his possession until it was disclosed by ---
Q: I didn't ask you that. I asked you how you would report it if you were a reporter.

THE COURT: I think he was responding that he didn't have it.

Q: Well, I agree. You didn't look at that. Look at it now.

A: I think it would be important to report that this was disclosed as part of the defamation lawsuit brought by Mr. Kelley and that this information was not in possession of David Wren at the time when he wrote these articles.

Q: Now what about this? You testified that The Sun News has a policy to publish corrections and clarifications when it has notice; is that correct?

A: Yes.

Q: What if Brad Dean never called to say there's something wrong with these stories; The Sun News gonna know about it?

A: Possibly not.

Q: What if Mark Kelley never called to say there's something wrong with these stories; The Sun News gonna know about it?

A: That's possible.

Q: What if Gresham Barrett never called to say there's something wrong with these stories?

A: Again, it's possible.

Q: Possible that the paper would not know about it and would not be in the position to run a correction or clarification?

A: Well, your question is premised on someone calling The Sun News. People might object to these stories and not deal directly with The Sun News. They might express their

objections to other parties and that information could come back to The Sun News.

Q: Do you have any information that anybody in the hypothetical you just formulated, contacted The Sun News to express unhappiness with David Wren's reporting or the accuracy of David Wren's reporting with respect to the meeting or campaign contributions.

A: I would say that filing the lawsuit is a pretty strong statement.

Q: Do you know when that happened?

A: I do not.

Q: Would timing have some bearing on when you would run a correction?

A: Sure. Although again, if it's an egregious error, the fact that time has passed may not lessen the need for a correction for clarification.

Q: Now, I think you interpreted Plaintiff's Exhibit Five, if I'm correct, as accusing Brad Dean of lying?

A: It's saying that they don't know what the truth is and that they're, and that Brad Dean is, I'm sorry, Barrett. No, I don't believe I referred to Brad Dean.

Q: You're saying that it was accusing Gresham Barrett of lying?

A: Forcing him to say that Kelley had no involvement regardless of what the unprovable truth is.

Q: And the truth is being sought with respect to these contributions is, Where did the money come from?
A: No, the truth that's being sought is largely whether Mark Kelley had any role to play in the raising of the money.
Q: And where did it come from?
A: It came from these LLCs, I believe.
Q: Look here. The darkest accusation in this affair is if the money in question came directly from the Myrtle Beach Chamber of Commerce. Isn't the inquiry, Where did the money come from; how did it get to Gresham Barrett; how did it get to these other people?
A: Okay.
Q: Is that the inquiry?
A: That's part of it.
Q: And $84,000 of the money was handed by Brad Dean to Gresham Barrett at a luncheon where Mark Kelley was present?
A: Correct.
Q: And Drea Byars was present?
A: Correct.
Q: And if somebody's questioning what the role of the Chamber of Commerce has been in this matter, that would be relevant, wouldn't it?
A: Yes, but Mark Kelley was not the lobbyist for the Chamber of Commerce.
Q: Well, how do you know that?

A: Mr. Kelley told me.
Q: All right. Do you know that the Chamber's lobbying arm is called the Grand Strand Business Alliance?
A: I know there is an entity called the Grand Strand Business Alliance. I do not know that it's the Chamber's lobbying arm.
Q: Do you know that it is funded by the Chamber of Commerce?
A: I did not.
Q: So if you say Mark Kelley is not the lobbyist for the Chamber of Commerce, you're doing that solely on the basis of what Mark Kelley has told you about his relationship to the Chamber of Commerce?
A: Correct.
Q: Excuse me one minute.
Thank you, professor.
THE COURT: Is that all?
MR. BENDER: That's all from me, Your Honor.
THE COURT: Very well. Yes. The exhibit?
MR. BENDER: I trying a new technique of holding on today.

REDIRECT EXAMINATION OF WILLIAM EYRE LEE BY MR. STEVENS:

Q: You read the email while you had it up there, correct?
A: Yes.
Q: The email was from Mr. Byars, Campaign Manager for Gresham asking people for donations, correct?
A: Correct.

Q: And it also, the main thing was the excitement about the Straw Poll with Gresham Barrett leading?
A: If I may correct, I have not read that email. I've read what's -- that portion of it that's up here.
Q: Let me -- I'll read it. The first part of it is the email. This is from here up is the email from Representative, excuse me, Mr. ---

THE COURT: I think the witness, I think the witness, I think the witness said he has read what is on the poster board.

MR. STEVENS: Yes, on the bottom.

THE COURT: No, I think he's read what's on the poster.

A: What's on the poster, yes.

MR. STEVENS: He has read the whole thing.

THE COURT: You don't need to read it to him.

BY MR. STEVENS:

Q: So, you understand the, the, this top part was just forwarding what the campaign manager had sent to everybody anyway?
A: Yes.
Q: All right. And did the top part, did it say that I want you to donate money to Gresham Barrett?
A: No, in fact, Mark testified yesterday that he was so excited about the results of the poll that he did not even notice that there was a request for contributions.

Q: Okay. And were you here when Cathy Hazelwood said if he had forwarded this just for a matter of information, it would not be a violation?

A: I did not hear that.

MR. BENDER: I object to that. I think that's a completely ---

MR. STEVENS: He's testifying, Your Honor.

MR. BENDER: I think that's completely ---

THE COURT: All right. Let's don't do that. Let's disregard the question. Rephrase it, if you would, Mr. Stevens.

BY MR. STEVENS:

Q: All right. If it is for informational purposes, is that a violation of the statute?

MR. BENDER: I don't know that he can testify to that?

THE COURT: Again, you'll have to qualify him in that regard whether he would know or not.

MR. STEVENS: Okay.

THE COURT: I don't think he has even suggested that he's an expert on South Carolina Election Law.

MR. STEVENS: I'll withdraw it.

THE COURT: Okay.

BY MR. STEVENS:

Q: In reading the article that Mr. Bender was talking about, the 21st article, is it your understanding that Robert Kelley,

excuse me, that Mr. Mark Kelley didn't allege that the 21st article was defamatory?

A: I believe so.

Q: Okay. So that's never been a question?

A: Correct.

Q: But let me ask you this. In reporting what he asked Cathy Hazelwood about handing the campaign donations back and forth and when he evidently asked Cathy Hazelwood, What if he touches the envelope? And she said, Well, if he touches the envelope that would be illegal. Based upon that, does it appear that what he's doing is trying to set up his May the 23rd article?

THE COURT: That calls for an absolute speculation on the part of the witness outside of the qualification.

MR. STEVENS: All right. I'll withdraw it.

BY MR. STEVENS:

Q: Is that particular article contrary or inconsistent to what he wrote on May the 23rd?

A: By that particular article, you mean the May 21st article?

Q: Yes. Is it inconsistent with the article of May the 21st?

A: Yes, it is.

Q: And when he was talking about the Robert Kelley quote, that quote also said Dean admits to a scandal, did it?

A: I don't recall. I think Mr. Kelley, Mr. Robert Kelley, calls this a scandal.

Q: Yeah.
A: But I don't think he says that Brad Dean admits to it. I think it says Brad Dean admits to setting up the luncheon with Mark Kelley.
Q: Okay. So, Robert Kelley called it a scandal?
A: Yes.
Q: Now, with regards to what an investigative journalist is supposed to do, if someone he hears quotes something is wrong and he has reason to believe that that quote is wrong and it accuses somebody of a crime, if the newspaper reports it, does that relieve the newspaper of responsibility for saying something false?
A: Absolutely not.
Q: Why?
A: Because the newspaper is legally responsible for what it publishes whether it writes it itself or repeats the quotations of others.
Q: Okay. So what, for example, if I were to say William E. Lee is a criminal, he's committed armed robbery, and I turn around and I tell my associate, Natalie Stevens-Graziani and she repeats it, who's responsible?
A: Both.
Q: Okay. That's all I have.
THE COURT: Mr. Bender, would you redirect or cross?
MR. BENDER: I have nothing more for Professor Lee.

THE COURT: You may step down, Mr. Lee. Thank you.

COURT REPORTER: Would you hand me those please, those Exhibits.

A: You want these exhibits? Okay.

THE COURT: All right. Will there be further need of Mr. Lee? Any ---

MR. STEVENS: More testimony?

THE COURT: Are you ---

MR. STEVENS: I'm through with that witness.

THE COURT: Well, I would like to know if Dr. Lee can be released from his subpoena is what I'm trying to get at, gentlemen?

MR. STEVENS: As far as I'm concerned, yes.

MR. BENDER: I have no objection.

THE COURT: No objection. All right. Dr. Lee, you are released from your subpoena. You're welcome to stay with us, but you certainly may leave if you wish.

Mr. ---

MR. STEVENS: We'll call Buster Phipps.

THE COURT: All right.

MR. BENDER: Your Honor, before Mr. Phipps is called, I have a matter I'd like to take up.

THE COURT: Okay. Thank you. Send the Jury out.

(REPORTER'S NOTE: Jury exits courtroom. 12:13 P.M. The following takes place outside the presence of the Jury.)

THE COURT: All right. Mr. Bender?

MR. BENDER: May it please the Court, Your Honor. This witness has not been disclosed to us previously.

THE COURT: I thought he was on the witness list. Was he -- wasn't there a Mr. Phipps ---

MR. BENDER: In responses to any of the interrogatories he has not been identified.

THE COURT: I see him on the witness list that I read, Buster Phipps.

MR. BENDER: I think he may be on the witness list but he's certainly not in response to any of the interrogatories indicating who he is and what he's gonna testify to.

THE COURT: Is he offered as an expert in some field?

MS. STEVENS-GRAZIANI: May it please the Court. He was named in the pre-trial brief as a rebuttal witness and in detail -- gave in detail what he would testify to and I would also argue that he's -- that it's foreseeable that the English language and the lesson of English language would be something that the Defendant is prepared to argue. So it wouldn't be prejudicial since they're argument has been that Dean along with Chamber lobbyist, Mark Kelley, delivered $84,000 of campaign contributions to Barrett in June. That's always been the issue from the beginning. So, he is -- would be prepared to ---

THE COURT: Well, how long have you known about this

witness?

MS. STEVENS-GRAZIANI: How long have I known about him?

THE COURT: Yeah, I mean how ---

MS. STEVENS-GRAZIANI: In preparing for the trial.

THE COURT: Well, did you provide Counsel with the Trial Brief?

MS. STEVENS-GRAZIANI: I did provide Counsel with the Trial, the Pre-trial Brief.

THE COURT: When was that?

MS. STEVENS-GRAZIANI: Friday.

THE COURT: All right. Mr. Bender, we've talking about grammar -- is that what he's gonna talk about?

MS. STEVENS-GRAZIANI: Yes, Your Honor, he is, he was an English teacher. He was actually my English teacher.

THE COURT: Well, aren't you qualifying him as an expert if he's gonna talk about that?

MR. STEVENS: Yes, sir.

MS. STEVENS-GRAZIANI: As an expert on grammar, yes.

THE COURT: So you have an expert witness that hasn't been disclosed.

MR. BENDER: That's what it appears to me to be, Your Honor, and that's my objection.

THE COURT: I'm sorry. I cannot allow that not for an expert. You may be able to call him in rebuttal. I don't know what's gonna develop, but ---

MR. STEVENS: Might I say one other thing for the record?

THE COURT: Yes, sir.

MR. STEVENS: I understand your ruling. One of the things that we have been trying to do is take -- continue David Wren's deposition and we have been met with objection to it. It was ruled upon that we could and they made a Motion to Quash and we were gonna take the editor and finish up David Wren's deposition. We then took the depositions and found out that that's what they were trying to say, that the statement along with meant something else other than what the normal person would understand it to mean.

THE COURT: Well, what in the world could an expert on the English language add to a dispute as to what something said means in Horry County?

MR. STEVENS: Well, that's what really gets me. I can't understand what they're ---

THE COURT: What relevance would it have?

MR. STEVENS: --- and they got up there and used some thing, some ---

THE COURT: Mr. Stevens, this is an expert. An expert is a different animal than a regular fact witness, at least in my view. I think they have the right to have notice. Furthermore, I am not sure that an expert's testimony would aid the Jury in determining what the words used would mean, quite frankly. They're -- they have common usage. They're

commonly used words. What could he add to the Jury? The Jury is gonna look at this and they're gonna reach their own conclusion and I don't think they need to be assisted in understanding what it means. You've both put in things -- testimony -- you've both put up testimony concerning what it means.

MR. STEVENS: Okay.

THE COURT: I'm just not gonna allow the addition of an expert at this late juncture in this case.

MR. STEVENS: If they bring it up in their defense, am I entitled to bring it up in reply?

THE COURT: Yes. Now, gentlemen, I know that we're at the point where you're going to want a -- you're gonna rest?

MR. STEVENS: Yes.

THE COURT: Okay. We'll have some motions to do. Would anybody have any objection to having the deputy go back, advise the Jury that are released until 1:30, let's make it 1:45, 1:45, and to tell them to remember my admonitions about the case? Would anybody have any objection to the deputy doing that?

MR. BENDER: No objection, Your Honor.

MR. STEVENS: No objection.

THE COURT: All right. Deputy, would you just go back and tell the Jury that they're released for lunch until 1:45 and to remember what I have told them about talking about the

case or having any contact with the media or anyone else about the case. Okay. I've given them that instruction many times and I think they can remember it.

(REPORTER'S NOTE: Jury released for lunch. 12:20 P.M.)

THE COURT: All right. Let me hear from you.

MOTIONS:

MR. BENDER: May it please the Court, Your Honor. At this time, Defendants would move for a directed verdict. First, as to David Wren, the requirement is that the Plaintiff demonstrate by clear and convincing evidence that there was a false statement of fact published as to David Wren -- by David Wren as to Mark Kelley and that it was occasioned by actual malice. Did David Wren know what he was publishing was false or did he have reckless disregard of the potential falsity, which is measured by did he have substantial doubt about what was being published. And as the Supreme Court of South Carolina has pointed out, that even an extreme departure from what responsible journalists might do, does not constitute actual malice and that tracks language in the U.S. Supreme Court decision in Hart-Hanks Communications v. Connaughton where the Court pointed out that the showing of highly unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers, does not satisfy actual malice. And the testimony here is that this is what a

responsible reporter should have done. That's not sufficient. There has to ---

THE COURT: I understand. Let me tell you what my, my problem here is, Mr. Bender, with your argument. There's no question that this was at first blush a newsworthy event, something that Mr. Wren would or any investigative reporter might pursue, cannot be faulted for that. However, the testimony has I have heard it is that he received information via Tracy Edge that was secondhand information. That information came from -- Byars?

MR. STEVENS: Trey Walker.

THE COURT: Trey?

MR. STEVENS: Walker.

