

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Case No. 19STCV12592
HONORABLE WENDY CHANG (Dept. 36)

WILLIAM JAMES MITCHELL,

Plaintiff,

vs.

TWIN GALAXIES, LLC; and Does 1-10,

Defendants.

TWIN GALAXIES, LLC,

Cross-Complainant,

v.

WILLIAM JAMES MITCHELL; WALTER DAY;
and Roes 1-25,

Cross-Defendants.

VIDEOTAPED
DEPOSITION OF WILLIAM JAMES MITCHELL
Pages 1 through 376

Monday, January 9, 2023
10:01 a.m. - 6:32 p.m.
2440 West Cypress Creek Road
Fort Lauderdale, Florida

Stenographically Reported By:
JOYCE B. GIACOMA
Court Reporter

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18 ALSO PRESENT: JACE HALL
19 JOSEPH LANGSAM, Videographer

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1 Deposition taken before JOYCE B. GIACOMA, Court
2 Reporter and Notary Public in and for the State of
3 Florida at Large in the above cause.

4 *****

5 THE VIDEOGRAPHER: My name is Joseph Langsam,
6 I'm with U.S. Legal located 16825 North Chase
7 Drive, Houston, Texas.

8 Today is January the 9th, the year 2023,
9 starting time 10:01 a.m.

10 The -- this is the case of William James
11 Mitchell versus Twin Galaxies, LLC. The name of
12 the -- the witness is William James Mitchell. The
13 deposition is taken by Twin Galaxies, LLC.

14 Will the attorneys please state your
15 appearance.

16 MR. TASHROUDIAN: David Tashroudian for Twin
17 Galaxies.

18 MR. ELLROD: Anthony Ellrod for William
19 Mitchell.

20 MS. ROSS: Kristina Ross for Plaintiff.

21 THE REPORTER: Would you raise your right
22 hand, sir?

23 Do you solemnly swear or affirm the testimony
24 you're about to give will be the truth, the whole
25 truth and nothing but the truth?

1 THE WITNESS: Yes, I do.

2 Thereupon:

3 WILLIAM J. MITCHELL,
4 having been first duly sworn or affirmed, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. TASHROUDIAN:

8 Q. Mr. Mitchell, have you ever had your
9 deposition taken before?

10 A. Yes.

11 Q. On how many occasions?

12 A. Twice that I can recall.

13 Q. All right. You're going to have to speak up a
14 little bit so that I can hear you, the court reporter
15 can hear you and that we can get an accurate
16 videographer record.

17 A. Understood.

18 Q. So two times you've had your deposition taken
19 before?

20 A. Two times.

21 Q. Okay. When was the first time?

22 A. 2003, maybe '02.

23 Q. All right. And under what circumstances did
24 you have your deposition taken?

25 A. A gentleman had stolen money from me when I

1 owned a pizza place.

2 Q. Was this in a civil lawsuit?

3 A. No, he was charged criminally.

4 Q. All right. Were you either the plaintiff or
5 the -- were you the plaintiff --

6 A. Yes --

7 Q. -- in that case?

8 A. -- I was the plaintiff.

9 Q. All right. When was the second time you had
10 your deposition taken before?

11 A. Geez, I don't recall. Maybe -- more than ten
12 years ago.

13 Q. There was a second time, though, correct?

14 A. Yes.

15 Q. Do you recall the circumstances under which
16 you had your deposition taken?

17 A. No.

18 Q. You just recall the deposition was taken, but
19 you don't recall what the subject matter was?

20 A. Correct. I -- I don't remember. I don't --
21 it'll come to me and I'll give it to you.

22 Q. All right. Where was the deposition taken?

23 A. Oh, it was always local here, south Florida
24 area.

25 Q. Were you the plaintiff or the defendant?

1 A. Plaintiff.

2 Q. Were you suing someone?

3 A. No.

4 Q. Was somebody suing you?

5 A. No. It was, again, a -- I'm sorry. I -- I
6 don't want to give you the wrong answer. The one was
7 the pizza place and the other one, I don't know. Maybe
8 I should just say there was one. I don't remember the
9 second one. I remember sitting down like this.

10 Q. All right. So I'm going to give you a couple
11 --

12 A. Many years ago.

13 Q. Many years ago?

14 A. Many.

15 Q. Understood. And you don't recall anything
16 about the subject matter?

17 A. Oh, it was Mountain Coin Distributing.

18 Q. Mountain Coin Distributing, what is that?

19 A. Correct. That -- that was a game company
20 based out of Des Moines, Iowa.

21 Q. Did they sue you?

22 A. We were arguing over a balance that was owed
23 and we ended up settling.

24 Q. But were you sued?

25 A. Yeah. They were saying I owed them the money

1 and I was saying I didn't owe them the money.

2 Q. You were sued here in Florida?

3 A. It was in Florida. Maybe '95?

4 Q. 1995?

5 A. '94.

6 Q. That's quite some time ago.

7 A. Yeah.

8 Q. So since it's been a while I'm going to give
9 you a couple admonitions just so we have clear ground
10 rules and we can create a clear -- clear record for the
11 court reporter.

12 So even though we're in a relatively informal
13 setting here today, do you understand that you were
14 just given an oath and that oath carries the same force
15 and effect as if you were testifying at trial in a
16 courtroom; do you --

17 A. I do.

18 Q. -- understand that? All right.

19 A. I do.

20 Q. Do you understand that the oath carries a
21 penalty of perjury?

22 A. Understood.

23 Q. All right. Do you know what perjury is?

24 A. I do.

25 Q. All right. And can you explain to me what

1 perjury is?

2 A. It's when you lie under oath you get in big
3 trouble.

4 Q. Right. And you wouldn't lie to me under oath
5 today, will you?

6 A. I wouldn't lie to you at all.

7 Q. All right. So the court reporter sitting to
8 your left, she can't take down nonverbal cues, so when
9 I ask you a question, I ask that you give me a verbal
10 response, otherwise she won't be able to take it down.
11 So nonverbal cues are things like hmm-mm, huh-uh, nods
12 of the head, shake of the head, something like you're
13 doing now.

14 A. Correct.

15 Q. Okay. So you understand that?

16 A. I do. Tony has explained it to me very well.

17 Q. Okay. So the court reporter is taking -- is
18 stenographically recording everything that we're saying
19 today. You'll have an opportunity to review the
20 transcript at the end and make any changes, but I will
21 warn you that if you make changes to the transcript, I
22 will be able to comment on those changes at the time of
23 trial; do you understand that?

24 A. Understood.

25 Q. So it's very important that, that you give me

1 your best testimony here today.

2 A. It's my intention.

3 Q. Is there anything that would prevent you from
4 giving your best testimony today?

5 A. Not at all.

6 Q. If you don't understand a question, ask me to
7 repeat it. I'm prone to ask inarticulate --
8 inarticulate questions at times, so if I do, ask me to
9 rephrase a question, I'll do so. If you don't ask me,
10 I'll assume that you have understood my question.

11 A. Understood.

12 Q. Also, I'd ask that you allow me to finish my
13 question before you give your answer. It's really hard
14 for the court reporter to take down two people talking
15 at once.

16 A. Understood.

17 Q. Do you understand the -- the difference
18 between a guess and an estimate?

19 A. I do understand it. I think I'd like to hear
20 what you feel it is.

21 Q. So, I'll be asking you the questions today and
22 I might ask you for a guess -- an estimate, I'm sorry.
23 When I'm asking you for -- when I'm asking you for an
24 estimate, I'm not asking you to guess. So, for
25 example, you're here, you're able to observe the length

1 of this conference room table so you can give me an
2 estimate if I ask you about the length; is that
3 correct?

4 A. Yes, I could.

5 Q. Yeah, about 15 feet probably, maybe a little
6 less.

7 A. Twelve.

8 Q. Twelve.

9 However, if I ask you to give me an estimate
10 about the living room table size in my house, you
11 wouldn't be able to do that, would you?

12 A. Not at all.

13 Q. Because you haven't observed that; is that
14 correct?

15 A. That's correct.

16 Q. Okay. So we have -- we know the differences
17 there. All right.

18 Did you pro -- produce any documents in
19 response to any notice of deposition to appear here
20 today?

21 MR. ELLROD: Our office produced documents on
22 his behalf.

23 MR. TASHROUDIAN: When were they produced?

24 MR. ELLROD: January 6th.

25 THE WITNESS: It says the internet connection

1 is unstable.

2 THE REPORTER: I can't hear you, sir.

3 THE WITNESS: I was talking to my attorney.

4 It says the internet connection is unstable.

5 MS. ROSS: Yeah, it was for a second but I can
6 hear you again.

7 THE WITNESS: Okay.

8 BY MR. TASHROUDIAN:

9 Q. We'll get to the documents in a second here.

10 What did you do to prepare for today's
11 deposition, Mr. Mitchell?

12 A. Talked with my attorney quite a bit.

13 Q. Okay. How often did you -- or, well, let's
14 try it this way: When did you talk to your attorney?

15 A. Friday, Thursday, a few times last week, and I
16 talked to him just before we came in the room here.

17 Q. Who was present when you spoke with your
18 attorney?

19 A. Me, the -- my attorney. Over the phone it was
20 me, my attorney, maybe Kristina.

21 Q. Anyone else?

22 A. Not that I recall, no.

23 Q. Was your son present on any of these phone
24 calls?

25 A. Oh, no, he wasn't.

1 Q. Why not?

2 A. I mean, he has been in the past but you're
3 asking recently to prepare for this?

4 Q. Yes.

5 A. No.

6 Q. And what about your wife, was she present?

7 A. No.

8 Q. All right. I'm going to show you a series of
9 documents today as exhibits. I'm going to show you
10 them on the iPad. I'm going to slide -- slide this
11 over to you when I have to do that.

12 So we're going to jump a little bit out of
13 order and I'm going to mark now as Exhibit CC, the
14 notice of deposition of William James Mitchell and
15 request for production of documents. You take that.

16 (Exhibit CC to be marked for Identification.)

17 BY MR. TASHROUDIAN:

18 Q. Let me know if you have any-- when you've had
19 an opportunity to review that document. You can scroll
20 through it if you wish.

21 MR. ELLROD: Let me know when you're done.

22 THE WITNESS: Okay.

23 MR. ELLROD: I don't think you have to read
24 this, it's in here.

25 THE WITNESS: Okay, good.

1 MR. ELLROD: Do you understand this?

2 THE WITNESS: Yeah. That's why I need you to

3 --

4 MR. ELLROD: Do you want him to read it all?

5 MR. TASHROUDIAN: It's up to him.

6 MR. ELLROD: What -- well, okay. Since he's
7 -- he has it in front of him, like maybe just ask
8 him questions that you want to ask him.

9 BY MR. TASHROUDIAN:

10 Q. All right.

11 If you direct your attention to page 2 there,
12 line, looks like 15, Please take further notice the
13 deponent, who is a party to this action, is required to
14 produce the documents demanded in Attachment A hereto
15 at the deposition in hard paper copy. Do you see that
16 there?

17 A. Yes.

18 Q. Do you have those documents to produce to me
19 today?

20 A. I guess I don't.

21 MR. ELLROD: I have them.

22 MR. TASHROUDIAN: Yeah? Beautiful. Thank
23 you.

24 MS. ROSS: Let the record reflect we also sent
25 them to you on Friday.

1 BY MR. TASHROUDIAN:

2 Q. All right. Do you know, Mr. Mitchell, if any
3 objection was lodged to this notice of deposition?

4 MR. ELLROD: What do you mean by lodged?

5 BY MR. TASHROUDIAN:

6 Q. Did you object to the notice of deposition,
7 Mr. Mitchell?

8 MR. ELLROD: We filed a response to the -- to
9 the notice of deposition that included objections.

10 MR. TASHROUDIAN: All right. We can get to
11 this later.

12 BY MR. TASHROUDIAN:

13 Q. This stack of documents that your attorney
14 produced, Mr. Mitchell, is -- are these all of the
15 documents that are responsive to the notice of
16 deposition?

17 MR. ELLROD: That's all the documents that
18 we're producing on his behalf in response to the
19 notice of deposition.

20 BY MR. TASHROUDIAN:

21 Q. Mr. Mitchell, has Namco awarded you any award?

22 A. Yes.

23 Q. Okay. And what award is that?

24 A. Well, one was Player of the Century. And the
25 other one basically reflected the world's best Pac-Man

1 player. They've given me accolades at different events
2 such as their arcade in Chicago as well as in Tokyo.

3 Q. When did you receive the Player of the Century
4 award from Namco?

5 A. 1999.

6 Q. Was that September 17, 1999?

7 A. Yeah. You know it might have been the 18th,
8 but it was on or about the 17th.

9 Q. How did that -- how did that award look, the
10 Player of the Century one?

11 A. It was about the size of this notepad, I don't
12 know, what is that, about ten by eight, and dark, had a
13 Pac-Man, had a message written on it and signed by the
14 founder, president, CEO, whatever, Masaya Nakamura.

15 Q. Was it a plaque?

16 A. It was on a piece of wood. I'm not an expert.
17 So was it a plaque? It was on a piece of wood with
18 Pac-Man doing this, like...

19 MR. ELLROD: Thumbs up.

20 THE WITNESS: Yeah. I mean there's pictures
21 of it online.

22 BY MR. TASHROUDIAN:

23 Q. And where did it say -- did it say -- what did
24 it say on the front?

25 A. Oh, you want me to give it verbatim, I can't

1 give it to you verbatim. It recognized me as player,
2 my accomplishments, what I had done, my contribution to
3 Pac-Man, first perfect score. I mean, it's -- it's
4 online. You can see it.

5 Q. Did it say Player of the Century?

6 A. It said Player of the Century on it.

7 Q. And you're sure of that?

8 A. I'm sure of that.

9 Q. Where is that plaque located today?

10 A. It would be, I believe it's at the Hall of
11 Fame.

12 Q. Where's that?

13 A. That's in Ottumwa, Iowa.

14 Q. Is that the International Video Game Hall of
15 Fame?

16 A. That is.

17 Q. Okay. How did it get there?

18 A. Well, it, maybe it was 2010 that I initially
19 donated it there. To be honest, I keep very little of
20 what it is I receive. I'm not a --

21 MR. ELLROD: Just answer the question.

22 THE WITNESS: -- sentimental.

23 Okay. I donate most of my stuff there.

24 BY MR. TASHROUDIAN:

25 Q. All right. And who did you donate it to?

1 A. The International Video Game Hall of Fame.

2 Q. Was there anyone in particular that you gave
3 the doc -- the plaque to?

4 A. Well, at the time, Brian Cady was there, and
5 Jerry Byrum was there. I don't know which one.

6 Q. Do you know if Byrum -- Brian Cady is still
7 there?

8 A. No, I don't know.

9 Q. What about Jerry Byrum, do you know if he's
10 still there?

11 A. He is still there because he's the one that's
12 communicating.

13 Q. Communicating with you?

14 A. No, he sends out messages that I see online.

15 Q. And you receive communications from Jerry
16 Byrum?

17 A. No, I don't.

18 Q. You've never received one?

19 A. Have I never?

20 Q. Yes.

21 A. Yes, I have.

22 Q. And when was the last time you received a
23 communication from him?

24 A. Months ago.

25 Q. What was that about?

1 A. They had an induction ceremony in Orlando in
2 November.

3 Q. Did you attend?

4 A. I did.

5 Q. Did you meet Jerry Byrum there?

6 A. Yes, he was there.

7 Q. All right. Did you ask him about the status
8 of your Player of the Century award?

9 A. No, I did not.

10 Q. All right. I'm going to -- I'm going to mark
11 now Exhibit K.

12 Do you think you can turn that back on, Mr.
13 Mitchell?

14 A. No, but he could.

15 MR. TASHROUDIAN: You want to enter the
16 passcode 0000?

17 MR. ELLROD: I don't know if we -- it's not
18 asking for a passcode.

19 MR. TASHROUDIAN: Slide up there.

20 MR. ELLROD: 0000?

21 MR. TASHROUDIAN: Yes. Four zeros.

22 All right. You see where it says done up
23 there, on the top left?

24 MR. ELLROD: No.

25 MR. TASHROUDIAN: Top left, done.

1 MR. ELLROD: I see three dots.

2 MR. TASHROUDIAN: Yes.

3 MR. ELLROD: No. Rotate left, rotate right,
4 insert blank page, insert from files, scan page and
5 delete.

6 MR. TASHROUDIAN: Maybe you can hand it to me
7 and I'll just find the exhibit.

8 MR. ELLROD: Are we not going to have --

9 MR. TASHROUDIAN: Paper, no.

10 MR. ELLROD: -- copies?

11 MR. TASHROUDIAN: I'll send you these, sure.

12 MR. ELLROD: How are they getting to the court
13 reporter?

14 MR. TASHROUDIAN: I'll email them to her.

15 BY MR. TASHROUDIAN:

16 Q. All right.

17 (Exhibit K to be marked for Identification.)