THE COURT: Trey Walker, excuse me. Contact was made with Trey Walker, who denied it. Said it wasn't true. Okay. Thereafter, at a bare minimum, Gresham Barrett and the other folks at the -- present at the meeting, said it didn't happen. There was an email or a, or a deposition taken where he talked with someone from the Ethics Commission. He had a subsequent email before anything was printed saying that Mr. Kelley had nothing to do with it. Now, if that's not evidence that would suggest that he had a substantial doubt as to the truth of whether or not Mr. Kelley was present or facilitated the transfer of these funds -- I mean, isn't that evidence ---

MR. BENDER: There's certainly evidence ---

THE COURT: --- from whence the Jury may conclude? It may be circumstantial, but circumstantial evidence is good evidence from which the Jury can conclude that he did have substantial doubt.

MR. BENDER: The issue is not whether or not Mark Kelley was at the meeting because it's uncontested that he was there and he was sitting between ---

THE COURT: It was the transfer, his facilitation of the transfer.

MR. BENDER: The only testimony about facilitation is this strained interpretation that, comma, along with Mark Kelley, comma, is to be read as an and, and in Bose Corp. v. Consumers Union the Supreme Court talked about the issue where words used or adoption of language chosen from one of a number of possible rational interpretations of an event that bristled with ambiguities and descriptive challenges. A lobbyist sitting at a meeting where campaign contributions are being given seems to me to require a definite description, as the Plaintiff's expert said, if you're going to accuse him of something you say Brad Dean and Mark Kelley delivered the money. What, what the Supreme Court is saying in Bose is just because there is another word that somebody else might have used, you can't change, you can't base a finding of actual malice on that.

THE COURT: Don't these emails and the final editorial

where they speak of unprovable truth, just didn't make it ---

MR. BENDER: I ---

THE COURT: And we're talking about just Mr. Wren, but those things together combined, don't they make it very clear that what Mr. Wren was doing and Mr. Wren meant to do?

MR. BENDER: I think what Mr. Wren was doing was looking to see if a lobbyist had participated in the solicitation of funds for Gresham Barrett or anybody else.

THE COURT: And that lobbyist would be Mr. Kelley.

MR. BENDER: That's no question about that and he did not write that because he did not find any evidence that that was so.

THE COURT: I would certainly -- I certainly appreciate your position, Mr. Bender, but at least on those grounds, I would deny your motion for directed verdict as to Mr. Wren. I think there's ample evidence to take this to the Jury.

Now as to -- I assume you're making this same motion as to the Sun Publishing?

MR. BENDER: With respect ---

THE COURT: Or did you want to make additional grounds for Mr. Wren?

MR. BENDER: No, I think that's the issue of David Wren, the absence of any proof of actual malice.

THE COURT: All right.

MR. BENDER: Now, with respect to Sun News, Sun

Publishing Company, I don't think there's any doubt but that if David Wren published defamatory material, Sun Publishing Company is gonna have liability for that. Where I was gonna draw the distinction is with respect to the editorial, which I know you find objectionable, but that's not the test. In Times v. Sullivan, the Supreme Court of the United States said we're gonna protect these sorts of things even if they're unpleasant, caustic, sharp and this is in fact a caustic, sharp editorial which focuses on the source of campaign funds that were funneled through LLCs, apparently, all of which had connections to the Chamber of Commerce and Brad Dean handing some of the money over in the company of the Chamber's lobbyist and for that reason, since there is a special protection for editorials, distinguished from news reports, that this editorial itself is separate from the news reports and is protected.

THE COURT: Okay. And could not that report be reasonably read by the Jury to simply say everybody's taking the rap for Mark Kelley. He violated the law. All the evidence points otherwise and we can't prove it but we think that's the truth. Isn't that essentially what it says?

MR. BENDER: Well, I think that what, if you look at Philadelphia Newspapers v. Hepps, where the Supreme Court of the United States apportioned the burden of proof on falsity, it said it's up to the plaintiff to prove falsity and they're

gonna be some cases where the truth is unprovable or the falsity is unprovable and there the person with the burden fails. And to write an editorial that says we don't know what the truth is here ---

THE COURT: No, I think they say we know what the truth is. We know what it is; we just can't prove it.

MR. BENDER: Well, I don't ---

THE COURT: And that's, and I think that's the most offensive part of this whole scenario to say we have no evidence but we know what the truth is, we just can't prove it. There's something not right about that, Mr. Bender.

MR. BENDER: Well ---

THE COURT: It's one thing to say they're different views on this and this is what the evidence suggests, but to say we had no evidence, but we still think it's the truth.

MR. BENDER: I don't think that's exactly what it says, Your Honor, but ---

THE COURT: I think it's a reasonable reading of it. I mean, I read in Horryee's and that is just what it seems to me. I would deny your motion for directed verdict. We're just gonna submit this to the Jury.

MR. BENDER: I do have ---

THE COURT: Oh, I'm sorry, I didn't mean to cut you off.

MR. BENDER: I understand and you didn't. One further thing I would like to move with respect to is any claim that

identifying Mark Kelley as the Chamber lobbyist is defamatory for two reasons. There's no proof that that in fact was defamatory; and number two, that's not been pled in the second amended complaint as the basis for liability.

THE COURT: Well, I, I don't know that anyone has actually said that that's defamatory. The fact that he was the Chamber's lobbyist, in and of itself, I don't think that's defamatory. I think when it becomes defamatory is when it associates him with illegal conduct on the part of the Chamber of Commerce. I think you have to take it all together that as lobbyist for the Chamber of Commerce, he engaged in transferring improperly campaign funds and that would be improper. I don't think anybody has said ---

MR. BENDER: Of course, our position is that that's not what is being said. What's being said is the Chamber of Commerce collected these funds and passed them on and there's a question about the source. Every, every one of the articles that talked about legality says there is nothing illegal about what has happened.

THE COURT: What if Mr. Stevens were a member of the House of Representatives, or suppose he's not, let's suppose he's not, and it was reported that Mr. James Stevens, a member of the House of Representatives -- of course that's not defamatory, it may be incorrect, but it's not defamatory -- but if it's report that Mr. Stevens, a member of the House of

Representatives, accepted illegal campaign funds. Then it becomes an issue. The fact that someone mistakenly printed that he's a member of the House, that may be an honorable thing, but when you associate it with the illegal act that's when it becomes defamatory.

MR. BENDER: The accusations of the second amended complaint are that it was defamatory to report that Mark Kelley delivered $84,000 in contributions and I think that's what the issue is for the Jury, not the collateral stuff and relationships. Accusing the Plaintiff of delivering, being involved in and/or causing the delivery of about $84,000 in campaign contributions to a gubernatorial candidate, that's the question, not the other stuff. That's what the Plaintiff has chosen to say is defamatory.

THE COURT: Mr. Stevens?

MR. STEVENS: There's also -- all of the articles taken together give the unreasonable inference that he was involved in it.

THE COURT: All right. I'm going to deny the motion for directed verdict. I'm gonna submit it to -- allow it to go to the Jury.

All right. Let's try to be back -- and gentlemen, again, I want to know what your requests are gonna be. I don't know how many witnesses Mr. Bender is gonna have. I don't know how far we're gonna go this afternoon. I don't know what our

cutoff point will be. Mr. Bender has indicated three or four witnesses.

MR. BENDER: Two, Your Honor.

THE COURT: Two. He's got two witnesses. We put up those witnesses. My preference would be to bring you back in the morning and -- I hate to split arguments and charge, to separate them. I don't like to do that. I don't like to argue and charge and let the Jury deliberate the next day, but I don't want to keep this Jury here until 9:00 or 10 o'clock or 11 o'clock tonight and Mr. Bender's already indicated he's gonna ask for bifurcation in the event there is a punitive award or an actual award, which would justify under the statute a, a second hearing. I don't want to do that. So, what I intend to do is chop it off today whenever we get through the witnesses. I'm gonna bring them back. I want you to be able to argue and charge. I want -- my Clerk has got to have any requests for charge or I'm gonna charge it just like I sent it to you. Okay? So, I would suggest you get on the ball.

MR. STEVENS: We have got our charges on the ---

THE COURT: We gave them to you three days ago, Mr. Stevens, do you want that exact charge? You need to look at the one I prepared. I think I've been incorporated what you all put in, but there are other things we're gonna have to put in it and I understand that and I want to make sure that we

have an agreement because I give my charge to the Jury especially on a case like this.

All right. Let's break until 1:45.

MR. STEVENS: Okay.

(RECESS - 12:35 P.M.)

*******OFF THE RECORD*******

(On the Record - 1:56 P.M.)

(REPORTER'S NOTE: The following takes place outside the presence of the Jury.)

THE COURT: Thank you. Please be seated. Let's go. We ready?

MR. STEVENS: Yes, sir.

THE COURT: All right. Let's bring the Jury.

MR. STEVENS: You want to do the charge ---

THE COURT: Yes, yes, yes, okay.

CHARGE CONFERENCE:

MR. STEVENS: Your Honor, your charge is -- it covers everything accept for our request number ten, which deals with defamation by insinuation, and number twelve, which deals agency and principal.

THE COURT: Yeah, I didn't have them in there. Number ten, you didn't have them numbered, the ones I had.

MR. STEVENS: I'm sorry.

THE COURT: So, I numbered them. Okay. These, yeah yours are. I think it was Mr. Bender's that weren't numbered

but I have done it.

MR. STEVENS: And on eleven, only if they fail to call Mr. Wren and Ms. O'Connor, but if they call them then ---

THE COURT: All right. Mr. Bender, tell me about the ---

MR. STEVENS: And Your Honor, and I told your Clerk that we wanted to charge headnote number one on the Erickson case which states the defendant, the publisher, asserting as a truth -- certain truths as a defense in a defamation case must prove the statement or purported fact is true, not that a person quoting actually made a statement. In other words if they make a statement that's false and they repeat it just the same as a witness ---

THE COURT: Which one is that?

MR. BENDER: That is the next one we had.

THE COURT: Which one, number one?

MR. STEVENS: It's not in there. It's headnote one.

THE COURT: Let's take them one at the time so we can give Mr. Bender an opportunity to respond.

MR. REDMOND: I'm trying to find -- I have never received a copy of their proposed additions, not that -- they weren't attached to the email. If I can get a copy of those we could probably handle reviewing these in short order.

MR. STEVENS: The only one that was additional is the ---

MR. REDMOND: I don't have any of them. I've got ten, eleven and twelve, but I don't have your -- I don't have ---

MS. STEVENS-GRAZIANI: Yeah, you do. You have -- and this headnote but the -- the proposed additions are ten, eleven and twelve on the pre-trial brief's jury charges that we gave Friday.

MR. REDMOND: I don't have those.

MS. STEVENS-GRAZIANI: Oh, I'm sorry, you're saying you don't have them because -- I didn't know you the lawyer at the time on the case.

MR. REDMOND: That's right, this Friday.

MR. STEVENS: I don't -- but the only other issue is I understand the Judge's ruling on public figure and to protect our position, we would accept two charges on public failure.

THE COURT: All right. Let, let's go back and give me an opportunity to, to talk with Mr. Bender about this, okay?

Mr. Bender or Mr. Redmond?

MR. REDMOND: I'm trying to find their -- Your Honor. I'm looking.

THE COURT: Because we're gonna go over, I tell you what let's do. Let me look these over. Let's get this Jury in here and let's finish up the testimony. I, I would anticipate being able to get through that rather quickly. As I said, I don't want to do closings or charging until in the morning. We'll have an opportunity at that time to go over this and in the meantime, Mr. Redmond is gonna have an opportunity to look over this for Mr. Bender. Right, Mr. Redmond?

MR. STEVENS: Judge, I said about our request to charge, withdrew -- we said our request was in your charge except for ten ---

THE COURT: Eleven and twelve.

MR. STEVENS: Eleven and twelve. That's all.

THE COURT: And we're gonna talk about all those, but let's talk about them when we've taken care of this Jury. Okay?

Bring in the Jury, Brad.

(REPORTER'S NOTE: Jury enters courtroom. 2:02 P.M.)

THE COURT: All right. We have all our jurors and alternates back in the courtroom. The Plaintiff, ladies and gentlemen, has rested in this case. You have heard the Plaintiff's evidence. Now, we're about to begin the Defense. Mr. Bender and Mr. Redmond will be putting up witnesses for your consideration.

All right. Mr. Bender?

MR. BENDER: May it please the Court, the Defendants call David Wren.

CLERK: Please raise your right hand and place your left hand on the Bible.

DAVID WREN, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat please, sir. State your name for the Court please, sir.

MR. WREN: My name is David Wren.

DIRECT EXAMINATION OF DAVID WREN BY MR. BENDER:

Q: Good afternoon, Mr. Wren.

A: Good afternoon.

Q: Did you write the news report that is Plaintiff's Exhibit One with the headline, Dean handed over envelope of $84,000?

A: I did.

Q: Did you write the news report that is Plaintiff's Exhibit Two, with the headline, Bad debt adds to donor mystery?

A: I did.

Q: Did you write Plaintiff's Exhibit Three, a news report with the headline BOOST calls for Barrett and others to return campaign money?

A: I did.

Q: Did you write the news report that is Exhibit Four with the headline, Donations tied to MB Chamber blasted?

A: Yes, I did.

Q: Did you write the news report that is Exhibit Six, FBI, IRS probe Myrtle Beach campaign donations?

A: I did.

Q: Now, Exhibit Seven appears to be the same publication, but in the newspaper rather than on the internet. Take a look at these. One published on the internet and one published in the newspaper.

A: That's right. One's on the internet. This is the

internet; this is the newspaper.
Q: So Six is the internet; Seven is the newspaper; same story?
A: Yes, sir.
Q: Did write the news report that is Exhibit Eight, Campaign staffers say Myrtle Beach Area Chamber of Commerce President, brought in disputed cash?
A: I did.
Q: Did you write the news report that is Exhibit Nine, Plaintiff's Exhibit Nine, Campaign donors face foreclosures?
A: Yes, I did.
Q: Did you write in any of these that Mark Kelley had passed a campaign contribution to Gresham Barrett?
A: No, I did not.
Q: Did you ever intend to write that in any of these?
A: No, I did not.
Q: What's your educational background?
A: I attended Virginia Western Community College in Roanoke, Virginia. I attended Radford University in Radford, Virginia. Left Radford without a degree to take a job in journalism.
Q: Where have you worked in journalism?
A: I worked in Manassas, Virginia at a paper called the Journal Messenger. Roanoke Rapids, North Carolina, I worked at a paper called the Daily Herald. I moved to Martinsville, Virginia to be closer to my family. I worked at the

Martinsville Bulletin. I worked there for about five years and went to the -- I had applied for a job at The Sun News and got, got a call from them to come down to interview for a job in '91, got the job and moved here in 1991, worked there until '99. I had an opportunity to work at the Rocky Mountain News as an Assistant Business Editor. In 1999, I moved to Denver, Colorado, stayed there for two years. My family did not like the city, they wanted to move back to Myrtle Beach. Our house had not sold at the time; it was on the market. So, we moved into the same house. I had called my former boss and asked if there was a job opening here and she said that there was an opening. I applied for it, got the job and in 2001 moved back to Myrtle Beach where I've been since.

Q: What is -- what was your position at The Sun News in 2010?

A: I was an investigative reporter.

Q: How long had you been an investigative reporter?

A: Since about 2004.

Q: What is an investigative reporter?

A: It's someone who uncovers facts that someone wants to try to hide.

Q: Exhibit One is dated in May 2010, Dean handed over envelope of $84,000. That's dated May 21st, 2010; is that correct?

A: That's right

Q: Is that the first news report you wrote dealing with

campaign contributions that had a connection to the Myrtle Beach Chamber of Commerce?

A: No.

Q: When did you start reporting on those contributions?

A: It was probably late August, early September of 2009.

Q: And what provoked that report?

A: There was questions raised about the source of campaign contributions from a series of limited liability corporations that apparently had no assets other than maybe some real estate, questions raised about whether these, where the money came from to make these contributions and where that money had come from the Myrtle Beach Area Chamber of Commerce as sort of a payback to politicians who had approved a one percent sales tax for advertising that went to the Chamber of Commerce that year.

Q: What got you started or who made that an issue, those contributions?

A: There was a, a group called BOOST, which I believe was business owners in support of tourism, and a gentleman named Tom Heron, who led that group and another man named Robert Kelley. They had searched through Secretary or Ethics Commission records to, to find these contributions and they posted them on their website and then I, I found out about them that way.

Q: What caused the initial concern about those contributions?

A: These were LLCs, all of them with the same registered agent, who was former Board Chairman of the Myrtle Beach Area Chamber of Commerce, and none of these LLCs had any money or assets. Some of the members of the LLCs said they didn't know where the money came from and there was just questions about whether, you know, where this money came from from these LLCs to donate to the campaigns.

Q: Now did BOOST make public accusations about those contributions?

A: Yes, they did.

Q: Who was the registered agent for the LLCs that you mentioned was the former Chairman of the Chamber Board?

A: It was Shep Guyton.

Q: When you got to May of 2010, did you have a conversation or an email exchange with Tracy Edge?

A: I did.

Q: Who is Tracy Edge?

A: He is a State Representative; he represents North Myrtle Beach.

Q: What was the subject of that exchange?

A: He was, he wanted me to, to get in touch with a campaign worker for Henry McMaster's campaign to -- said he had some information about the LLCs.

Q: And was that in an email?

A: I'm not sure; I believe it was.

Q: There had been a discussion about that email previously?
A: I may be mistaken.
Q: Do you recall what Trey Walker was supposed to give you information about?
A: He was supposed to give me information about a meeting between Mark Kelley, Brad Dean and Gresham Barrett, in which campaign donations were delivered to Gresham Barrett.
Q: Were these campaign donations tied to those checks, cashier's checks on LLC accounts?
A: Some of them were.
Q: And you called Trey Walker?
A: I did.
Q: And what did you tell Mr. Walker?
A: Basically, what I just said, you know, Tracy Edge suggest that I give you a call and he said you had some information about a meeting between Gresham Barrett, Brad Dean and Mark Kelley in which campaign contributions had been delivered.
Q: Did Representative Edge make any suggestion about involvement by Mark Kelley in that campaign contribution?
A: Not that I recall.
Q: What did you do after you talked with Trey Walker?
A: Trey Walker said he didn't know anything about it so I got back in touch with Tracy Edge.
Q: And what was your next step?
A: Asked Tracy Edge where, you know, where to go for, for the

information.

Q: And did he make a suggestion?

A: Yes, he did.

Q: Who did he suggest you contact?

A: He suggested I contact Tim Pearson with Nikki Haley's campaign.

Q: Did you contact Tim Pearson?

A: I did.

Q: And what did you ask Mr. Pearson?

A: I told him the same thing, that Tracy Edge suggested that you had some information about a meeting in which Gresham Barrett, Brad Dean and Mark Kelley attended and in which Gresham Barrett received campaign contributions.

Q: Did you write a story as a result of that?

A: No.

Q: What did you do?

A: Nothing. I just continued to try to get the information.

Q: Did you ultimately get some information?

A: I ultimately got some emails that were sent to me from -- they originated with Gresham Barrett's campaign and they were sent to me by Tim Pearson and Justin Stokes, who was a former Barrett campaign staffer.

Q: Stokes had been in the Barrett campaign?

A: He had been.

Q: And then left?

A: That was my understanding, yes.
Q: Where did he go?
A: I'm not exactly sure where he went.
Q: And what did you get from those two men?
A: A series of emails that purportedly -- I mean, they, they showed -- first of all, one of the emails was a one from Jim Davenport with the Associated Press. Davenport was inquiring of the Barrett campaign where did, you know there might be some problem with these LLCs, the contributions from these LLCs. You want to get your head around them, get back with me and let me know what's up with them.
Q: Did those contributions reflect in any way the contributions you'd been trying to identify?
A: They were the same, same groups, same LLCs.
Q: What did you do after you saw the email that Jim Davenport had sent asking about those campaign contributions?
A: Those were, that was the only email that they sent to me.
Q: What did you do?
A: I continued to try to investigate more to find out more about where the money came from.
Q: Were you able to find out where it came from?
A: No.
Q: If you were to find out tomorrow where the money came from, would you write about it?
A: Yes.

Q: Why?
A: It's news. People need to know where they're -- where these campaign contributions came from.
Q: Now you ultimately got a number of emails from the Barrett campaign; is that correct?
A: I did.
Q: And they came from?
A: Tim Pearson.
Q: And one of those emails made reference or had been sent by a fellow named Tompkins?
A: That's right.
Q: Do you know who Tompkins is?
A: I -- he was with Gresham Barrett's campaign. He was either -- I think he might have been his campaign manager.
Q: All right. And what did that email suggest?
A: It was responding -- well, they were trying to figure out what Jim Davenport's question, where these LLCs, you know, what was the problem with these LLCs contributions and so Warren Tompkins suggested that the staff, Gresham Barrett's staff contact Mark Kelley, he would know the source of the contributions.
Q: Did it describe or characterize Mark Kelley in any way?
A: Only as knowing the source of the contributions.
Q: What did you do when you saw that email?
A: I continued to try to pin down the source of the money and

investigate further where these LLCs came from and where they got their cash to give the, to the candidates.

Q: What did you do with respect to information about a meeting involving Gresham Barrett, Brad Dean and Mark Kelley?

A: I asked Tim Pearson and Justin Stokes for, for more information to corroborate that the meeting actually took place.

Q: Did you write anything based on what Justin Stokes or Tim Pearson told you about that meeting?

A: No.

Q: Did you consider them sources that you used in a story?

A: They were not sources for a story, they were sources of information and that information I was able to, you know, take and investigate further to, to eventually write stories once I got it confirmed.

Q: Who did you ask about the meeting?

A: I asked Gresham Barrett.

Q: How did you happen to see Gresham Barrett?

A: He was holding a political campaign event in Myrtle Beach.

Q: Did you talk to him in person?

A: I did.

Q: What did you ask him?

A: I asked him if he met with Brad Dean and Mark Kelley at the, at a luncheon, and I believe I gave him the date -- I don't recall the date of the luncheon -- and he said he did.

And I asked him if campaign contributions were delivered to him at this meeting and he said they were and I asked him who gave him the contributions and he said it was Brad Dean.

Q: Had you talked to Brad Dean previously about campaign contributions from the Myrtle Beach Area Chamber of Commerce?

A: I had.

Q: When did you start talking to him, do you recall?

A: It would have been when the issue was first raised back in maybe September of 2009.

Q: And what did Brad Dean tell you about contributions?

A: He repeatedly stated that the Chamber of Commerce had nothing to do with contributions and that he himself had nothing to do with the contributions.

Q: When Gresham Barrett told you that there had been a luncheon and Brad Dean had handed him an envelope with contributions, what did you do?

A: I called Brad Dean.

Q: What did Brad Dean say?

A: He admitted that he did attend the meeting and he did hand over the contributions.

Q: Is that the first time that had come up that he told -- that he confirmed?

A: Yes, that's the first time he ever said that he had anything to do with it.

Q: Did you write about that?

A: I did.
Q: All right. Is that Exhibit One?
A: It is.
Q: Do you have the publications or did I put them back over here; I put them back over here. What did you write in Exhibit One about the luncheon?
A: I said that Brad Dean arranged a luncheon and Brad Dean gave Barrett an envelope with cashier's checks from local corporations linked to former Chamber Board Chairman, which was Shep Guyton.
Q: Did you mention Mark Kelley in Exhibit One?
A: Yes. Mark Kelley, the lobbyist for the Chamber of Commerce, attended the meeting, according to Barrett.
Q: Did you say anything about Mark Kelley delivering campaign contributions?
A: No.
Q: What was the basis of the characterization of Mark Kelley as lobbyist for the Myrtle Beach Chamber of Commerce?
A: I understood -- that's how I understood his position with, what the relationship was between the Chamber and the Grand Strand Business Alliance.
Q: Who gave you that information?
A: Mike Wooten, who is the President of the Grand Strand Business Alliance.
Q: And what did Mike Wooten tell you?

A: He told me that the Business Alliance is the lobbying arm for the Myrtle Beach Area Chamber of Commerce.
Q: Did you determine how the Myrtle Beach Business Alliance was funded?
A: In part, it gets money from the Myrtle Beach Area Chamber of Commerce to pay Mr. Kelley's lobbying fee.
Q: How did you find that out?
A: Brad Dean told me that.
Q: Did you do any further inquiry about the contributions or the meeting?
A: Yes.
Q: What did you do?
A: I continued to try to determine where the money came from for these corporations.
Q: Did you focus any more on the lunch meeting with Brad Dean, Mark Kelley and Gresham Barrett?
A: Yes, there were other stories that we wrote.
Q: All right. Take a look, if you would, at Exhibit Two; what's the headline on that piece?
A: Bad debt adds to donor mystery.
Q: What was the mystery?
A: Where the money came from.
Q: And what was the bad debt?
A: This one of the LLCs that was facing a foreclosure of its, of its beach house because it had failed to make payments on

its mortgage, one of the LLCs that had contributed money to Gresham Barrett's campaign and to others.

Q: Now, did you make reference to Mark Kelley in that piece?

A: I did.

Q: And what is the reference?

A: I say that he was with Brad Dean.

Q: Read the paragraph that says that?

A: Dean along with Chamber lobbyist, Mark Kelley, delivered about 84,000 of those contributions to Barrett in June. Those contributions including a $3500 cashier's check from Garden City Partners.

Q: Was Garden City Partners the one that was being sued for foreclosure?

A: Yes.

Q: Read the sentence that has along with in it again, please.

A: Dean, along with Chamber lobbyist, Mark Kelley delivered about 84,000 of those contributions to Barrett in June.

Q: In your mind, does that say Mark Kelley and Brad Dean delivered the contributions?

A: No.

Q: If you had wanted to say that, what would you have said?

A: I would have said Dean and Mark Kelley delivered about 84,000 of those contributions to Barrett in June.

Q: All right. Let's talk about the punctuation there in that sentence. Dean -- what follows the word, Dean?

A: A comma.
Q: And then what clause?
A: It's, it's a clause unrelated to the ---
Q: What, read the clause; Dean, comma, what?
A: Dean, comma, along with Chamber lobbyist, Mark Kelley?
Q: What's the punctuation?
A: A comma.
Q: Then what's the next -- what's the verb?
A: Delivered.
Q: In your mind, what are you saying?
A: I'm saying Dean delivered about 84,000 of those contributions to Barrett in June. Mark Kelley was along with Dean when Dean delivered the contributions.
Q: Do you have any doubt about Mark Kelley being at the table when the contributions were made?
A: I have no doubt.
Q: Was that confirmed by Gresham Barrett?
A: Yes, it was.
Q: Was that confirmed by Brad Dean?
A: Yes, it was.
Q: Did either of them tell you that Mark Kelley had passed the envelope?
A: No.
Q: Did you attempt to write that Mark Kelley had passed the envelope?

A: No.
Q: I draw your attention to Exhibit Four, Donations tied to MB Chamber. You wrote that?
A: I did.
Q: What were you covering?
A: This was a press conference that BOOST held to discuss the campaign contributions.
Q: Who was the spokesperson for BOOST?
A: Robert Kelley.
Q: Do you know Robert Kelley?
A: I know him as the President of BOOST.
Q: How did you learn of him?
A: Through questions over the campaign contributions.
Q: Did Robert Kelley contact you?
A: I believe I may have contacted him after talking to someone else at BOOST.
Q: Do you quote Robert Kelley directly in that article?
A: I do.
Q: And what are you saying that Robert Kelley said?
A: I say, In the past, the Chamber has denied any involvement in this scandal, but now Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley and he handed Mr. Barrett the envelope full of checks, said Robert Kelley, who is not related to the lobbyist.
Q: All right. All of that sentence you've read before said

Robert Kelley, is it in quotation marks?
A: Yes.
Q: What are you intending to signify by those quotation marks?
A: That is a direct quote. That is something Robert Kelley said.
Q: And Robert Kelley was saying that in the context of what issue?
A: This revelation that the Chamber of Commerce actually was involved in the campaign contributions based on Brad Dean's delivery of campaign contributions to Gresham Barrett in the meeting that was held and which Mark Kelley attended.
Q: And that knowledge that the Chamber was involved through Brad Dean came from your conference, your reporting that Brad Dean confirmed the luncheon and the delivery of $84,000?
A: That's right.
Q: Now, let's talk about what Robert Kelley is saying here. Now, to the best of your ability, was that an accurate quote of Robert Kelley said?
A: Yes.
Q: All right. What were the two paragraphs preceding that talking about?
A: You want me to read them?
Q: Sure.
A: Kelley questioned -- this is Robert Kelley -- Kelley

questioned why at least one of the corporations made $20,500 in political contributions last year yet failed to pay the mortgage on its only asset, a beach house, which is now in foreclosure. Kelley also said Dean has changed his story about the Chamber's involvement of the campaign donations.

Q: All right. Now, let's go back to the quotation you read earlier. Start with it again. It starts with quotation marks?

A: Yes.

Q: All right. And it says what?

A: In the past, the Chamber has denied any involvement in this scandal.

Q: All right. Stop right there. Whose word is scandal?

A: That is Robert Kelley's word.

Q: Did you use that word before in connection with your inquiries about these campaign contributions?

A: No.

Q: All right. Go on.

A: Comma, but now Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley -- Chamber is in ---

Q: All right. Stop right there. Read that again and stop right after Chamber lobbyist.

A: But now Brad Dean admits he set up the lunch with Chamber lobbyist, Mark Kelley.

Q: Any question in your mind about who set up the meeting in

that sentence?
A: No.
Q: Who set up the meeting?
A: Brad Dean.
Q: All right. Go on after Chamber lobbyist, Mark Kelley.
A: And he handed Mr. Barrett the envelope full of checks, end of quote.
Q: Who is the he that handed the envelope?
A: Brad Dean.
Q: Did you have any thought that he had made reference to Mark Kelley?
A: No.
Q: Was Robert Kelley intending to say Mark Kelley delivered the money?
MR. STEVENS: Objection, Your Honor, calls for ---
THE COURT: That would call for speculation on the part of the witness.
MR. BENDER: How about this, Your Honor? Thank you.
BY MR. BENDER:
Q: Is there any indication that Robert Kelley was intending to implicate Mark Kelley?
A: No.
Q: Now, let's, let's focus on these contributions from the LLCs. Was there anything unusual about the contributions?
A: All of the contributions from the LLCs were purchased at

the same bank. They were cashier's checks in numeric -- sequential numerical order purchased on the same day at the bank where Shep Guyton, registered agent for these LLCs, was a board member.