18 BY MR. TASHROUDIAN:

19 Q. Do you see this Exhibit K, Mr. Mitchell?

20 A. Oh yeah.

21 Q. Can you describe, too, what this is?

22 A. That was on stage, whether it was at 17th or
23 18th of September. That's Masaya Nakamura and Namco
24 cheerleaders at the Tokyo Game Show.

25 Q. Is this the Player of the Century plaque that

1 you're holding there?

2 A. I believe it is.

3 Q. All right. Who else is on stage with you
4 there?

5 A. Masaya Nakamura.

6 Q. All right. Where did this picture take place?

7 A. On stage at the Tokyo game show.

8 Q. In what year?

9 A. 1999.

10 Q. All right.

11 You know, there -- there should be a -- a done
12 at the top, do you see that there? All right. Now --
13 now, can you click on Exhibit L? You see that there?

14 A. Yes.

15 Q. All right.

16 (Exhibit L to be marked for Identification.)

17 BY MR. TASHROUDIAN:

18 Q. Can you tell us what this is?

19 A. This is a plaque I received from them. That's
20 the Pac-Man guy that I talk about. And this is the one
21 that talks about Pac-Man and how it's such a part of
22 the culture, how I achieved the first perfect score.

23 Q. Is this your Player of the Century plaque?

24 A. No, this is a different one.

25 Q. Is this the one that you were holding in the

1 picture?

2 A. No, it's not.

3 Q. So you were given -- given two different
4 plaques?

5 A. Two awards from Namco.

6 Q. All right.

7 A. Just like I said earlier.

8 Q. And this is one of them and the other one is
9 Player of the Century?

10 A. That's correct.

11 Q. Do you have any copies of the Player of the
12 Century plaque?

13 A. No.

14 Q. Any pictures of it?

15 A. I guess no, I'd have to look for them. I
16 don't know if I do.

17 Q. Have you looked for any of those pictures?

18 A. I haven't found any to this point.

19 Q. Have you looked for them is my question?

20 A. Yeah, I did a couple months back.

21 Q. Okay. And where'd you look for them?

22 A. Through emails, I asked a couple different
23 people if they had them.

24 Q. Who did you ask?

25 A. Well, I asked my wife if she had ever taken

1 any pictures. I think I asked Walter Day. That was
2 all.

3 Q. And what about Jerry Byrum, did you ask him?

4 A. Oh, no, I didn't.

5 Q. All right. Did you think to ask him?

6 A. No.

7 Q. Why not?

8 A. Why would he have pictures of them?

9 Q. Well, he has the -- the plaque at the
10 International Video Game Hall of Fame; is that right?

11 A. Yeah. You asked me about pictures.

12 Q. Okay. Did you ask him to take a picture of
13 the plaque for you?

14 A. No, I didn't.

15 Q. Could you have done that?

16 A. Could I have?

17 Q. Yes.

18 A. Of course I could have.

19 Q. Is there a reason that you didn't?

20 A. Yes, because you asked me if I had some. I
21 don't have them. You didn't ask me if I could go out
22 and research them.

23 MR. ELLROD: You don't need to -- you don't
24 need to respond anymore.

25 THE WITNESS: Okay.

1 BY MR. TASHROUDIAN:

2 Q. Have you asked Jerry for a copy of the plaque?

3 MR. ELLROD: For a copy of the plaque or
4 photograph of the plaque?

5 MR. TASHROUDIAN: Let's strike the question.

6 BY MR. TASHROUDIAN:

7 Q. Have you asked Jerry to send you the plaque so
8 you could produce it in this litigation?

9 A. Actually, I think I did.

10 Q. And what did he say?

11 A. He said, Okay, I'll look for it.

12 Q. And has he looked -- has he looked for it?

13 A. I don't know. You'd have to ask Jerry.

14 Q. When did you ask him?

15 A. We talked about this months ago.

16 Q. How did you talk to him?

17 A. On the telephone.

18 Q. All right. What number did you call?

19 A. Speed dial ten, I think.

20 Q. And is that his cell phone number, speed dial
21 ten?

22 A. Yeah, I guess it's his cell number.

23 Q. Okay. And what did he say to you?

24 A. He said okay. He said -- he said -- he said
25 I'll let you know what I find.

1 Q. Right. And what telephone number did you call
2 him from?

3 A. I'd imagine that I was sitting at my desk. I
4 mean, I actually don't know.

5 Q. So you were sitting at your desk and you
6 called him from your work cell phone or from your desk
7 number?

8 A. I don't recall.

9 Q. What number could it have been that you called
10 him from?

11 A. It could have been my cell phone if that's
12 what you want me to say, the answer's yes.

13 Q. And what else could it have been, the number,
14 rather?

15 MR. ELLROD: Are you asking him the number
16 that he called or the number that he called him
17 from?

18 MR. TASHROUDIAN: Called from.

19 THE WITNESS: Yeah.

20 MR. ELLROD: What phone he called from?

21 MR. TASHROUDIAN: Yes.

22 MR. ELLROD: Do you remember what phone you
23 called him from?

24 THE WITNESS: No, I don't remember.

25 BY MR. TASHROUDIAN:

1 Q. Did you send him any messages?

2 A. No, I would not have sent him any messages.

3 Q. What about email communications, did you send
4 him any emails asking about the photo?

5 A. No, I did not.

6 Q. So I just want to be -- be clear. This is not
7 the -- the plaque that you were holding in that picture
8 with the women on the stage; is that right, this
9 Exhibit L?

10 A. Can I look -- can I look at the other one
11 again --

12 Q. Yeah.

13 A. -- for clarity?

14 Q. Go back.

15 MR. ELLROD: What was the other exhibit?

16 THE WITNESS: Oh, right here, I see it.

17 MR. TASHROUDIAN: K.

18 THE WITNESS: No, I don't, I don't believe so.

19 BY MR. TASHROUDIAN:

20 Q. That's a different plaque?

21 A. When I was on stage there were two different
22 plaques, and then there was a framed award as well, and
23 that's what he handed around the stage. You're asking
24 me if this is A or B, or is it B and A, or --

25 MR. ELLROD: I think the question is whether

1 the -- the -- the plaque that you were holding on
2 the stage in Exhibit L -- I don't see the Exhibit
3 K --

4 THE WITNESS: I don't believe it's the same
5 one, to answer your question.

6 MR. ELLROD: That's all.

7 BY MR. TASHROUDIAN:

8 Q. So there's a different -- there's a different
9 plaque then?

10 A. There's two plaques, that's correct.

11 Q. Understood.

12 And one says Player of the Century?

13 A. One speaks more Player of the Century, okay,
14 and not of Pac-Man and its contribution to the culture.

15 Q. All right. That --

16 A. You might say one is more about me.

17 Q. That wasn't my question. My -- my question is
18 the other one says Player of the Century, correct?

19 A. Yes.

20 Q. And that was issued to you by Namco?

21 A. By Namco.

22 Q. All right. And it says Namco on it, right?

23 A. It does say Namco on it.

24 Q. Okay. And that was given to you -- given to
25 you by Mr. Nakamura?

1 A. That is correct.

2 Q. At -- at the same Tokyo game show?

3 A. That is correct.

4 Q. On the stage, correct?

5 A. On the stage and a private ceremony in the
6 back prior to going on stage.

7 Q. So which one -- which plaque did you receive
8 in the private ceremony?

9 A. Both.

10 Q. Okay. And who was there?

11 A. Masaya Nakamura --

12 Q. Uh-huh.

13 A. -- other Namco people.

14 Q. What about Walter Day, was he present?

15 A. He was not there. Walter --

16 MR. ELLROD: You've answered.

17 BY MR. TASHROUDIAN:

18 Q. You also told me that there's a framed plaque?

19 A. That is correct.

20 Q. Framed certificate; is that right?

21 A. No, I didn't tell you that.

22 Q. Okay. So --

23 A. But if you'd like to ask me, I'll answer.

24 Q. Yes.

25 Was there a framed award that you also

1 received?