Q: So, we have Shep Guyton, who has a connection to the Chamber of Commerce; is that correct?

A: He, he was their -- I believe was their past Board Chairmen, previous past Board Chairman.

Q: And we have LLCs that Shep Guyton is the agent, the official agent for those corporations?

A: He's the registered agent for them.

Q: He's registered with the South Carolina Secretary of State for those LLCs?

A: That's right.

Q: He was on the board of the bank where the checks came from?

A: Yes.

Q: And the checks were in sequential numerical order?

A: That's right.

Q: All purchased on the same day?

A: Yes.

Q: And the corporations on whose accounts these checks were drawn included those that had no assets except maybe a beach house?

A: That's right.

Q: Including one that was in foreclosure?
A: That's right.
Q: And including an LLC that had its status revoked for failure to pay taxes?
A: Yes.
Q: Did that raise questions in your mind about the legitimacy of those campaign contributions?
A: It did raise questions in my mind, yes.
Q: And what were you trying to do in investigating those contributions?
A: Trying to find out where the money came from.
Q: Did you ever find out where the money came from?
A: I did not.
Q: Did you talk to people who received those contributions?
A: I did.
Q: Now, we had two House members and a former House member yesterday testifying in the Plaintiff's case. Each of those men received a contribution from these accounts and from these checks; is that correct?
A: That's correct.
Q: Now, the person who talked to you first about all of this, Tracy Edge, did he get any money?
A: He did.
Q: What did he do with it?
A: He thought that there was something unusual about the

cashier's checks and he didn't want to cash them. He gave them back to the -- I believe he gave them back to Shep Guyton.

Q: Now, when you were looking into this, you had emails that had come from the Barrett campaign through the Haley campaign to you?

A: Yes.

Q: Did you write anything based on those emails without corroborating it with some other source?

A: No.

Q: And your source with respect to the meeting was Gresham Barrett?

A: Gresham Barrett and Brad Dean.

Q: And your source with respect to the passage of the money was?

A: Gresham Barrett and Brad Dean.

Q: In these news reports, you have quoted Cathy Hazelwood; is that correct?

A: That's right.

Q: And Cathy Hazelwood was introduced to us yesterday. Why did you call Cathy Hazelwood?

A: She's the General Counsel for the South Carolina Ethics Commission. I didn't know at the time if Mark Kelley attended a meeting, I didn't know if that was a violation of ethics rules, so I called her to see.

Q: And what did Cathy Hazelwood tell you about attendance at a meeting where a campaign contribution is delivered?
A: She said it's not illegal; it happens all the time.
Q: And that the problem would come up if what?
A: He's not supposed to deliver the contributions. He's not supposed to touch the envelope or have anything to do with giving the contributions to the candidate.
Q: Did you have any information that Mark Kelley had touched the envelope?
A: No.
Q: Did you have any information that Mark Kelley had delivered the envelope?
A: No.
Q: Did you report that Mark Kelley had delivered the envelope?
A: I did not.
Q: Did you report that Mark Kelley had touched the envelope?
A: No.
Q: Had you found out that he had done either of those things, what would you have done?
A: I would have reported it.
Q: Now, did you call Mark Kelley asking him for comment?
A: I did.
Q: Did he return your call?
A: No.

Q: Now, Mark Kelley testified yesterday that he would never return your calls. Do you think there was any way that he would call you back when you told him you were working on a story?
A: Apparently, if he says he's never gonna return my calls, I guess not.
Q: Now, once these publications that I've asked you about were published, did you hear from Brad Dean claiming that there was any inaccuracy in the publication?
A: No.
Q: Did you hear from Gresham Barrett or anyone on his behalf that there was anything inaccurate in the publications?
A: I did not.
Q: Did you hear from Mark Kelley at any time before this lawsuit was served on you that there was anything inaccurate in these publications?
A: I did not.
Q: Had you been told by Mark Kelley that there was a inaccuracy, what would you have done?
A: I would've been happy to correct the inaccuracy.
Q: Do you recall how long after the publications it was before you were served with the lawsuit?
A: It was about two years.
Q: So, in the two years from the time you wrote those news reports and until you were served the lawsuit, you didn't hear

anything from anybody complaining that anything in those reports was inaccurate?
A: That's right.
Q: Now, there's been some discussion about emails coming from Justin Stokes, who apparently had been on the Barrett campaign and then changed sides?
A: Right, yes.
Q: Were you skeptical of Justin Stokes?
A: I was.
Q: Were you skeptical of Tim Pearson?
A: Yes.
Q: Did you write anything based on what they said without corroboration?
A: No.
Q: Why did you offer to protect the identity of the person who sent you those emails?
A: The fact that he gave me the emails, you know, I didn't need to know -- I don't need to say where I got the emails from if the emails came -- they came from the Barrett campaign.
Q: Did anybody on the -- you ultimately wrote a news report that made reference to those emails, didn't you?
A: I did.
Q: Did you hear from anybody on the Barrett campaign that those emails were fraudulent?

A: No.
Q: Did anybody in the Barrett campaign ever say you've got this wrong?
A: No.
Q: Do you believe that anything you have reported in those exhibits is false?
A: I do not.
Q: Was there anything that you reported that you had substantial doubt about the accuracy of?
A: No.
Q: Had you had doubt about the accuracy, what would you have done?
A: If I doubted the accuracy of it, I wouldn't have printed it.
Q: All right. Would you have investigated further?
A: Yes.
Q: Are you still trying to figure out where this money came from?
A: Yes.
Q: Wouldn't that be story?
A: I would love to know where it came from.
Q: Does it make any difference whether the meeting with Gresham Barrett, Brad Dean and Mark Kelley and Drea Byars was eight to ten months before you started reporting on this?
A: No.

Q: Did anybody in Gresham Barrett's campaign come forward to tell you, oh, by the way, we've been challenged over some campaign contributions?

A: Nobody ever told me that, no.

Q: Did anybody -- did Alan Clemmons come tell you, oh, by the way, I've gotten campaign contributions that people are raising a stink about?

A: No.

Q: How about George Hearn?

A: No.

Q: How about that other Representative who was here yesterday?

A: Mr. Hardwick?

Q: Yes.

A: No.

Q: So -- and you called them and talked to them about the contributions; is that correct?

A: I attempted to call everybody that received contributions.

Q: And what did they tell you?

A: The ones that I could get in touch with that called me back, said that -- well, except for Tracy Edge, said that the contributions appeared to be legal and they weren't gonna return them.

Q: What did Cathy Hazelwood say about the contributions?

A: They appeared to be legal.

Q: Now, if Mark Kelley had handed Gresham Barrett an envelope with $84,000 in it, would that have been an illegal contribution?
A: Yes.
Q: And Cathy Hazelwood said what with respect to that transfer of funds by Brad Dean to Gresham Barrett?
A: There was nothing illegal about Brad Dean giving Gresham Barrett campaign funds.
Q: But it would have been illegal if what?
A: If Mark Kelley had done it or if he had touched the envelope.
Q: And you quoted Cathy Hazelwood on that issue?
A: I did.
Q: Did she ever call you to tell you that you misquoted her?
A: No. She stated yesterday that the quote was accurate.
Q: Were you out to get Mark Kelley?
A: No.
Q: If Mark Kelley had solicited a campaign contribution and you learned about it, would you have reported it?
A: I would.
Q: Now, Exhibit Five is an editorial. Did you write this? I have it here.
A: Okay.
Q: Did you write this?
A: No, I did not.

Q: Do you have anything to do with the preparation of editorials?
A: No.
Q: Did you talk with the editorial writer who wrote that?
A: No.
Q: Do you know who wrote it?
A: I do.
Q: Who wrote it?
A: Robert Morris.
Q: Where is Robert Morris today?
A: I believe he's in New Orleans or somewhere, somewhere in that area.
Q: Anybody ever call you to say there's an error in this editorial?
A: No one ever called me about it, no.
Q: Anybody call you about any or send you an email or a text or a letter between the time you published in May 21, 2010 until you got the lawsuit, that suggested you had reported anything erroneous, false or incorrect?
A: No.
Q: Has anybody done anything except Mark Kelley filing a lawsuit against you that suggests what you had previously reported was false, inaccurate, misleading, unfair?
A: The lawsuit is the only thing.
Q: And that was two years after the first story?

A: That's right.
Q: Let's look at Plaintiff's Exhibit Thirteen-E. Is that from you?
A: Yes.
Q: To whom did you send that?
A: It says an email to Tim Pearson.
Q: And what's it say?
A: It says Tim, I wanted to check back with you and see if there's any way that we can use the emails from Barrett's campaign that seem to show the involvement of Brad Dean and Mark Kelley in raising money for Barrett and others. I can definitely protect the source of the emails but would say something to the effect that they've come from the Barrett campaign after the AP, the Associated Press, started asking questions in October. Recent events have overshadowed the campaign funding issue and I'm looking for ways to move that story forward.
Q: What's the word seem in there say?
A: Appears to be, I mean you're not sure, it seems that something's happening.
Q: Were you trying to find the answer to that question?
A: I was.
Q: Did you ever find an answer that implicated Mark Kelley?
A: No.
Q: Did you ever report that you found an answer to that

question that implicated Mark Kelley?
A: No.
Q: Did you publish any news report using a biased source?
A: No.
Q: Thank you. I have no other questions. Somebody from the Plaintiff's side will ---
THE COURT: Mr. Stevens?
CROSS EXAMINATION OF DAVID WREN BY MR. STEVENS:
Q: Have you corrected any inaccuracies since the lawsuit?
A: No.
Q: Let me ask you this. You have commenters to your online, right?
A: That's true.
Q: Tell the -- isn't -- tell the Jury that ---
MR. BENDER: Your Honor ---
MR. STEVENS: Excuse me?
MR. BENDER: Your Honor, if he's getting into comments, the comments are specifically not published by The Sun News and, as a matter of federal law, have no relationship to this.
THE COURT: Are, are you gonna ask him about the ---
MR. STEVENS: I'm not gonna ask him about the content; I'm gonna ask him what his, the undertone of the comments.
THE COURT: I'll allow that.
BY MR. STEVENS:
Q: Would it be fair to say, Mr. Wren, that the commenters to

your article understood you to say that Mark Kelley had given campaign donations to Gresham Barrett?

MR. BENDER: Your Honor, I don't see how that's in any way different from asking what the content is.

THE COURT: I'm gone allow the question.

MR. STEVENS: Okay.

THE COURT: If that was the newspaper -- the response the newspaper received.

MR. BENDER: Okay. The newspaper is not the publisher?

THE COURT: I understand. I understand but was that -- rephrase your question.

MR. STEVENS: Okay. I will.

BY MR. STEVENS:

Q: You wrote the article and there were comments to your articles of May the 23rd, correct?

A: Yes.

Q: Would it be fair to say that people who read your article made comments under your article online that they -- that led you to believe that they understood your article as being accusing Mark Kelley of handing campaign donations to Gresham Barrett?

A: I don't know what their understanding of the story was.

Q: Okay. Let's -- let me ask you this. Their comments weren't very kind to Mark Kelley, were they?

A: I don't know.

Q: Come on, Mr. Wren; you read the comments?
A: Some of them were kind; some of them weren't.
Q: Some of weren't? Most of them weren't?
A: I don't know if more weren't or more were.
Q: Let me ask you this. You said nobody complained about your inaccuracies; isn't that what you told your attorney?
A: That's what I said.
Q: Is it true?
A: Yes, sir.
Q: That what you said under oath?
A: Yes.
Q: Tell the Jury about the press conference that Mike Wooten called to report your inaccuracies; you remember that?
A: Yes, I do.
Q: Yeah, okay. And he reported that he was calling that press conference to report your inaccuracies to the public?
A: Not inaccuracies about this.
Q: And this is the time when you said to the public that you're telling us that that's when you got the information that Mark Kelley was the lobbyist for the Chamber of Commerce, correct?
A: That's when Mike Wooten said that the Grand Strand Business Association is the lobbying arm for the Myrtle Beach Area Chamber of Commerce.
Q: And based upon that, you spring boarded off of that and

every time you were writing an article about Mark Kelley, you said he was the Chamber president -- I mean Chamber lobbyist, right?

A: He is the Chamber lobbyist.

Q: You said he was the Chamber lobbyist and you put it in brackets.

A: Okay.

Q: Am I correct?

A: In some instances, yeah.

Q: All right. Listen to my question again -- and I hope you understand it. If you tell me you don't understand, I'll repeat it, okay? Mr. Mike Wooten reported about your inaccuracies?

A: He reported about what he perceived to be inaccuracies that were unrelated to this issue.

Q: That's when you asked him about whether Mr. Kelley was the Chamber lobbyist and he told you that he was the lobbyist for the Greater Myrtle Beach Business Alliance?

A: No, Mike Wooten made these statements during an open meeting and I didn't ask him anything about that.

Q: Okay. And you used that, that particular statement from Mr. Wooten to justify calling Mark Kelley the Chamber lobbyist in your May the 23rd article, May the 25th article, and the editorial, the editorial that the editors wrote that said based upon your reporting?

A: Actually, there's an email that Brad Dean had sent to me earlier, I believe this was in either 2008, early 2009, in which I was trying to get a better idea of the working relationship between the Grand Strand Business Association and the Chamber and that's when he told me that the Chamber supplies the funds to pay Mark Kelley's lobbying fee. That's how he, that's how I determined that he is the Chamber's lobbyist.

Q: Where is that email? You haven't given it to us.

A: My attorney disclosed it to you.

Q: Where is it?

MR. BENDER: In your file.

Q: It's in the file?

A: I don't know.

BY MR. STEVENS:

Q: When did you write that?

A: When did I write it?

Q: Yeah.

A: I didn't write an email.

Q: You're talking about the time when Brad Dean is ---

A: Brad Dean sent me an email.

Q: Huh?

A: Brad Dean sent me an email.

Q: When?

A: I don't recall, it was either 2008 or 2009.

Q: Okay. Don't you think it's important to show the Jury this particular email that says Brad Dean says that Mark Kelley is the Chamber lobbyist?
A: It's not up to me to determine what ---
Q: All right. Well let me, it's not up to you to determine, but you report it; it's okay for you to report it and not up to you to determine whether it's true or not?
A: According to -- that he is the Chamber lobbyist.
Q: Well, let me ask you this. If he's a lobbyist for the Chamber of Commerce, it has to be reported to the Ethics Commission, correct?
A: Okay.
Q: And he's not the Chamber lobbyist in the Ethics Commission, he's not recorded there, is it?
A: He's recorded as the lobbyist for the Grand Strand Business Association, the lobbying arm of the Myrtle Beach Area Chamber of Commerce.
Q: And you're basing all this on this -- that he's the Chamber lobbyist on the report on the press conference by Mike Wooten?
A: No.
Q: Did you tell me that in your deposition?
A: No.
Q: Tell the Jury when this press conference was.
A: Well, the press conference that Mike Wooten held was after

this issue.
Q: That's what I wanted to get to.
A: The email from Brad Dean was before.
Q: Okay. And you didn't come, you didn't find out where all this money with the LLCs came from, but you did find out it did not come from Mark Kelley?
A: I don't know where the money came from.
Q: Are you telling the Jury that the money came from Mark Kelley today?
A: No, you're asking where ---
Q: You got evidence the money came from Mark Kelley?
A: No evidence that he came from Mark Kelley.
Q: You got no evidence at all about Mark Kelley, do you?
A: The only indication that I have that he's involved with the campaign contributions is the email that his, the Gresham Barrett's campaign manager or spokesman said that, you know, ask Mark Kelley, he'll be familiar with these contributions and where they came from.
Q: Okay. He also said to call Alan Clemmons too, didn't he?
A: Or call Alan Clemmons, yeah.
Q: Why they're talking about is Mark Kelley had been well respected as a politician and representative in Horry County and he knew how things worked with regards to campaign contributions and so forth and in a general sense; that's what we're talking about, right?

A: Yeah, they said he would know the source of the contributions.
Q: Okay.
A: That's what they said.
Q: All right. Now, you want this Jury to believe that your statement that Brad Dean along with Mark Kelley, Chamber lobbyist, Mark Kelley, delivered $84,000 in campaign contributions to Barrett in June, that that doesn't accuse him ---
A: No, it does not accuse Mark Kelley.
Q: It does not accuse him. Let's talk about how you used along with before in your other articles?
A: Okay.
Q: Do you remember the article when you wrote about, Myrtle Beach family feuds over estate?
A: If I can see the article.
Q: Sure. It's dated May the 22nd, 2011.
A: Okay.
Q: It's written by you, right?
A: Yes.
Q: You see the paragraph or the line that talks about along with?
A: Yes, I do.
Q: Read it to the Jury.
A: Dorothy Anderson was born in 1933 in Conway, the sixth

child in a family of fourteen siblings. She married James Anderson in 1951 and moved to the beach eighteen years later along with her sister, Mary Frances Tall, where she bought a boarding house on Ninth Avenue North called The Welcome Mat.

Q: Okay. Who moved to the beach; how many people moved to the beach?

A: Ms. Dorothy Anderson and Mary Frances Tall.

Q: Two people and you used the term along with.

A: That -- Mary Frances Tall.

Q: Huh?

A: Well, yeah, it means they moved together.

Q: Yeah. Okay. I've got another one here, Federal probe of luxury car exports in Myrtle Beach Area guise. This is dated September the 13th, 2013 and it's written by you again. I want you to look at the second paragraph and read that where it has along with.

A: The complaint was filed along with warrants to seize a dozen vehicles and two bank accounts belonging to companies in Charleston and Houston that intended to export the vehicles according to court documents. Criminal charges have not yet been filed in the case, which involves agents from the U.S. Secret Service, the State Law Enforcement Division, the Richland ---

Q: I think you've read enough. How many things were filed by what you said?

A: Well, the complaint was filed.
Q: Along with what?
A: There were warrants that were filed to?
Q: Okay. How many things were filed?
A: I don't know how many of them.
Q: Two, right?
A: Well, the warrants were filed along with the complaints.
Q: Okay. All right. That ain't all.
A: When you brought this up yesterday, I went back to my home and looked up the number of times that I ---
Q: Let me ask the questions, okay?
A: I'm answering your question. I, you know ---
THE COURT: Just answer the question, Mr. Wren. Wait until he asks a question.
A: Okay.
Q: Let's talk about this next one written by David Wren, March 19th, 2013. Give me just one second, Your Honor. This one's entitled, Suspected Myrtle Beach lawyer accused of fraud and forgery, dated March the 19th, 2013. Just skip to the along with clause and stop at the second page. Read it out loud.
A: Brunty, hyphen, along with business partner, Dennis Dellinger, who is also named as a defendant in the Kravecas lawsuit, hyphen were supposed to keep the investor's money in a trust account, but instead used the money for personal

expenses according to court documents.
Q: How many lawyers are involved in that controversy?
A: There's one lawyer.
Q: One lawyer?
A: Uh-huh (affirmative response).
Q: Let me look at it. It says, Brunty along with business partner Dennis Dellinger, who also is named as a defendant in the Kravecas lawsuit, were supposed to keep the investor's money in a trust account. How many are responsible for keeping the investor's money in a trust account?
A: There are two people, one of them is a lawyer and one was not.
Q: But it says two people, right?
A: Well, two people were.
Q: Okay. They're accusing two people of a crime, right? Right?
A: That's what the FBI and the ---
Q: That's what you reported.
A: I reported what they ---
Q: You reported that they were accusing two people of a crime?
A: That is what the report is about, yeah.
Q: Just like accused two people of a crime when you said Brad Dean along with Mark Kelley -- Chamber lobbyist, Mark Kelley, delivered $84,000 in campaign contributions to Gresham

Barrett?
A: No.
Q: You deny that?
A: I deny that.
Q: Well, every time that you wrote an article, every time you wrote an article, you had to send your article to the editor; am I right?
A: That's correct.
Q: And the editorial staff had to approve your article to be published to the public?
A: My editor would approve the article, yes.
Q: Did they approve your articles that we've been talking about?
A: Which one? Are you talking about Dean's articles, the three that you just mentioned?
Q: Mr. Wren, you know I'm asking you about the articles you wrote about Mr. Kelley?
A: And you were just asking me about the others.
Q: Okay. I was talking about along with. We'll talk about who approved the articles that you printed of and concerning Mark Kelley?
A: Okay.
Q: Who did?
A: My editor.
Q: Who's your editor?

A: Patricia O'Connor; she was my editor.
Q: She was your editor?
A: Uh-huh (affirmative response).
Q: She's no longer your editor?
A: She retired from the newspaper.
Q: So, somebody in a supervisory capacity had approved your article to be printed in The Sun News?
A: That's correct.
Q: You were the agent of the Defendant when you wrote the articles?
A: Yes.
Q: Agent of The Sun News?
A: Yes.
Q: You were acting within the scope of your authority when you wrote and published the articles?
A: Yeah. That's my job.
Q: You were acting within the scope of your authority when you submitted your articles to the editor?
A: Yes.
Q: And you got The Sun News or the Sun Publishing Company's supervisors to approve your article when it was printed?
A: I didn't get them to, to, you know, approve it, they, you know, I turned it into my editor who had it and then approved it.
Q: It doesn't get printed unless they approve it?

A: They approved it; I didn't tell them to.
Q: Okay. I didn't ask you that. They approved what you did?
A: I got them to approve it.
Q: Okay. And you knew these articles, did you not, Mr. Wren, were going to affect Mr. Kelley as a lobbyist, didn't you?
A: No.
Q: Let, let's get all the dust and smoke out of here. Let's talk about these LLCs. You knew when you were printing these articles and all the stuff that Mark Kelley did not have anything interest in any LLC, did you not?
A: I believe that he did not have an interest in any of the LLCs.
Q: You could've checked the Secretary of State to look to see who was the managing partner or who was managing an LLC?
A: You can find out who the registered agent is; you can't necessarily determine who the partners are.
Q: You can get the articles of organization; you know that, don't you?
A: Sometimes they tell you; sometimes they don't.
Q: Okay. Did you get the articles of organization or did you just look on the internet?
A: I went to the Register of Deeds to find deeds that these LLCs had filed to see who signed them and who the partners were.
Q: Okay. And nowhere did you see Mark Kelley?

A: No.
Q: You don't have any evidence that Mark Kelley even knew about these LLCs, do you?
A: The only evidence I have is Warren Tompkins saying that Mark Kelley would know the source of the contributions that these LLCs made.
Q: Okay. Warren Tompkins said that?
A: That was in the email.
Q: Okay. That was in an email. All he said was why don't you check with somebody over in Horry County and you said who is it -- well, Mark Kelley and Alan Clemmons usually know what's going on in the politics in Horry County; that's what they said?
A: I'd have to see the email to see the exact wording.
Q: That's what they meant and that's what they said.
A: That's not what they said.
Q: Okay.
A: He said he would know the source of the contributions.
Q: All right. And you did your investigation. You found Mark Kelley had no, nothing to do with your investigation over here with the LLCs, he didn't give the money to them and he didn't take the money away from them, did he?
A: That's right, as far as I know.
Q: And I asked you in your deposition when you were under oath, if you had any evidence that Mark Kelley had anything to

do with setting up a meeting, didn't I?
A: Yes, sir.
Q: And you said no?
A: That's right.
Q: And it's been a long time. You've had a lot of time to investigate this, hadn't you?
A: That's not the only thing I investigated, but yeah, it's been a long time.
Q: Seems like you've been devoting a lot of time to this particular investigation.
A: It's been going on for a long time.
Q: Sounds like this thing is in your craw and you can't get it, it's itching and you can't scratch it.
A: No, I'm still trying to find out where the money came from, but I have other things I'm working on as well.
Q: And you wanted to do is you wanted to keep on talking and dragging Mark Kelley, that had nothing to do with this, into your articles, correct?
A: He did have something to do. He attended the luncheon meeting where these campaign contributions were delivered by Mark Dean, I mean, Brad Dean.
Q: You heard the testimony that everybody said he didn't even know anything about any campaign contribution going to be given?
A: Well, I guess Brad Dean did him a disservice by inviting

him to a luncheon where these contributions were handed.
Q: That was -- that was sensational for you to bring it up because the meeting wouldn't have been newsworthy unless you could say that Mark Kelley, a lobbyist, was over there and what they did was a crime, right?
A: That's not what I said.
Q: Huh?
A: That's not what I said.
Q: So, you don't believe you were inferring to everybody who read your articles that Mark Kelley was involved in a crime that would violate the ethics law for lobbyists?
A: No, I do not.
Q: Okay. But you were sure trying to prove it, weren't you?
A: I was trying to find out if he had any involvement; that was my job.
Q: And you sit there and you sit there and you tell these people, why is everybody bending over backwards to protect Mark Kelley? What did you -- who did you talk to?
A: Trey Walker, B.J. Bolling; they both denied, you know, that there was anything going on.
Q: They told you they didn't know what you were talking about, didn't they?
A: I did say Trey Walker said that he didn't know what Tracy Edge was talking about.
Q: And so did B.J. Bolling?

A: He said he would have to check.
Q: And he called you back and he told you no?
A: He called me back and said Brad Dean set up the meeting.
Q: Okay. And you're sitting there saying everybody was trying to protect Mark Kelley, right?
A: I guess that's what the email says.
Q: That's what you're state of mind was, wasn't it?
A: I had no state of mind. I was just trying to find out where the money was coming from.
Q: That doesn't indicate your state of mind when you sit there and you say why is everybody bending over backwards to protect Mark Kelley because I know he gave them the money and I know he set up the meeting.
A: I was curious why Warren Tompkins would say that Mark Kelley would know the source of these campaign contributions and then all of a sudden, people were saying he knows nothing about it. So, yes, I was trying to find out what was going on.
Q: But your email shows your state of mind that you didn't believe anybody, did you?
A: I was trying to find out what, what the truth was.
Q: And they were telling you the truth and you didn't want to believe it?
A: I don't know if they were telling me the truth or not; that's what they told me and that's what I reported.

Q: You didn't know whether they were telling you the truth or not.
A: That, that's the case.
Q: And you reported it. Okay.
A: I did not report whether they weren't telling me the truth. I said I don't know whether B.J. Bolling's telling me the truth, Trey Walker. And when I asked the principal people that were at the meeting who was at the meeting, who gave the contributions, Brad Dean and Gresham Barrett both said Brad Dean gave the contributions.
Q: Okay. Let me ask you this. Did you read the editorial?
A: I have since read it, yes.
Q: Mr. Wren, you read the editorial. You are a reporter for The Sun News and they're talking about their editorial is based upon your reports.
A: I may have read it at the time.
Q: Do you read The Sun News?
A: Yes.
Q: Well, you saw the editors that said, Absence of Evidence. What did that tell you in your mind?
A: I didn't give it any thought.
Q: Oh, I didn't give it any thought. Okay. So here your editors are reporting they've got no evidence, Absence of Evidence, and then they talk about the meeting and then they put in this parenthesis -- do you remember that? Pull it out

A: The entire scope of this thing is opinion.
Q: Okay. You want it to be an opinion to escape liability in this case, don't you?
A: It's not my story. It's an opinion and I don't believe there is any liability.
Q: Well, they -- they based it upon your particular reports?
A: What they based on my reports was, as we now know, based on David Wren's reporting is was Myrtle Beach Area Chamber of Commerce President, Brad Dean, who personally handed the $84,000 in checks to Barrett with lobbyist, Mark Kelley, sitting by his side.
Q: Okay. And are you telling the Jury that you weren't biased or prejudiced at all against Mark Kelley because of all of the emails that we've been looking at?
A: I don't know Mark Kelley. I have no bias against Mark Kelley.
Q: Read on behind the parenthesis; what does it say?
A: In this editorial?
Q: Yes.
A: The Chamber's defense all along has been that the checks came not from the Chamber, but from the companies under whose name the donations were made. Dean now says that he simply collected and delivered them. Again there is no evidence disproving this statement, but the circumstances make it difficult to believe.

Q: Circumstances make it difficult to believe. You got people telling you what happened and you're sitting up there saying we don't believe it and we're gone report that we don't believe it; we believe it to be false. That's essentially what you're saying?

A: I didn't report that. I didn't write this.

Q: That's what your editors reported, right?

A: I don't know what they're reporting; I'm just reading this -- the editorial.

Q: You didn't report that Mark Kelley was just invited to the luncheon, did you?

A: I didn't know if he'd been invited -- well, I knew he had been invited to the luncheon.

Q: Well, you didn't report -- you didn't report that he was just invited to the luncheon, did you?

A: He was there at the luncheon, yes.

Q: Do you understand my question?

A: I do not understand what you're trying ---

Q: Well, let me ask it again. Did you report to the public Mark Kelley was just invited to the luncheon?

A: Just invited to the luncheon?

Q: Yeah.

A: Not to what?

Q: Just invited there as a friend?

A: I don't know why he was invited there.

Q: You didn't report that Mark Kelley didn't set up the luncheon, did you?
A: I said that Brad Dean set up the luncheon.
Q: Did you report that Mark Kelley didn't set up the luncheon?
A: I did not report that Mark Kelley didn't set up the luncheon. I mean, I'm supposed to report negatives, now?
Q: If you accuse a person of, yes, you do, under your policies. If you give the public the inference or information that Mark Kelley set up the luncheon and you're wrong, are you gonna withdraw it and tell the public the truth?
A: If I'm told that it's wrong, then I will do that. I didn't say that he set up the luncheon. Sort of like saying I guess there's no indication that anything illegal happened.
Q: You didn't report that Mark Kelley didn't know anything about contributions going to be given before he got there, did you?
A: I didn't know if he knew or not.
Q: Well, why didn't you ask Brad Dean; you were talking with him?
A: That wasn't what I was writing about. That wasn't what I was asking. I was asking who was at the meeting, who delivered the money and where did the money come from.
Q: You were looking for money that was going to LLCs, right?
A: Trying to find out where the LLCs got the money.