2 A. Yes, there was.

3 Q. Okay. And who -- who gave you that?

4 A. That was from the Classic Gaming Expo Show and
5 it was on stage with Walter Day and John Hardy.

6 Q. In Tokyo?

7 A. No, in Las Vegas.

8 Q. And what did that framed award say?

9 A. Biggest headline, Player of the Century.

10 Q. So you received two Player of the Century
11 awards?

12 A. Yeah. I believe you have a copy of that as
13 well.

14 Q. And why do you believe that?

15 A. Because it's all over the internet.

16 Q. Okay. So you received one from Namco, and
17 then you received another plaque from Namco, the one
18 that I showed you, and then you received the Player of
19 the Century award given to you by Walter Day?

20 A. So I've -- I have received three, you are
21 correct.

22 Q. All right. So I want to -- I want you to look
23 at Exhibit N.

24 (Exhibit N to be marked for Identification.)

25 BY MR. TASHROUDIAN:

1 Q. Do you see that?

2 A. Like I said, I believe -- Like I said, I
3 believe --

4 MR. ELLROD: Just answer questions, okay?

5 THE WITNESS: Understood.

6 BY MR. TASHROUDIAN:

7 Q. Now, what is this document, sir?

8 A. Player of the Century award. If I can zoom in
9 a little. Very good. Can't -- I can't read it, but I
10 recognize it.

11 MR. ELLROD: Okay.

12 THE WITNESS: That's all.

13 BY MR. TASHROUDIAN:

14 Q. Is that the Player of the Century award that
15 was awarded to you by Walter Day?

16 A. By Walter Day of Twin Galaxies --

17 Q. Yeah.

18 A. -- and John Hardy at the Classic Gaming Expo.

19 Q. All right. So you received two Player of the
20 Century awards, right?

21 A. That is correct.

22 Q. Okay. Now, if you wanted to go to the
23 International Video Game Hall of Fame and retrieve your
24 plaque from Namco that says Player of the Century on
25 it, could you do that?

1 MR. ELLROD: Objection, calls for speculation.

2 BY MR. TASHROUDIAN:

3 Q. You can answer the question.

4 A. I don't know.

5 Q. Are you associated with the video game --
6 International Video Game Hall of Fame at all?

7 A. I support them however I can.

8 Q. You're a director, aren't you?

9 A. You're wrong. I am not a director.

10 Q. Have you ever been a director?

11 A. No.

12 Q. I'd like to direct your attention at -- to
13 Exhibit O over there. Could you pull that up?

14 (Exhibit O to be marked for Identification.)

15 THE WITNESS: What does it matter if it says
16 I'm the director?

17 MR. ELLROD: Answer the question only, okay?

18 THE WITNESS: Okay.

19 MR. ELLROD: I don't know how to run this
20 thing.

21 MR. TASHROUDIAN: It was working a lot easier
22 or better yesterday.

23 BY MR. TASHROUDIAN:

24 Q. Here you are, sir, Exhibit O. Could you
25 scroll through that for me, please?

1 THE WITNESS: Board of Directors?

2 MR. ELLROD: No question pending. Just answer
3 questions, okay?

4 THE WITNESS: Uh-huh, okay.

5 MR. ELLROD: Okay.

6 BY MR. TASHROUDIAN:

7 Q. Have you ever visited the website for the
8 International Video Game Hall of Fame?

9 A. I have not.

10 Q. You've never been on the website?

11 A. I've never been on the website and I've never
12 been on Facebook.

13 Q. You've never been on Facebook?

14 A. On that Facebook.

15 Q. The Facebook site for the International Video
16 Game Hall of Fame?

17 A. That is correct.

18 Q. Is there a reason that you're listed as a
19 director for the International Video Game Hall of Fame
20 on their website?

21 MR. ELLROD: Objection, lacks foundation,
22 calls for speculation.

23 You can answer if you have -- if you know.

24 THE WITNESS: No, I don't, except they would
25 want my support --

1 MR. ELLROD: Don't -- don't --

2 THE WITNESS: Okay.

3 MR. ELLROD: Just answer the question. Don't
4 speculate.

5 THE WITNESS: No.

6 BY MR. TASHROUDIAN:

7 Q. They want your support so they put you on the
8 board of directors; is that right?

9 A. I don't know.

10 MR. ELLROD: Objection, lacks foundation,
11 calls for speculation.

12 If you know you can answer.

13 THE WITNESS: I don't know.

14 BY MR. TASHROUDIAN:

15 Q. Did anyone ever tell you, Billy, we're asking
16 you to be on the board of directors for the
17 International Video Game Hall of Fame?

18 A. I don't ever recall somebody saying that to
19 me.

20 Q. You're -- you've been inducted into the
21 International Video Game Hall of Fame, correct?

22 A. I was inducted in 2010.

23 Q. Was that after your Boomers score?

24 A. Yeah, as a matter of fact, it was.

25 Q. And that happened at the same time as your

1 Boomers score was announced, right?

2 A. The Boomers score was about a week before,
3 yes.

4 Q. But it was announced at the International
5 Video Game Hall of Fame, right?

6 A. That is correct.

7 Q. Okay. Did you have any marketing material
8 printed up at the International Video Game Hall of Fame
9 regarding your --

10 A. Did I have any?

11 Q. Yeah.

12 A. Not a bit.

13 Q. You didn't have any?

14 A. Nothing.

15 Q. Nothing what?

16 A. Nothing printed.

17 Q. Did any -- did anyone else have anything
18 printed for you regarding your score?

19 A. I can't speak for others. You have to speak
20 to them.

21 Q. Did you see any printed materials there with
22 you?

23 A. I saw a lot of printed material.

24 Q. Anything regarding your score?

25 A. I don't know. You'd have to ask them.

1 Q. No, I'm asking you.

2 A. I don't know.

3 Q. I'm asking you, did you see anything, any
4 printed materials in 2010 at the --

5 A. I said I did see it, but you're asking me to
6 recall it. I can't recall it.

7 Q. You did see it. So I'd just ask, Mr.
8 Mitchell, that you allow me to finish my question --

9 A. I apologize.

10 Q. -- because it might be different from what
11 you're answering.

12 So -- so you did see printed material
13 regarding your score?

14 A. Yes, I did.

15 Q. And what was that printed -- printed material,
16 sir?

17 A. I saw pictures of me and people asked me to
18 sign things. There was a guy who printed a magazine
19 cover with the scores on it.

20 Q. And who was that; who printed the magazine
21 cover?

22 A. That was Sean.

23 Q. Sean who?

24 A. Sean Jones.

25 Q. And who is Mr. Jones, sir?

1 A. He's a guy that I met there for the first time
2 and he, at the time he did video game magazines and
3 publications and such.