Q: Okay. Why in the world would you think Cathy Hazelwood would have had anything to do or any knowledge of where the money came from?
A: I didn't ask her where the money came from. I asked her if the campaign contributions appeared to be legal contributions and she said they did.
Q: Okay. And then you began to ask her about Mark Kelley.
A: I don't know if that was the same conversation. I think there've been -- I've had several conversations with her.
Q: The first time you called, you asked her if Mark Kelley had given the campaign contributions or raised them, would that be a crime?
A: I, I've been talking with Cathy Hazelwood and others at the Ethics Commission for months before this and I had asked her previously, do these campaign contributions appear to be legal and she said yes.
Q: Let's talk about what I just asked you.
A: Well, you asked me why would I think Cathy Hazelwood would think that, you know ---
Q: Okay.
A: --- she would have anything to do with the contributions. Okay?
Q: You called Cathy Hazelwood and you asked her if it would be illegal for a lobbyist to touch the campaign contributions or the envelope, didn't you?

A: No, I asked her if it would be illegal for a lobbyist to attend a luncheon where campaign contributions had been delivered to a candidate.
Q: Why would she read -- why would you be reporting that Cathy Hazelwood said that if you touch the envelope, that would be illegal?
A: That's what she said.
Q: Because you asked her, didn't you?
A: I didn't ask her anything about touching the envelope. She offered that.
Q: This was real important to the, your search for where these LLCs got the money.
A: I think it's important for residents to know whether somebody did something illegal or not and Cathy Hazelwood said nothing illegal was coming and that's what I reported.
Q: That's what you say you reported?
A: That's what I reported.
Q: Okay. Was the election a hotly contested election?
A: I believe it was.
Q: And you believe a campaign manager for an opposite opponent of Gresham Barrett would be biased and unprejudiced and give you reliable information?
A: Not necessarily.
Q: Well, when did you decide not necessarily?
A: I'm saying that, you know, you've got, they can give you

some information, but you need to check with the source to make sure that it is true, which is what I did, which is why went to Gresham Barrett and I went to Brad Dean.

Q: You only relied on them when they gave you the information you wanted?

A: That's the information they gave me.

Q: Okay. I'm looking at your May the 23rd article or email, excuse me. Tell the Jury when you wrote the May the 23rd article?

A: Is that the Sunday article?

Q: Yes.

A: It probably would have been on Thursday or Friday of that week. We run them, we have to have the articles ready for the Sunday edition prior to the weekend.

Q: Didn't you tell me in your deposition you wrote it at the early part of the week?

A: I don't recall.

Q: You don't recall. Okay. If you are writing an email on the day of the article, when it's come out ---

A: This is the Sunday article.

Q: Yeah. From David Wren to Justin Stokes and to Tim Pearson. And I want to ask -- I'm gonna read the whole thing. Everyone seems to be bending over backwards to protect Mark Kelley regarding, regarding -- and I'm quoting your language, his involvement in setting up the meeting -- is setting up the

meeting illegal?
A: I don't believe it's illegal. I don't know.
Q: Setting up the meeting with Barrett, and I quote your language, handing him the money. Is that illegal?
A: That's illegal.
Q: So, you're telling Justin Stokes and Tim Pearson everybody's bending over backwards regarding Mark Kelley's involvement in setting up the meeting and handing him the money?
A: Okay.
Q: You have already made the conclusion that that's what he did?
A: That's not what the conclusion was. I was still trying to gather information and I was trying to find out why Trey Walker would say that Mark Kelley knows the source of these contributions.
Q: Well, why are you trying to put words in Mr. Tim Pearson and Justin Stokes' mouth?
A: I'm not.
Q: Okay.
A: None of the reports in the newspaper reflect that.
Q: I asked B.J. Bolling if Kelley had arranged the meeting and he quickly said no; that would have been illegal. I'm trying to piece together who raised all that money, how they funneled through the various LLCs and why the Chamber picked

Barrett as a candidate they were gonna endorse, parenthesis, your words, couldn't be anything beside the fact that Kelley is the Chamber lobbyist and a big supporter of Barrett, your words. Any help or insight you can give me would be appreciated. What help and what insight were you asking Justin Stokes and Tim Pearson for?

A: I'm asking them if they have any other further information about Mark Kelley's involvement in this. Do they know whether he had anything to do with raising money for these LLCs? I'm just doing my job trying to ask questions and gather information.

Q: You didn't ask whether they had any knowledge about his involvement; you asked about whether they had any knowledge about the involvement of setting up the meeting and handing him the money. I'm reading your words.

A: Okay. I mean, I'm asking questions.

Q: You're asking questions?

A: That's correct.

Q: Sounds to me like you're trying to put words in other peoples' mouth?

A: Not true.

Q: Not true. Well, words like this in any of the emails that you received, are any emails accusing Mark Kelley of setting up the meeting?

A: Of setting up the meeting, no.

Q: Of giving money?
A: No.
Q: As matter of fact, you don't have any evidence that that ever occurred?
A: That he gave the money?
Q: Yeah.
A: No, or I would have written about it?
Q: And I asked you under oath in your deposition, do you have, does anyone, has anyone told you that Mark Kelley set up the meeting, raised the money or handed the campaign donations to either Barrett or anyone and I said either by email, telephone, letter, whatever method and you said no under oath?
A: That's correct. I had questions in my own mind about it especially after the email from Trey Walker saying that Mark Kelley would know the source of these contributions and I wanted to find out why he said that and where the money came from.
Q: When did BOOST make their announcement on the contributions?
A: They initially posted information about the LLCs, I guess that would have been in August or September of 2009.
Q: Okay. And you said that they were complaining about the campaign donations given that came for the purpose of rewarding legislators who voted for the one percent tax?
A: That's what they believed that these contributions may

have been made as sort of a payback to legislators for their support on the one percent sales tax in Myrtle Beach that raises about thirty million dollars a year for the Myrtle Beach Area Chamber of Commerce to advertise in this area.
Q: Did you call Liston Barfield and ask him if he voted for the one percent sales tax?
A: I don't recall that, no.
Q: Did you know Liston Barfield voted against it?
A: I don't know that.
Q: And he got a donation from this source you've been talking about.
A: This isn't my accusation; this is what BOOST ---
Q: Well, isn't that important to your story if you gone be talking about it's a payoff to the legislators who voted for the one percent sales tax?
A: I didn't allege that this was a payoff.
Q: That's what the undertone of your whole story is, isn't it?
A: No.
Q: All right. Did you ask Senator Dick Elliott, who voted for the one percent sales tax, whether he got any contribution from that particular source?
A: I don't believe he did.
Q: He didn't vote for it -- or he did vote for it and he got no contributions, didn't he?

A: Not that I'm aware of.
Q: Okay. That kind of shoots your organization, BOOST, in the head about their complaint, doesn't it?
A: I don't think it does. I think you could have -- all the City Council Members who voted for it, you've got your legislators who voted for it, all of whom got cashier's checks from LLCs with no assets; I think totaling $324,500.
Q: Which had nothing to do with Mark Kelley?
A: Well, I don't know that. When Mark, Trey Walker says he would know the source of the contributions, then ---
Q: You've been sitting in Myrtle Beach after this lawsuit was brought and you know what the allegations of Mark Kelley was and you've had enough time to prepare to tell this Jury whether Mark Kelley has any involvement in it, for how long, two years?
A: It's been about two years since he filed the lawsuit and the lawsuit was filed two years after the stories.
Q: And your lawyer has a right to go in there and take Mark Kelley's deposition and gruel him under, on cross examination, find out whether he had any kind of connection to this at all, didn't he?
A: He has a right to take his deposition.
Q: And he did, didn't he?
A: I believe he did.
Q: And he didn't come up with one single solitary evidence,

bit of evidence that Mark Kelley had anything to do with all this controversy about the LLCs?

A: I don't have any evidence that he has anything to do with it.

Q: Why are you trying to drag Mark Kelley into all of this?

A: I'm not trying to drag him into it.

Q: Are you sensationalizing your articles?

A: No.

Q: Are you looking in dark places and trying to write a sensational story?

A: No.

Q: Isn't that what your ethics say? That we look in dark places?

A: I don't recall that.

Q: Isn't that -- huh?

A: I don't recall anything about looking in dark places.

Q: Let's look at your ethics.

A: Okay. I know what you're referring to, you're looking ---

Q: I thought you did.

A: You look in dark places where people don't want the sun to shine, is just not trying ---

Q: Is that what you do all the time?

A: That's what I try to do.

Q: Did you have a good enough flashlight to shine the light on Mark Kelley?

A: I asked a lot of questions about Mark Kelley. I wanted to know what his involvement was. I never wrote, wrote anything that implicates him in anything.

Q: Okay.

A: Except attending a luncheon.

MR. STEVENS: I need to introduce the along with articles, Your Honor, the along with articles that I -- the three along with articles.

THE COURT: What are the along with articles?

MR. STEVENS: The three articles ---

THE COURT: Oh, I'm sorry, okay.

MR. STEVENS: --- that we talked about the along with.

MR. STEVENS: I recall that.

MR. STEVENS: Okay.

MR. BENDER: No objection.

THE COURT: Without objection.

PLAINTIFF'S EXHIBIT NUMBER EIGHTEEN, NINETEEN AND TWENTY ADMITTED INTO EVIDENCE

BY MR. STEVENS:

Q: Your testimony here today that regardless of what you say in all the emails, you had no intention of accusing Mark Kelley of the crime of passing campaign donations to a political candidate?

A: What I'm saying is I did not accuse Mark Kelley of a crime.

Q: And you didn't intend to is what you're telling the Jury?
A: Did not intend to accuse him of a crime or I did not accuse him of a crime?
Q: And none of your emails indicate that you had the mindset to accuse Mark Kelley of passing money and setting up the meeting?
A: I had the mindset of asking questions trying to get to the bottom of this story and find out what the truth was. I never had any mindset that I was accusing Mark Kelley of anything.
Q: When did you find out that -- satisfy yourself that Mark Kelley didn't have anything to do with it?
A: I don't know. I mean, it's -- you know, the story -- we're still working on the story. If we find out any new information, we'll continue to give a report on it.
Q: You weren't trying to hurt Mark Kelley?
A: No.
Q: Well, what was so important to your big investigation that you had to call someone to find out whether it was a crime because Mark Kelley made a donation to a county councilman?
A: I wanted to know. I knew that it was illegal for him to make a donation to a statewide candidate. So, I saw where he had made a donation to a county council person and I wanted to find out if that was a crime. I'm just asking questions trying to find out for a story. That's my job.
Q: Well, tell me how that was important to the LLCs story?

A: It wasn't important to the LLCs story.
Q: Okay. You just wanted to talk about Mark Kelley, didn't you?
A: When I got that information, I found out about it and I asked the question, found out it wasn't illegal, didn't do anything with it.
Q: You found out you were wrong and you shut up, didn't you?
A: Cathy Hazelwood said it was not illegal then there's no point in going forward with it if it's not illegal.
Q: So you found out and you shut up, didn't you?
A: I wouldn't characterize it that way. I got the answer to my question and there was nothing more to it.
Q: It wasn't important to the public to tell them, tell everybody he donated campaign donations to a county councilman?
A: Not if it's not illegal.
Q: Well, you're talking about LLCs?
A: Uh-huh (affirmative response).
Q: Weren't you trying to trace the money?
A: I was trying to trace the money; still am.
Q: Are you now accusing him of giving campaign donations to a county council member in that he funneled it through some way to get ---
A: Those are two
Q: Let me finish my question.

A: Okay.
Q: Someway he got it into the Chamber of Commerce?
A: Two totally unrelated incidents.
Q: Okay. So, why was it so important to you to know that?
A: No which?
Q: What is -- what's so important about Mark Kelley to your investigation?
A: There's nothing important about Mark Kelley to me. I'm just asking questions trying to find out if it was somebody else, if it was another lobbyist, I would ask the same question about that.
Q: So, what you're telling this Jury is everything you've found out about Mark Kelley had nothing to do with your investigation at all?
A: Other than the fact he attended a luncheon or somebody's contributions were handed over by Brad Dean to --
Q: And that's newsworthy to the people of Horry County?
A: It is. There's great, great interest in this story about these LLCs and where the money came from, especially since Brad Dean had lied to me a few weeks earlier and said that he had nothing to do -- the Chamber had nothing to do with these contributions, he didn't deliver them, they had -- it was totally unrelated to the Chamber. I find out a few weeks later Brad Dean delivered the contributions.
Q: So, you're calling Brad Dean, the President of the Chamber

of Commerce a liar?
A: I looks like he lied to me on this occasion.
Q: Did you -- are you bringing him to trial?
A: That's not -- it's not my trial.
Q: Okay. I think it is.
A: I'm not the one ---
Q: I think you better be worried about it's a trial on you. So my question is you're calling Brad Dean, the President of the Chamber of Commerce, a liar here in open court?
A: I said he lied to me about his involvement in the campaign contributions, yes.
Q: Based upon what you say, based upon what you reported that he said to you?
A: That's what he told me; he had nothing to do with them.
Q: We have provided ---
A: That's what, that's what -- no, it's not just him. That's what Brant Branham held a news conference, Brant Branham was the ---
Q: Where's Brant Branham; is he in the courtroom?
A: I guess you didn't call him.
Q: Your attorney can call him, can't he?
A: Did you try to call him.
Q: I don't need to call Brant Branham to prove my case.
A: What I'm telling you is that Brant Branham also called a news conference.

MR. STEVENS: He's going way beyond my question. He's getting into hearsay.

THE COURT: I think he's answering your question. Stop asking him if you don't want him to answer.

BY MR. STEVENS:

Q: Okay. Go ahead.

A: Brant Grantham held a news conference shortly after BOOST came out with their allegations saying that the Chamber of Commerce had nothing to do with these campaign contributions; he raised the money himself from likeminded business individuals within the community; and that the Chamber was totally uninvolved. Brad Dean told me the same thing. Months later I find out Brad Dean delivered the contributions to candidates.

BY MR. STEVENS:

Q: Is it important to your defense to this case to bring up all this stuff about the LLCs, Brant Grantham and the Chamber of Commerce?

A: That's what this whole thing is about. This is, this, you know, this is an isolated part of a long investigation that's still ongoing and had been ongoing for months before these articles appeared.

Q: This has something to do with Mark Kelley, who you said isn't involved in this in any way. You're now saying to the Jury, you're not involved in it?

A: Okay.
Q: Why are you bringing all this up to the Jury?
A: You asked me about the Chamber and, you know, the LLCs ---
Q: What does that ---
A: --- you're just asking me about the LLCs so I'm answering your questions.
Q: Your lawyer asked you about it. Your lawyer's been talking about it all the way through the trial?
A: And that's where this story stems from. It's a long investigation that we've been doing about these political campaign contributions, where the money came from and this is just a very small part of it.
Q: You said that. I want to know what it has to do with Mark Kelley?
A: He attended a luncheon where $84,000 of the money ---
Q: Is that it?
A: --- raised by these LLCs was delivered to a candidate.
Q: Tell me and tell the jury whether you have any evidence that Mark Kelley knew what was in the envelope and where it came from.
A: I have no evidence that Mark Kelley knew what was in the envelope or where it came from and I never said he knows what's in the envelope or where it came from.
Q: So, it's important to the public of Horry County that you report what you reported?