4 Q. All right. How many magazines did you see
5 there; how many -- how many magazines were printed?

6 A. I don't know.

7 Q. Was it a stack?

8 A. It was a stack.

9 Q. A big stack or a small stack?

10 A. Small stack.

11 Q. How many stacks?

12 A. How many stacks?

13 Q. Yeah.

14 A. One stack that I saw.

15 Q. Were they being -- were they being passed out?

16 A. I don't know.

17 Q. Okay. So --

18 A. I'd imagine that's why he brought them.

19 MR. ELLROD: Don't speculate. If you don't
20 know, you don't know. You've answered.

21 BY MR. TASHROUDIAN:

22 Q. So what was the -- what was the picture of on
23 this magazine cover?

24 A. Oh, the -- it had a picture of me like in the
25 middle --

1 Q. Uh-huh.

2 A. -- and then it had some machines on it as
3 well.

4 Q. Do you know where that picture was taken?

5 A. No.

6 Q. Was it taken at Boomers Arcade?

7 A. It was not.

8 Q. And what did it say on the magazine cover?

9 A. I don't know -- or I don't recall.

10 Q. Did it say anything about your Boomers score?

11 A. It had pictures of me, machines, and scores,
12 yeah.

13 Q. Your Boomers score, right?

14 A. I'm guessing, yes.

15 Q. Okay.

16 A. I'm sorry, I'm not supposed to guess.

17 Q. Well, why are you guessing?

18 MR. ELLROD: Why are you guessing, did you
19 say?

20 BY MR. TASHROUDIAN:

21 Q. Yeah. Why are you guessing?

22 A. I'm guessing because I haven't seen it in 13
23 years.

24 Q. But you saw it then, right?

25 A. I recall seeing it.

1 Q. And --

2 A. It was a photoshop picture.

3 MR. ELLROD: You've answered.

4 BY MR. TASHROUDIAN:

5 Q. Who photoshopped the picture?

6 A. Not me. I don't know.

7 Sorry.

8 Q. Did you -- did you have anything to do with
9 the publication of that magazine?

10 A. No.

11 Q. Absolutely nothing?

12 A. Absolutely nothing.

13 Q. Did you convey your score to Mr. Jones?

14 A. Absolutely not.

15 Q. Do you understand how he -- how he understood
16 your score?

17 A. I do not.

18 Q. Do you know who Patrick Scott Patterson is?

19 A. Unfortunately, I do.

20 Q. Did he ever make a big deal about your score
21 and the magazine cover?

22 A. I don't know.

23 MR. ELLROD: Objection, vague as to big deal,
24 but you can answer it if you understand it.

25 THE WITNESS: I don't know.

1 BY MR. TASHROUDIAN:

2 Q. Did he ever tell you that the magazine cover
3 was suspicious considering the time between you made --
4 the time between when you made the score and the time
5 when the magazine cover was printed?

6 A. Did he ever tell me that?

7 Q. Yeah.

8 A. No.

9 Sorry. I was getting ready to say something
10 to the attorney and I'm not supposed to do that.

11 Q. So you were awarded this -- these two plaques
12 in Japan in September 1999, correct?

13 A. That's exactly what I said.

14 MR. ELLROD: Just answer the question.

15 BY MR. TASHROUDIAN:

16 Q. Who invited you to Japan?

17 A. Well, memory, a call from Namco came in, maybe
18 his name was Maurice, and then a gentleman met me at
19 the Classic Gaming Expo in Las Vegas and -- but it was
20 prior to the Classic Gaming Expo in Las Vegas, it was
21 Maurice who was the contact from Masaya Nakamura in
22 Japan who invited me there.

23 Q. And --

24 A. As his guest.

25 Q. -- how did he -- he invited you with a piece

1 of paper or did he just tell you that you were invited?

2 A. They asked me to do a video speaking of my
3 achievement and speaking of my life and they asked me
4 to send them a copy of the video --

5 Q. Did you --

6 A. -- of the perfect score.

7 Q. Did you send them a copy of the perfect score?

8 A. I sent them a copy.

9 Q. Do you still have a copy of that perfect
10 score?

11 A. I do not.

12 Q. What happened to that copy?

13 A. That copy was in the hands of Robert Mruczek
14 and from Robert Mruczek it went to the Crams
15 (phonetic), where Dwayne stole it.

16 Q. And how do you know Dwayne stole it from the
17 Crams?

18 A. Besides the fact that the Crams told me that,
19 Dwayne has mentioned it.

20 Q. How did he mention it?

21 A. Verbally.

22 Q. To who?

23 A. He mentioned it to me, he mentioned it to Rob,
24 I believe. He's been pretty outspoken. Jace Hall
25 knows how he got it because Dwayne has spoken about it

1 to Jace Hall.

2 Q. Do you contend that Dwayne has stolen any of
3 your other video games score performances?

4 A. I absolutely contend that.

5 Q. Which ones?

6 A. When he went to the Crams or to Robert
7 Mruczek, he stole it.

8 MR. ELLROD: He went -- the question is which
9 ones?

10 THE WITNESS: Oh, I apologize.

11 Every one he could get his hands on.

12 BY MR. TASHROUDIAN:

13 Q. And which ones are those?

14 A. Well, I'm sure they were Donkey Kong tapes,
15 I'm sure they were Pac-Man tapes, I'm reasonably sure
16 it was Donkey Kong, Jr. tapes, and I don't know after
17 that.

18 Q. So you mentioned to me that you sent a video
19 to Namco prior to being awarded the video game Player
20 of the Century; is that right?

21 A. I did mention that, yes.

22 Q. Okay. And that --

23 A. They -- they require it.

24 Q. Do you have any copies of that video that you
25 sent?

1 A. I don't believe I have any copies.

2 Q. You told me that you spoke to Jerry Byrum in
3 November, correct?

4 A. Well, not only did I speak with him, I met
5 with him, yes.

6 Q. You met with him in person.

7 And I don't recall if I asked you this, but
8 did you ask him for a copy of the plaque, the video
9 game Player of the Century plaque, at that time?

10 A. At that time, no.

11 Q. You also told me I think earlier that you had
12 asked him previously for a copy of the plaque, correct?

13 A. I asked him if he could find a copy, yes.

14 Q. Okay.

15 A. Not a copy. There's only one. You make it
16 sound like it's a piece of paper.

17 Q. Okay. So there's two of them though, right,
18 there are two plaques?

19 A. Two individual plaques.

20 Q. Yeah. One said Player of the Century and the
21 other one is the one I showed you as Exhibit -- Exhibit
22 L, correct?

23 A. That is correct.

24 Q. Do you know of any other pictures of the
25 player, the Namco Player of the Century plaque that

1 exists?

2 A. I don't -- I don't have any to show you, and
3 if you're asking me what other people have, I can't
4 speak for them.

5 Q. All right. Do you know whether or not the
6 International Video Game Hall of Fame has destroyed
7 your Namco Player of the Century plaque?

8 A. Do I know if they've done that?

9 Q. Yeah.

10 A. No.

11 Q. No one's ever told you that, right?

12 A. No. This is the first time hearing it.

13 Q. Did you follow up with Mr. Byrum about
14 production of this plaque?

15 A. I believe I asked him twice.

16 Q. And what did he say the second time you asked
17 him?

18 A. He said, I'll find it.

19 Q. And when did you ask him that?

20 A. I'm going to guess it was in the early fall,
21 maybe the summer.

22 Q. Has he sent you a copy of it yet?

23 A. No.

24 Q. Have you gone to Ottumwa, Iowa to ask for it?

25 A. No, I have not.

1 Q. When you met Mr. Byrum in November here in
2 Orlando, did you ask him what the status of the plaque
3 was?

4 A. I did not.

5 Q. Prior to his arrival here did you ask him to
6 bring the plaque to give it to you?

7 A. I did not.

8 Q. Did you know that he was going to be here in
9 Orlando when you met him there?

10 A. I think at the last minute I did, yes.

11 Q. Only at the last minute though, right?

12 A. No, I -- I don't know.

13 Q. You knew in advance that he was coming to
14 Orlando?

15 A. Yes, I knew in advance he was coming. Exactly
16 how far in advance, I don't know.

17 Q. At least a week, though, right?

18 A. No, not at least a week. I don't know.

19 Q. What other awards did you donate to the
20 International Video Game Hall of Fame?

21 A. Most every poster that's -- most every award
22 that's given to me I donate there.

23 Q. What about awards that were given to you in
24 the last five years, have you donated those, as well?

25 A. Yes.

1 Q. All of them?

2 A. Yes, I believe so.

3 Q. And you make it a regular habit to donate your
4 awards to the Video Game Hall of Fame (sic)?

5 A. I make it a regular habit to donate them
6 somewhere.

7 MR. ELLROD: The air is blowing right on. Are
8 you cold or are you warm?

9 BY MR. TASHROUDIAN:

10 Q. You scored 1,047,200 in Pac-Man -- in Donkey
11 Kong, didn't you?

12 A. Yes.

13 Q. When did you do that?

14 A. The exact score you're asking about?

15 Q. Yes.

16 A. I think it was 2004, and I actually don't
17 recall.

18 Q. What month in 2004?

19 A. I don't know.

20 Q. Can you give me an estimate?

21 A. No.

22 Q. Why not?

23 MR. ELLROD: Objection, argumentative.

24 Don't answer that.

25 BY MR. TASHROUDIAN:

1 Q. Is there a reason you can't give me an
2 estimate?

3 MR. ELLROD: Because he doesn't know, Counsel.
4 That's argumentative.

5 Don't answer it.

6 BY MR. TASHROUDIAN:

7 Q. Have you ever -- have you ever identified the
8 month in which you've made that score?

9 A. If I have I just don't recall what it is.

10 Q. All right. I'd like you now to take a look at
11 Exhibit A. I'm marking Exhibit A now.

12 (Exhibit A to be marked for Identification.)

13 MR. ELLROD: And Exhibit A is Plaintiff
14 William James Mitchell's response to first set of
15 special interrogatories propounded by Twin
16 Galaxies, LLC.

17 BY MR. TASHROUDIAN:

18 Q. Have you seen this document before, sir?

19 A. I'm sure I have.

20 Q. All right. I'd like to you scroll all the way
21 to the end, actually, second to last page at the end.

22 MR. ELLROD: I'm not sure that we've properly
23 identified the exhibits as you're going through
24 these. You're referencing stuff but she doesn't
25 have a copy of it, she's not going to even know --

1 you're just going to send her a bunch of documents.
2 We're not going to know whether those are the
3 documents that are on here. I mean, I have a
4 concern about the whole way that this is going down
5 because typically every deposition I've ever been
6 to, the court reporter marks the exhibit and takes
7 it with her from the deposition. I don't know how
8 -- how we're going to figure out whether what you
9 send her is exactly what we're looking at here.

10 Be that as it may, you can proceed. So it
11 looks like the last page is...

12 MR. TASHROUDIAN: Well, I'll represent on the
13 record that I'll send you all the exhibits that
14 appear on the iPad that are marked today. It's
15 just we're in Florida. It's kind of difficult to
16 travel with boxes of documents. This is a 59 page
17 document. Be very difficult to travel with it.

18 MR. ELLROD: Last page?

19 MR. TASHROUDIAN: Second to last page there,
20 58.

21 BY MR. TASHROUDIAN:

22 Q. Where is says verification there, do you see
23 that, sir?

24 A. I do.

25 Q. Do you know what a veri -- do you know what a

1 verification is?

2 A. I think so.

3 Q. All right. You verified the truth of these
4 discovery responses, correct?

5 A. Well, I haven't scrolled through them at this
6 moment --

7 MR. ELLROD: Yes or no? Yes or no?

8 THE WITNESS: But I believe so.

9 BY MR. TASHROUDIAN:

10 Q. Is that a yes?

11 A. Yes.

12 Q. All right. Now, I'd like you to scroll up to
13 special interrogatory number 40.

14 MR. ELLROD: Forty?

15 MR. TASHROUDIAN: Four zero, yes. That'll be
16 on page 31.

17 BY MR. TASHROUDIAN:

18 Q. Do you see special interrogatory number 40
19 there?

20 MR. ELLROD: One second. Let me take a look
21 at it.

22 Okay.

23 BY MR. TASHROUDIAN:

24 Q. Do you remember providing a declaration in
25 support of your opposition to Twin Galaxies' anti-SLAPP

1 dated June 22, 2020?

2 A. Yes.

3 Q. All right. Do you recall stating in that
4 declaration that you achieved your ten forty-seven two
5 hundred score on December 28, 2004?

6 A. Now that I see this, yes, I do recall that.

7 Q. Okay. Now, why is it that you recall the
8 specific date when you prepared your declaration and
9 when you prepared these interrogatory responses, but
10 you can't recall that date today?

11 MR. ELLROD: Objection, argumentative.

12 Instruct the witness not to answer.

13 BY MR. TASHROUDIAN:

14 Q. Is there a reason that you can't recall the
15 dates?

16 MR. ELLROD: Don't answer that.

17 THE WITNESS: Do you have another question?

18 BY MR. TASHROUDIAN:

19 Q. Yeah.

20 You have a pretty good memory, don't you?

21 A. I can be confused like anyone else, but yes.

22 Q. You do have a pretty good memory, right?

23 A. I appreciate you noticing that.

24 Q. Yeah. And you've stated that on the record,
25 right?

1 MR. ELLROD: On what record?

2 BY MR. TASHROUDIAN:

3 Q. You've stated that in public, haven't you?

4 A. I'm sure I have.

5 Q. My question is: Why was it that you recalled
6 the date when you prepared these interrogatory
7 responses and when you prepared your declaration, but
8 don't recall the date today?

9 MR. ELLROD: Objection, argumentative; asked
10 and answered.

11 Instruct the witness not to answer.

12 BY MR. TASHROUDIAN:

13 Q. Has something changed between the date of this
14 verification which is August 23, 2022, and today that
15 it's caused you to forget the month in which you
16 performed the ten forty-seven two hundred score?

17 MR. ELLROD: Same objection.

18 Instruct the witness not to answer.

19 BY MR. TASHROUDIAN:

20 Q. So is it fair to say then that you performed
21 the ten forty-seven two hundred score December 28,
22 2004?

23 A. It is.

24 Q. Right. And do you recall that now?

25 A. I remember it being near Christmastime, yes.

1 Q. Okay. And how do you -- why do you recall
2 that it was near Christmastime?

3 A. Because it's a busy time.

4 Q. And do you recall Christmas decorations being
5 -- being placed --

6 A. No.

7 Q. -- around town? You don't recall that?

8 A. No.

9 Q. Did you have a Christmas tree up at your house
10 around this time?

11 MR. ELLROD: Objection, relevance.

12 You can answer if -- if you recall.

13 THE WITNESS: I've got kids, I had a Christmas
14 tree.

15 BY MR. TASHROUDIAN:

16 Q. Okay. And you recall this Christmas tree
17 being up around the time that you performed this score?

18 A. I don't -- no. I'm giving you common sense.
19 You're the one making the answers here.

20 MR. ELLROD: Just answer the question. Listen
21 to the question and answer.

22 THE WITNESS: Right.

23 You get to ask the questions. I get to
24 answer.

25 MR. ELLROD: Stop. Stop.

1 BY MR. TASHROUDIAN:

2 Q. So my question is how do you recall now that
3 the score was performed in December of 2004?

4 MR. ELLROD: Because you just showed him the
5 interrogatory response.

6 BY MR. TASHROUDIAN:

7 Q. It's only from the interrogatory response that
8 you recall that?

9 A. No, I would say I was wrestling whether it was
10 December or January.

11 Q. Okay. Where was the -- where was the score
12 performed?

13 A. It was performed at Arcade Game Sales.

14 Q. What -- what is Arcade Game Sales?

15 A. It's a business that buys, sells, operates
16 video games, pinballs --

17 Q. Okay. Who --

18 A. -- in Fort Lauderdale.

19 Q. Do you know who owns the business?

20 A. Yes, I do, Robert Childs.

21 Q. Who is Robert Childs?

22 A. He's a guy about 55 years old and he owns the
23 business.

24 Q. How long have you known Mr. Childs?

25 A. Since, say, the mid '80s.

1 Q. When was the last time you talked to him?

2 A. I would say last week.

3 Q. What did you talk to him about?

4 A. About playing a game.

5 Q. What game?

6 A. Pac-Man.

7 Q. You talked to him about playing Pac-Man?

8 A. Uh-huh.

9 Q. In his shop?

10 A. Yep.

11 Q. You asked him if you could -- you could go to
12 his shop and play Pac-Man; is that right?

13 A. That's correct.

14 Q. And what did he say?

15 A. He said, Yeah, it's your game.

16 Q. Did you see him last week?

17 A. Yes, I did.

18 Q. In person, right?

19 A. I did.

20 Q. At his shop?

21 A. Yes.

22 Q. What did you guys talk about?

23 A. I talked about Pac-Man a little bit.

24 Q. Uh-huh. What else?

25 A. And we talked about re -- religion --

1 Q. You talked --

2 A. -- because he -- because he had his priest
3 with him. Imagine that.

4 Sorry. Just answer the question.

5 Q. Did you talk with Mr. Childs and his priest
6 about Mr. Childs' deposition?

7 A. No, we did not.

8 Q. Okay. Did you talk to him last week about his
9 deposition at all?

10 A. I told him that he was going to be called upon
11 for a deposition.

12 Q. And what did he say?

13 A. He wants it referred to his attorney.

14 Q. Did he ever tell you that he wouldn't lie
15 under oath for you?

16 A. Oh, he's said that many times.

17 Q. Have you asked him to lie under oath for you?

18 A. Never. That's absurd.

19 Q. All right. Tell me a little bit more about
20 where it was that you performed the ten forty-seven two
21 hundred score.