A: I believe it is.
Q: Based upon what you're saying in your emails behind the scenes, showing your state of mind and what your editor says based upon your reports?
A: Can you ask that again please?
Q: All right. You think that it's important for you to bring up Mark Kelley and this so-called investigation that you're doing that nobody's done with except David Wren, solely because he was at a meeting with a friend. You don't have any evidence he knew what was there in the envelope. You don't have any evidence he set up the meeting you don't have any evidence that he would take the money, but someway Mark Kelley is important to your investigative reporting?
A: He was important to these few stories that were part of a long series of investigation that included stories over many months and investigation that still continues. There were dozens of more stories than just these that dealt with the LLCs prior to and after this.
Q: Did you understand my question?
A: I just answered your question.
Q: Did you understand I asked what did Mark Kelley have other than to go to a meeting in your investigation; anything he had to do with other than to be there?
A: All I reported was that he was at the meeting where Brad Dean delivered contributions to Gresham Barrett.

Q: All you reported was that he was at a meeting with Gresham Barrett and Brad Dean?
A: That's correct.
Q: And you don't believe that what you said led everybody in Horry County to believe that Mark Kelley was guilty of a crime?
A: I do not believe that.
Q: You heard Alan Clemmons?
A: Uh-huh (affirmative response).
Q: You heard him say that he believed you accused him of a crime, did you?
A: I heard that, that's what his opinion was.
Q: You heard Nelson Hardwick say it to, didn't you?
A: I don't know that he said that. I couldn't -- I don't believe he did.
Q: You heard George Hearn say that he understood you accused him of a crime?
A: Okay.
Q: Is that true?
A: That's what he says.
Q: You heard Dr. Lee said that based upon those reports, you accused him of a crime?
A: That's what his opinion is.
Q: Okay. Have you got anybody to come up here and testify besides yourself and your editor that you didn't accuse Mark

Kelley of a crime when you wrote the articles?
A: I guess the best person to testify to that would be me and I can tell you I did not.
Q: The best person to testify to that is you?
A: And I can tell you I did not accuse him of a crime.
Q: Okay. That's all I got.
MR. BENDER: Briefly, Your Honor.
REDIRECT EXAMINATION OF DAVID WRENN BY MR. BENDER:
Q: Now, you've been given three news reports that you have written, Exhibits Eighteen, Nineteen and Twenty in which you used along with; is that correct?
A: That's correct.
Q: Does punctuation around along with have any role to play in setting the context and the meaning of along with?
A: It certainly does.
Q: In those three examples, is there any one where it says the subject, comma, along with, comma, the verb?
A: No.
Q: Now, if the subject is, clerk, then the verb has to be plural to be appropriate; is that correct?
A: That's correct.
Q: Let's look at Exhibit Nineteen. What's the subject of this sentence that starts with complaint?
A: The complaint.
Q: And what's the number of the verb; is it singular?

A: Singular.
Q: What is that verb?
A: Was filed.
Q: Now if you had written this to say the complaint and warrants to seize a dozen vehicles have been filed; what verb would you have used?
A: Were.
Q: So punctuation and placement in a sentence affect the meaning of the phrase along with?
A: That's correct.
Q: Now, did anybody in the Chamber of Commerce ever tell you before this trial started that Mark Kelley was not the lobbyist for the Chamber of Commerce?
A: No.
Q: Has anybody told you that except Mark Kelley on the stand here?
A: No.
Q: Thank you. I have no other questions.

RECROSS EXAMINATION OF DAVID WREN BY MR. STEVENS:

Q: Now, you say that you're not accusing Mark Kelley of a crime?
A: That's correct, no.
Q: You got the pleading from Mark Kelley, did you not?
A: Correct.
Q: You were served with a complaint?

MR. BENDER: Your Honor, that's outside the scope of my redirect.

THE COURT: Is it within the scope of his redirect, Mr. Stevens; this is something entirely new you're bringing on, on direct. Is it related to his cross?

MR. STEVENS: The punctuation?

THE COURT: Yes.

MR. STEVENS: Probably not. You're saying he didn't mean to accuse him of a crime and I'm asking about his pleading and his answer to the complaint.

THE COURT: I'll allow it, briefly.

MR. STEVENS: That's all I want to know.

BY MR. STEVENS:

Q: You knew that Mark Kelley was saying that you accused him of a crime?

A: That's what he alleges.

Q: Okay. And you pled truth in your answer, did you not?

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

Q: You don't know; did you read your answer; did you read the answer you gave to the complaint?

A: May I look at it?

Q: As for a third defense to all causes of action, read what you said to the jury?

A: As for a third defense?

Q: Yeah.

A: The news reports complained of by the Plaintiff were true or substantially true.
Q: They are?
A: Yes, they are true.
Q: You were answering the complaint and the complaint was alleging that you defamed Mr. Kelley and you in your answer said it's true?
A: That's not what that says.
Q: Yes, it is.
A: No.

THE COURT: All right. That's argumentative.

MR. BENDER: Your Honor, I would ask you to instruct the jury with respect to pleadings drawn up by the lawyers.

THE COURT: Pleadings are documents by which the position of the parties is brought to Court so that one party will know what the other parties' position is and what the responses might be to that position. They are not for the jury; they are to put parties' on notice of the other position. You will not have those, those documents and they have no place in the jury room. All right.

MR. STEVENS: Nothing further.

THE COURT: All right. You may step down. I'm gonna let this jury take a break. Are you ready? Okay.

(REPORTER'S NOTE: Jury retires to jury room. 3:46 P.M.)

(RECESS - 3:46 P.M.)

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Court of Appeals No. 2014-001249
Civil Case No. 2012-CP-26-3804

David Wren and Sun Publishing Company Inc.,
d/b/a The Sun News,.....Appellants,

v.

Mark Kelley,.....Respondents.

RECORD ON APPEAL

Volume 2 of 2

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*******OFF THE RECORD*******

(On the Record. - 3:58 P.M.)

(REPORTER'S NOTE: Jury enters courtroom. 3:59 P.M.)

CLERK: Please raise your right hand and place your left hand on the Bible.

PATRICIA O'CONNOR, HAVING BEEN SWORN TESTIFIES AS FOLLOWS:

CLERK: Have a seat please, ma'am. State your name for the Court?

MS. O'CONNOR: Patricia O'Connor.

DIRECT EXAMINATION OF PATRICIA O'CONNOR BY MR. BENDER:

Q: Ms. O'Connor, where are you employed?

A: I work at Coastal Carolina University.

Q: What is your position at Coastal Carolina University?

A: I am the Media Executive in Residence and also the Director of the Athenaeum Press.

Q: What is the Athenaeum Press?

A: It is a University Press that we began in the Edwards College of Arts and Humanities about two years ago. It publishes a small number of projects that are both online as well as traditional book publishing and at the heart of all of our projects -- we've published three so far -- so we're students under the direction of faculty. We've published a photo book of an explorer's trip down the Waccamaw River in the 1890's in a paper canoe and that was work done by

photography and design students. We published a small book by Jane Spillane, the widow of Mickey Spillane, and this where Jane told stories about her life with Mickey to a graduate student at the Edwards College and it included five chapters of those stories. And we've just completed publishing a CD of Music by Gullah song leaders on the St. Helena Island and that was recorded and mixed and interviews were done by students in our music and history departments.

Q: As Media Executive in Residence at Coastal Carolina, do you teach a course?

A: I teach two courses every semester in the journalism concentration.

Q: What do you teach?

A: I teach reporting and writing. I have taught twice a class on media leadership and management and also this semester I'm teaching a senior seminar that involves students extensive reporting and writing work of original stories as well as talking about news issues.

Q: What is your educational background after high school?

A: I have a Bachelor of Science in Journalism Degree from the University of Tennessee in Knoxville. I graduated in 1970.

Q: What has your employment been in the field of journalism?

A: Well, I was in the professional journalism field for precisely forty years. I started out working for a chain of newspapers that owned weekly's and bi-weekly's in Carlton,

Georgia and Oxford, Alabama. I worked as a reporter and an editor there. From that job, I moved to become a reporter and then later an editor at the Anniston, Alabama Star, just a small daily in Anniston. I got out of the daily newspaper business for about eighteen months when I worked for a company that produced magazines and newspapers in the show horse industry. I went back into daily journalism at the Capital Times in Madison, Wisconsin, where I was an editor. From there I joined the Knight Ridder Corporation in Wichita, Kansas, where I was the Metro Editor. And then in 19, I have to stop and think, 1989 I moved to the Charlotte Observer. I'm a southerner so I was ready to go home after years in the Midwest and Kansas. I'm sorry, I confused myself, sir, I'm a little bit nervous. Anniston, Alabama, then with the Show Horse Industry then I rejoined the newspaper business in Madison, Wisconsin, where I worked at the Capital Times as a copy editor and then later an editor. I joined Knight Ridder in Wichita, Kansas and then I moved to the Charlotte Observer in 1989, where I worked as an editor. And then in 1999, I became the editor and vice president of The Sun News, a position I held for -- until December of 2010, when after forty years, I retired from that job, that career.

Q: That's when you went to the University?

A: In January of 2011, I began teaching at Coastal, yes, and I've been there ever since.

Q: In your journalism career, you've been a reporter. What's the job of a reporter?
A: A reporter, under the -- generally, identifies news stories or sometimes is assigned stories by editors, gets news tips from people in the community and other sources, reports information, and write news stories.
Q: What does an editor do?
A: An editor is, is a reporter's best friend. An editor is the person who works with the reporter to make sure that the stories are thoroughly reported, they're balanced and fair, reads behind the reporter to make sure that the content is appropriate, everything is what it should be and, and then the editor, the content editor is finished with that job and then the process proceeds in a news room.
Q: What's the process after the content editor?
A: Generally, at a newspaper, once the content editor has completed that work, the story would then move to a designer possibly who would decide -- make the decision and place the, the article on the location it's going to play on the page. Then a copy editor would be assigned to read the story, write the headline, write cut lines or other side, other ancillary content that might go with it. Then it goes to a copy desk chief who makes sure that the headline is properly spelled and appropriate and then it goes into the publication and it goes to production.

Q: You used the term cut-line; what is a cut-line?
A: A cut-line is basically a caption; it's a newspaper term for the explanation that appears below a photograph.
Q: In your time at The Sun News, did you have an opportunity to work with David Wren?
A: I did.
Q: Were you an editor for David Wren?
A: I was.
Q: In that capacity, did you supervise David Wren?
A: I did.
Q: Were you David Wren's editor in connection with his reporting on the campaign contributions made with sequentially numbered cashier checks from LLCs in the 2010 election cycle?
A: I was.
Q: Did you discuss -- what did you discuss with David at the start of that project?
A: My recollection is when David first came to me and, and said he had received or had learned about some information concerning some campaign contributions that involved sequentially numbered checks all made out on the same day from the same bank that were delivered to candidates who were running for public office in Myrtle Beach as well as legislative candidates that we discussed that it was an important story and one we wanted to pursue and he began to continue his reporting.

Q: What was important about that story?
A: Generally, and this is -- this statement is born true by research done by the Knight Ridder Corporation that I worked for for twenty-two years before the newspaper, Knight Ridder was sold to McClatchy Corporation and other research that I've read over my years as a journalist, one of the most important roles that a journalist plays in society is to tell people how their tax dollars are spent. And in this case, questions had been raised about who contributed the money, where it came from that was going -- that went as campaign contributions to people who were running for either first time for political office or people who were already serving in office who were seeking re-election and I believe that raised questions in the mind of our readers. Where did the money come from; who is, who is funneling, who is sending money to, to politicians; what does it mean?
Q: Was there any way to determine who was behind the LLCs on whose accounts that these checks were drawn on?
A: Well, the LLCs, as I recall from David's reporting and the information that he had, the LLCs were -- several of them had as their registered agent a man named Shep Guyton, who had served as the Chairman on the Board of Myrtle Beach Area Chamber of Commerce and the bank the checks were drawn on the bank for which he served as a Board Member.
Q: Were there allegations made publicly about a possible

connection between the Chamber of Commerce and these contributions?

A: During the time that the vote was -- during the time that a one penny sales tax came into being in Myrtle Beach, people and groups that opposed that had raised questions about why it wasn't brought to the voters in the first place for voters to decide rather than for it be decided strictly by the, I believe the City Council and through a legislative process. And then an organization I believe called BOOST came forward and began to raise questions about the LLC, the checks drawn on the LLCs.

Q: Do you recall when that was?

A: When the questions were first raised?

Q: Yes.

A: I believe it was sometime in the Fall of 2009, but I, I will say my, I don't have the precise memories of dates and things.

Q: Did you review David Wren's reporting on these campaign contribution stories?

A: I did.

Q: Did you discuss with David the information he had gotten that led to his reporting?

A: I had worked with David since he came back from the Rocky Mountain News. He actually worked at The Sun News when I first came there as the editor and then much to my sorrow, he

left for a while to move to, to Denver to take a position out there and when he came back to The Sun News and I was very happy to hear when he called and asked if we would have a position for him to come back to and we did. David served as an editor for a while and then became an investigative reporter and so I worked very closely with David on a wide variety of stories, several investigations including a series of stories about the misuse of tax dollars by the local transit authority, which at that time was called Lymo or Lymo. The Executive Director of that company, as a result of the reporting and investigation by the District Attorney's office here in the Solicitor's office, a gentleman ended up spending I think a couple of years in jail. We worked several other series of stories as well. So, my relationship with David as our only investigative reporter at The Sun News was to work closely with him about, about discussing the stories, talking about what we knew, what we, what we didn't know, what we would need to know before we could publish information, that type of thing.

Q: Finding out about the transit authority financial misconduct, finding the source of these campaign contributions, is that the concept of looking in dark places?

A: I would say so, yes.

Q: Does that have a role in our democracy?

A: I believe so, absolutely.

Q: What's the purpose of that?
A: The purpose of, of the press is, is to basically serve as, when citizens can't attend in all cases to find out what is going on with government, with their tax dollars, for good things that are happening in the their community as well as things that they might need to know to make decisions about how to live their lives, that's what journalists do. It is a profession where you go and cover the community so that you can give information to the people who live there, happy things and sometimes troubling things and things they need to know.
Q: Are there instances where the reporting makes people unhappy?
A: Yes.
Q: Are their instances where the reporting may contain an error?
A: Sometimes, yes.
Q: And when that happens and you have information about that, what was your policy at the newspaper?
A: To give it top priority, to immediately find out what, what is incorrect, if something is incorrect and to publish a correction.
Q: Since May of 2010 and the publication of the news reports that bring us here today, did you, as editor, ever receive any communication relative to claim the errors in the reporting

with respect to Mark Kelley?
A: No.
Q: Did you receive any communication from or on behalf of Brad Dean complaining of errors in those publications?
A: No.
Q: Did you receive a communication on or, from or on behalf of Gresham Barrett relative to the reporting?
A: No.
Q: Did you receive any communication by or on behalf of Mark Kelley until the lawsuit was filed?
A: I was unaware that a lawsuit had been filed until I was subpoenaed to be deposed.
Q: Okay. Because you had retired?
A: That's correct.
Q: You were there how long after May of 2010?
A: I retired in December of 2010.
Q: So you were there seven months after that?
A: That's correct.
Q: And at no time in that seven-month period did you have any communication by or on behalf of Mark Kelley claiming that there were erroneous elements in the news reports?
A: No.
Q: Did anyone from the Chamber of Commerce or on behalf of the Chamber of Commerce say there was an error in reporting that they, that Mark Kelley was the lobbyist for the Chamber

of Commerce?