22 A. It was in Fort Lauderdale, it's Arcade Game
23 Sales. It's basically ground zero for me when I want
24 to try to learn or play.

25 MR. ELLROD: You've answered.

1 BY MR. TASHROUDIAN:

2 Q. So you performed the score inside the shop?

3 A. That is correct.

4 Q. Okay. Where inside the shop did you perform
5 the score?

6 A. Inside the shop.

7 Q. Okay. Describe the shop for me.

8 A. The current shop?

9 Q. The shop -- describe how the shop was
10 organized when you performed your score in 2004
11 December.

12 A. There's games everywhere. There's a
13 technician or two that restores games and people come
14 in looking to buy games.

15 Q. Okay. Now, where in the shop did you perform
16 the score?

17 A. On the Donkey Kong machine.

18 Q. Where was the Donkey Kong machine located?

19 A. (No oral response.)

20 MR. ELLROD: On the right; on the left; in the
21 back; in the front?

22 THE WITNESS: If you come in the front, it
23 would be towards the right. If you came in the
24 back, it would be towards the left.

25 BY MR. TASHROUDIAN:

1 Q. Okay. So it was towards the front. If you
2 walk in the front it would be towards the right; is
3 that correct?

4 A. That's correct.

5 Q. Okay. Did you play on a -- on a cabinet?

6 A. It was a Donkey Kong cabinet.

7 Q. Okay. How did it look; can you describe it to
8 me?

9 A. It looks like a Donkey Kong, it looks like a
10 Nintendo. If you can show me a picture I could say
11 that's it exactly.

12 Q. You're pretty familiar with Donkey Kong
13 cabinets, right?

14 A. You bet.

15 Q. Do they all look different?

16 A. Nope.

17 Q. All the same?

18 A. They all look similar.

19 Q. Similar. What's the differences between them?

20 A. They get beat up over time.

21 Q. Aside from that?

22 A. Nothing.

23 Q. What color is the cabinet?

24 A. Sometimes blue, usually blue, sometimes red.

25 Q. And that's how you can tell it's an original

1 Donkey Kong cabinet?

2 A. They're both original.

3 Q. Okay. With the blue or red?

4 A. That is correct.

5 Q. Okay. What color -- how many buttons does it
6 have?

7 A. One, two, three and a joystick.

8 Q. What color are the buttons?

9 A. You can make the buttons any color you want.

10 Q. What about an original Donkey Kong, what
11 color?

12 A. Blue and red.

13 Q. And red. What about the joystick?

14 A. Black top.

15 Q. I'm sorry?

16 A. Black top.

17 Q. What does that mean?

18 A. Joystick, black top.

19 Q. Is it always a black top?

20 A. Never seen anyone look -- oh, no, I have seen
21 other ones. I never played on one other than a black
22 top.

23 Q. What other color tops do they have?

24 A. White.

25 Q. What about -- what other color aside from

1 white?

2 A. I don't really think I've seen a color other
3 than those, no.

4 Q. So white or black?

5 A. Yeah. Again, almost always black.

6 Q. And the -- the buttons are sometimes blue,
7 sometimes red?

8 A. Player one and two are normally blue. The
9 other one's normally red. The buttons wear out, they
10 break, they may change them.

11 Q. The black and white joy sticks are four-way?

12 A. They're both four-way. What color top it has
13 doesn't determine that.

14 Q. Are there any eight-way joy sticks?

15 MR. ELLROD: For Donkey Kong?

16 BY MR. TASHROUDIAN:

17 Q. For Donkey Kong.

18 A. There's not supposed to be.

19 Q. Have you ever seen one?

20 A. Yes.

21 Q. How do those look?

22 A. They look the same.

23 Q. What color?

24 A. Same.

25 Q. Black?

1 A. Yes.

2 Q. White?

3 A. Yes.

4 Q. Red?

5 A. Any color.

6 Q. Would you consider yourself to be an expert in
7 Donkey Kong, the game?

8 A. Game play?

9 Q. Yeah.

10 A. Yeah.

11 Q. What about Donkey Kong cabinets, would you
12 consider yourself to be an expert on those?

13 A. On a cabinet, the wood?

14 Q. Well, the housing for the game.

15 MR. ELLROD: Objection, vague as to an expert
16 on --

17 THE WITNESS: Yeah.

18 MR. ELLROD: You mean how they're constructed,
19 what they're made of?

20 By MR. TASHROUDIAN:

21 Q. How they look.

22 MR. ELLROD: How they look?

23 BY MR. TASHROUDIAN:

24 Q. Yeah. An expert on how those original Donkey
25 Kong cabinets look, would you consider yourself --

1 A. Would I recognize something that's different,
2 is that your question?

3 Q. Yes.

4 A. Yes, I would.

5 Q. My question, though, is a little bit
6 different.

7 Would you consider yourself to be an expert on
8 the way an original Donkey Kong arcade cabinet looks?

9 MR. ELLROD: I'll object, it's vague as to if
10 that's even an area of expertise.

11 But you can answer, if you have an opinion.

12 THE WITNESS: I don't know what you're
13 referring to, aesthetics?

14 BY MR. TASHROUDIAN:

15 Q. Yeah, aesthetics, the way it looks, the colors
16 of the joystick, the colors of the buttons, the colors
17 of the cabinet itself.

18 A. Well, we can talk about this all day, yeah.

19 Q. So, yes, you are an expert; is that correct?

20 A. No. I think I am an expert enough. I think I
21 can recognize it.

22 Q. Have you ever accused anyone of using an
23 eight-way joystick to achieve their scores?

24 A. Accuse somebody, no.

25 Q. What about Steve Wiebe?

1 A. No. I didn't have to accuse him. He
2 acknowledged that he used a three -- eight-way
3 joystick.

4 Q. Where did he use the eight -- eight-way
5 joystick?

6 A. He said it was in his home.

7 Q. On a machine, on a Donkey Kong machine?

8 A. I wasn't there.

9 Q. Have you seen the machine that he used the
10 eight-way joystick on?

11 A. No, I've never seen his joystick.

12 Q. Never seen. Was that machine in the King of
13 Kong movie?

14 A. I didn't -- I've never seen the movie.

15 Q. You've never seen the movie?

16 A. Never seen it. How about that.

17 Q. Is that right?

18 A. Absolutely.

19 Q. That's interesting.

20 A. No, I've never seen it.

21 Q. You're the star of that movie, though, aren't
22 you?

23 A. You betcha.

24 Q. Have you seen a copy of the -- of the DVD
25 itself?

1 A. Have I watched a copy, never.

2 Q. Have you seen a copy of the DVD?

3 A. Yes.

4 Q. But you've never seen --

5 A. Oh, that machine?

6 Q. Yes.

7 A. You're talking about the DVD; I'm sorry, I'm
8 hustling you along?

9 Q. No, you're not hustling me along.

10 My question is have you seen the machine that
11 Steve's Wiebe was accused of cheating on as it's
12 portrayed in the movie?

13 A. Have I seen that machine, no, never.

14 Q. And you've never seen the movie?

15 A. Never seen the movie.

16 Q. Do you know if any of your -- any footage from
17 any of your scores was portrayed in the movie?

18 A. They say that it was.

19 Q. Who's they?

20 A. No. If you're asking me do I know, no, I
21 don't know. But go back to that question. Sorry, I've
22 run off base a little.