A: No.

Q: Let me show you some news reports. Some of these appear to have been published in the newspaper and simultaneously on the website. Is that a standard practice at Sun News?

A: Yes.

Q: Take a look, if you would, at Exhibit One with the headline, Dean handed over envelope of $84,000. Did you review, that piece is written by David Wren, isn't it?

A: It is.

Q: Did you review that prior to publication?

A: I believe so.

Q: Is there anything in there that appears to you to be an error?

A: No.

Q: Has anybody complained to you that that publication, Plaintiff's Exhibit One, has an error in it?

A: No.

Q: Does that publication make reference to Mark Kelley in any way?

A: Yes.

Q: What does it say?

A: Mark Kelley, a lobbyist for the Chamber of Commerce, also attended that meeting according to Barrett. Kelley did not return a telephone call Thursday.

Q: That meeting, according to Barrett, was what?
A: That meeting was a lunch meeting that Brad Dean arranged the previous year with Gresham Barrett, who was running for -- as a Governor, a gubernatorial candidate, and also at that meeting one of Barrett's Campaign people attended.
Q: What does it say about Mark Kelley?
A: Also attended that meeting. Mark Kelley, a lobbyist for the Chamber of Commerce also attended that meeting according to Barrett.
Q: What's the source of the information about Mark Kelley attending that meeting reflected in Exhibit One?
A: Gresham Barrett.
Q: Who was at the luncheon?
A: That's correct.
Q: Let's look at Exhibit Two; what's the headline on this piece?
A: Bad debt adds to Donor's mystery. Late on bills LLC cut checks to politicians.
Q: Did you review that news report prior to publication?
A: I think so. I don't remember distinctly, but I think so.
Q: In the ordinary course, would you have?
A: Yes.
Q: What is the mystery?
A: The mystery is where the money came from that funded the LLC checks.

Q: And there are bad debts associated to the LLCs?
A: That's correct.
Q: Is there reference to Mark Kelley in that news report?
A: Yes.
Q: What does it say?
A: Dean, along with Chamber lobbyist Mark Kelley, delivered about $84,000 of those contributions to Barrett in June. Those contributions included a $3500 cashier's check from Garden City Partners.
Q: What's the significance of Garden City Partners there?
A: Garden City Partners was one of the LLCs that upon which a, a, one of the sequential checks was drawn and it says that contribution included $3500 cashier's check from Garden City Partners.
Q: Let's go back to the start of the sentence. Brad Dean -- is there punctuation after Brad Dean?
A: Dean, comma, along with Chamber lobbyist Mark Kelley, comma, delivered about $84,000 of those contributions to Barrett in June.
Q: What is the significance of that punctuation around that clause?
A: It means that it's parenthetical information. It means that Dean accompanied by lobbyist Mark Kelley.
Q: Does it say Brad Dean and Mark Kelley delivered $84,000?
A: No.

Q: Could it have been made to say that if those were the facts?
A: That's correct, it could have.
Q: How would that have been done?
A: It would have said Dean and Chamber lobbyist Mark Kelley delivered, et cetera.
Q: Making reference to Exhibit One again. There is a discussion of the legality of Mark Kelley attending that meeting, isn't there?
A: Yes.
Q: And who is the source for the information about that?
A: Cathy Hazelwood, the General Counsel for the South Carolina Ethics Commission.
Q: And what does Ms. Hazelwood say about Mark Kelley's attendance?
A: She, she says there is, there are strict rules that forbid lobbyist from facilitating campaign donations for statewide candidates. However, the spokeswoman for the S.C. Ethics Commission said it does not appear any laws were violated in this case, quote, Just being in the same room is not a violation. It happens all the time, end quote, said Cathy Hazelwood, the Commission's General Counsel. Quote, He (Kelley) is not supposed to touch the envelope or hand over the envelope, end quote.
Q: Does that accuse Mark Kelley of any criminal activity?

A: No.
Q: Let me draw your attention to Exhibit -- Plaintiff's Exhibit Four. Now, there's a photograph, here the headline is Donations tied to MB Chamber blasted, and then there's a photograph. Is that information under the photograph the cut-line that you talked about before?
A: Yes.
Q: And what does that cut-line say?
A: BOOST President Robert Kelley and a group of Myrtle Beach area business owners, citizens and taxpayers, called Monday on Gresham Barrett and other politicians to return campaign donations.
Q: Is there a highlighted quotation in that news report Of the remarks of Robert Kelley?
A: Yes.
Q: And do those remarks say?
A: Quote, In the past the Chamber has denied any involvement in this scandal but now Brad Dean admits he set up the lunch with (Chamber) Lobbyist Mark Kelley and he handed Mr. Barrett the envelope full of checks, end quote, said Robert Kelley, who is not related to the lobbyist.
Q: Who is the he that Robert Kelley is referring to?
A: Brad Dean.
Q: How do we know that?
A: Brad Dean admits and then he handed Mr. Barrett. Brad

Dean is the subject.

Q: Brad Dean is the subject of that?

A: Correct.

Q: And the quotation indicates that it's Robert Kelley who's saying it?

A: That's correct.

Q: And he's making charges on a matter of public interest?

A: Yes.

Q: Have you see any news report that accuses Mark Kelley of a violation of state ethics or of a crime?

A: No.

Q: Let me draw your attention to Plaintiff's Exhibit Five, which is an editorial. What is the role of an editorial in a newspaper?

A: It is to present the opinion of the, in this case the opinion of the institution of The Sun News.

Q: Who wrote that editorial?

A: I believe Robert Morris wrote it.

Q: And do you know where Robert Morris is now?

A: Robert, I believe, lives in New Orleans.

Q: There is a highlighted paragraph in there. Well, first, overall, what is the editorial about?

A: The editorial is about -- it's basically an accumulation. It's the, the newspaper had published a series of articles about the campaign donations. It all began with the

controversy over the penny sales tax and then the ensuing campaign contributions, questions that were raised by citizens and by particularly, BOOST. This is a, a, an editorial that sort of brings the whole controversy together and basically states some positions, some opinion from the newspaper.

Q: There is a reference to Mark Kelley in that editorial; is that correct?

A: Yes.

Q: And what does it say?

A: President Brad Dean personally handed the $84,000 in checks to Barrett with lobbyist Mark Kelley sitting by his side. And then in parenthesis, if Kelley handed the money over, the transaction would have been explicitly illegal. Effectively ---

Q: Stop right there.

A: Okay.

Q: Stop right there. Do you understand that to be so?

A: Yes.

Q: And you understand that how?

A: I understand from David's reporting that Brad Dean handed the money to Gresham Barrett and Mark Kelley was with him.

Q: All right. Now, go on from there after the explicitly illegal?

A: Effectively forcing Barrett to say Kelley had no involvement in pinioning the donations on Dean no matter what

the unprovable truth is.
Q: All right. What's an unprovable truth?
A: It's basically facts are not known so we don't know what's true.
Q: Who doesn't know what's true?
A: The newspaper doesn't know what's true.
Q: About what?
A: About the campaign contributions, about how the, the what was said at the lunch, an awful lot of, an awful lot of information about how the money was, where the money came from, how the money was handed over to political candidates, who was -- who was involved in it, an awful lot of facts are not -- are missing. We don't know what -- we don't know where the money came from. We don't know, we don't know a lot about this story even yet.
Q: Is there anything in there that accuses Mark Kelley of violating the law?
A: No.
Q: Is there anything in there that suggests a contribution of $84,000 delivered by Brad Dean was unlawful?
A: No.
Q: Has anybody complained to you during the time you were at the paper after that editorial was published about the editorial?
A: No.

MR. BENDER: Excuse me just a minute, Your Honor.

BY MR. BENDER:

Q: Thank you very much. I have no other questions. Plaintiff's lawyers may have questions for you.

CROSS EXAMINATION OF PATRICIA O'CONNOR BY MS. STEVENS-GRAZIANI:

Q: Good afternoon, Ms. O'Connor.

A: Good afternoon.

Q: Thank you for being here. I just have a couple of questions hopefully or a little bit more than a couple, but I'll try to be short.

You said that -- well, answer this, Can along with also mean and?

A: When it's -- not with commas that separate it as a clause.

Q: That wasn't my question? My question was can along with also mean and?

A: It depends on the circumstance.

Q: Please answer my question. Tell me if you didn't understand it. Can along with ever mean and?

A: It can if has a plural verb.

Q: Okay. Is delivered a past tense verb or a present tense verb?

A: It's past tense.

Q: Right. And can deliver -- can delivered be past plural or singular?

A: It can.
Q: Okay. I would refer you to Plaintiff's Exhibit Two. Do you have that? And there's a section in Plaintiff's Exhibit Two that's circled and that we've talked about many times. It says Dean along with Chamber lobbyist Mark Kelley delivered $84,000 in contributions to Barrett in June. That didn't say accompanied by, did it?
A: It says along with.
Q: It didn't say alongside, did it?
A: It says along with.
Q: Okay. It didn't say accompanied by?
A: No.
Q: It didn't say alongside?
A: No.
Q: But that's what you say it meant?
A: I say it says Dean delivered the checks and, parenthetically, along with the Chamber lobbyist Mark Kelley.
Q: But you're saying that that sentence says that Mark Kelley accompanied, but that's not what accompanied -- that's not what it says.
A: I believe it ---
Q: It doesn't say accompanied, does it?
A: I believe it says Dean delivered the checks and Mark -- Chamber Lobbyist Mark Kelley was along; he was there.
Q: Okay. A sentence contains more than a subject and verb,

doesn't it?
A: It does.
Q: Okay. If The Sun News had sentences that only contained subjects and verbs there really wouldn't be much of a story for anybody to read, right?
A: Well, it would be boring.
Q: Exactly. I would like for you to look at Exhibit Twelve. Can you tell the Jury what that exhibit is?
A: It is labeled, Ethics Policy.
Q: Earlier you said that it's important for the news to report fair and balanced and be thorough?
A: That's correct.
Q: All right. Did The Sun News report that the emails came from Nikki Haley's Campaign?
A: No.
Q: That wasn't important to the story?
A: No.
Q: But it wouldn't including that be fair and balanced if this information about a lunch where Barrett attended was from Nikki Haley's Campaign, that it was given to David Wren by Nikki Haley's Campaign and when it was given?
A: The story I believe you're referring to says that the lunch attendees were confirmed by Brad Dean and Gresham Barrett.
Q: Okay. Are you under -- do you understand that David Wren

has testified that he has a source that has emails?
A: Journalists have all kinds of sources.
Q: Okay. Well, I'm talking about ---
A: Information comes from a wide variety of places.
Q: I'm talking about the source about, the source of the email of the contributions from the LLC that is newsworthy as you have testified; I am talking about that source.
A: What is your question?
Q: Are you familiar with that source, the source of the email that, that -- okay. Exhibit Ten is a list of emails that talk about campaign contributions that came through LLCs and the emails ---

MR. BENDER: The witness needs the exhibit.

THE COURT: Please show it to her.

BY MS. STEVENS-GRAZIANI:

Q: Here's a copy.
A: Okay.
Q: The emails give a list of campaign contributions, don't they?
A: I've never seen this email, but it appears so.
Q: You never saw the email?
A: No.
Q: Well, David Wren based his reporting on the emails, didn't he?
A: He based his reporting on information that came from

emails, information that he gathered from interviewing people who are connected to the story, from press conferences that he had attended, from documents.

Q: Okay. Well, some of the documents were the emails, right?

A: That's correct.

Q: Okay. And you're the editorial -- you're the editor, right?

A: That's -- I was at that time, yes.

Q: And you approved his investigative reporting?

A: I did.

Q: And you approved an editorial that says, Absence of Evidence?

A: I did. Well, as I testified in my deposition, I don't specifically remember editing that editorial. I didn't write it, but it would have been my common practice to have read them.

Q: Okay. Well if you're approving an editorial that says, Absence of Evidence, don't you think it's important to look at all the evidence?

A: The headline on the editorial, Absence of Evidence, was intended and I believe did say to the reader, there's an awful lot not known about what's going on with the LLCs, where the money came from, where the, where the, how the, how the checks were delivered, decided, who was going to get them, what the implication was around all of that. I believe that's what

that headline said.
Q: Okay. In Exhibit Ten at the bottom it's Bates stamped DWREN027. This last email, can you read starting there, everyone who's listed or every entity that's listed?
A: I'll try. It's very small.
Q: Yeah, that's my copy that I got from the Defendant's.
A: 905 Polo Partners LLC, 1298 Professional Drive, Myrtle Beach, South Carolina 29577 and then it's followed by 3500, I believe that's a 6 -- it's either a 5 or a 6 -- 22, 2009.
Q: To speed this up, I just need the list; I don't need their addresses. We know that they have the addresses in it, but just give the list of the entities that are listed to the left?
A: Okay. Noting that some of the, the addresses are precisely the same and the one at the bottom is different. Okay. 905 Polo Partners; LLC, I believe that's A & D and RD Tele Agency; Backgate LLC; Beach Paralegal; CF Plantation Partners LLC; Creekview Land Partners LLC; Deluxe Land Partners, LLC; Office Park Partners; Partners of Cypress Plantation LLC; Porcher Partners and all of those have the same address, 1298 Professional Drive, Myrtle Beach. And then the last one is Carter Studios Inc. and that has a different address in Murrells Inlet.
Q: Okay. Are you familiar that LLCs have registered agents?
A: I believe that's true, yes.

Q: Okay. Are you familiar that a lot of times, LLCs name their lawyer as the registered agent?
A: I would have to confess, I'm not an expert on LLCs.
Q: Okay. Are you familiar that Shep Guyton is a lawyer?
A: I believe he is, yes.
Q: All right. Are you familiar with the fact that LLCs can be member managed or manager managed?
A: Once again, I'm not an expert on LLCs.
Q: Okay. Are you familiar with the fact that a registered agent is not a member or can't -- may not be a member or may not be the manager of an LLC?
A: Registered agent to me says someone who is operating in an official capacity, they are registered and they are an agent and I, I really can't speak to the, to your distinction you're making because I don't know.
Q: The registered -- Sun Publishing Company is a company, right?
A: That's correct.
Q: And do you know where the Sun Publishing Company has a registered agent?
A: I don't.
Q: Okay. Do you know that the registered agent is who one would serve with a complaint?
A: I, I assume you're telling me the truth. I honestly don't know.