23 Q. So you don't know if any of your Donkey Kong
24 footage was used in the movie?

25 MR. ELLROD: Objection. He's testified he

1 never saw the movie. That would be -- calls for
2 speculation.

3 BY MR. TASHROUDIAN:

4 Q. My question is a little bit different.

5 Do you know if any of your --

6 A. I would only know if I saw the movie.

7 Q. Did anyone ask you whether or not they could
8 use any footage from your scores in the -- in the -- in
9 the Donkey Kong movie?

10 A. Did they ask me?

11 Q. Yeah.

12 A. No.

13 Q. No one asked you?

14 A. No one asked me.

15 Q. Did you ever appear at a screening for the
16 movie?

17 A. Did I ever appear at a screening for?

18 Q. Yeah, the Donkey Kong movie -- the King of
19 Kong movie.

20 A. Never.

21 Q. Is there a reason you didn't watch the movie?

22 A. I don't -- I'm sorry.

23 Q. Is there a reason that you didn't watch the
24 movie?

25 A. Yeah.

1 Q. And what's the reason?

2 A. I don't -- I don't watch the movies I'm in.

3 That -- that includes other movies as well.

4 Q. Which movies have you been in that you haven't
5 watched?

6 A. Jason Ghost.

7 Q. What else?

8 A. Frage.

9 Q. What else?

10 A. Fiddling Horse.

11 MR. ELLROD: What was that, I'm sorry?

12 THE WITNESS: Fiddling Horse.

13 Boy, I'm told that I'm in Nintendo Quest. I
14 -- I -- I don't know. Those are the ones that come
15 to mind.

16 BY MR. TASHROUDIAN:

17 Q. So you were told that you were in Nintendo
18 Quest; what is Nintendo Quest?

19 A. I don't know.

20 Q. You have no idea what it is?

21 A. It's a movie.

22 Q. Who told you that you were in Nintendo Quest?

23 A. Various people. I'm in there for five
24 seconds.

25 Q. Who were the various people that told you

1 that?

2 A. Well, Walter Day told me that.

3 Q. And who else?

4 A. Richie Knucklez told me that.

5 Q. Anyone else?

6 A. No. Those are the two that come to mind.

7 Q. All right. So we were talking about whether
8 or not you've ever accused anyone of using an eight-way
9 joystick and you said that you -- you haven't?

10 A. I haven't, no.

11 Q. Who accused Steve Wiebe of using a eight-way
12 joystick?

13 MR. ELLROD: Objection, calls for speculation.

14 You can answer, if you know.

15 THE WITNESS: Don't know. Don't know where --
16 I don't know where the original accusation came
17 from.

18 BY MR. TASHROUDIAN:

19 Q. But he was accused, right?

20 A. I don't know if he was accused. I know he
21 acknowledged it.

22 Q. All right. We're still on special inter --
23 interrogatory number 40. Can you pull that back up? I
24 think you just enter the passcode 0000

25 MR. ELLROD: I'm freezing.

1 BY MR. TASHROUDIAN:

2 Q. It says here, in response to special
3 interrogatory number 40, lines 14 through 15, Because
4 responding party had sought a method of direct capture
5 for his game play as it offered a higher quality
6 viewing experience, responding party requested them to
7 set up a Donkey Kong machine with a direct capture
8 setup inside Arcade Game Sales.

9 All right. Who is them?

10 A. I've got to understand the question.

11 MR. ELLROD: Just read the full response and
12 see if that tells you.

13 THE WITNESS: Is the question who asked Arcade
14 Game Sales to set that up?

15 BY MR. TASHROUDIAN:

16 Q. Oh, that's a bad question. Let -- let's start
17 over.

18 A. Yeah.

19 Q. You had asked Robert Childs and James Anthony
20 to set up a direct feed for you in Arcade Games Sales,
21 right?

22 A. I asked Robert Childs.

23 Q. Okay. And did he do that?

24 A. Yes.

25 Q. Did you see how he did that?

1 A. No.

2 Q. How does a direct feed work; do you know?

3 A. How does it work?

4 Q. Yes, how does it work?

5 A. No, I don't know.

6 Q. Okay. What parts are necessary to perform a
7 direct feed recording?

8 A. Well, I don't understand it at all, but I know
9 you have to have a direct feed capture device, which is
10 what I purchased.

11 Q. You purchased that device?

12 A. I did.

13 Q. Okay. And is -- where is that device
14 installed?

15 A. You mean today?

16 Q. No. Just generally in a Donkey Kong machine
17 in order to perform a direct feed capture?

18 A. It's in the back of the machine and it runs a
19 signal out to VCR or TV.

20 Q. Is the direct capture board installed on the
21 PCB?

22 A. I -- I mean, I don't know how.

23 Q. Have -- have you seen one installed onto a PCB
24 before?

25 A. If I told you how it was installed --

1 MR. ELLROD: Answer it. That's a yes --

2 THE WITNESS: No.

3 MR. ELLROD: -- or no question.

4 THE WITNESS: I don't know.

5 BY MR. TASHROUDIAN:

6 Q. So you've never seen a PCB with a direct
7 capture feed board installed?

8 A. I've seen a direct feed in the machine.
9 Exactly how it's installed, I don't know.

10 Q. Have you seen anyone install a PCB directly
11 into a machine?

12 A. Have I seen them do it, no, I haven't.

13 Q. Never?

14 A. I've never seen them do it.

15 Q. Do you know if it's a difficult process?

16 A. For me it's impossible.

17 Q. Was there anyone witnessing your
18 1,047,200 score performance?

19 A. There would have been the people who were
20 working at the time. There was only a small amount of
21 people there.

22 Q. So who?

23 A. Likely, a guy named Scott Richie. Possibly
24 Matt Frugal; I don't know that for sure. Possibly Rob
25 Childs. Possibly the people who were in there at the

1 time.

2 Q. So how many people do you think were in there
3 at the time?

4 A. Not more than half a dozen.

5 Q. How long did it take you to achieve that
6 score?

7 A. It's a little over three hours.

8 Q. Three hours to achieve a million score?

9 A. Yeah.

10 Q. Million point score?

11 A. Normally. Close to three hours. If you drag
12 it out it's three, if you go faster it's less.

13 Q. What's the fastest time you can score a
14 million points?

15 A. I don't know.

16 Q. What about for yourself, what's the fastest
17 time you've ever scored a million points?

18 A. I don't know.

19 Q. Can you give me an estimate of the fastest
20 time you scored a million points?

21 A. More than two and a half hours, under three.

22 Q. Definitely not an hour, though, right?

23 A. An hour?

24 Q. Yeah.

25 A. No.

1 Q. That would be impossible?

2 A. Yeah.

3 Q. You say possibly Rob Childs witnessed the
4 score. Why do you say possibly Rob Childs?

5 A. Because he's in and out.

6 Q. Did you tell him that you had achieved the
7 1,047,200 score?

8 A. At the time I'm sure I did.

9 Q. Was he in the -- in the office when you said
10 that -- or in Arcade Game Sales when you said that to
11 him?

12 A. Yes, he would have been in and out. It is
13 impossible to capture his attention.

14 Q. Did you call him over to -- to take a look at
15 the screen when you achieved your score?

16 A. I don't -- I don't recall.

17 Q. Was that the first million point score you've
18 ever made?

19 A. No.

20 Q. Second?

21 A. No.

22 Q. Third?

23 A. I don't know.

24 Q. How many million point Donkey Kong scores did
25 you have as of December 28, 2004?

1 A. Maybe four or five.

2 Q. Four or five of them?

3 A. Yeah.

4 Q. Were any of those scores submitted to Twin
5 Galaxies as a world record?

6 A. Initially I sent a score to be viewed that was
7 a million fourteen and -- but because it was not a live
8 score, I actually told them, I said, you know, I don't
9 want you to print it. I don't want you to do this, I
10 just want to show it to you.

11 Q. And that was a direct quote?

12 A. Because he did a comparison.

13 Q. Who did a comparison?

14 A. Robert did.

15 Q. Of what?

16 A. Of score pace.

17 Q. Between you and Steve Wiebe?

18 A. Yeah.

19 Q. And what was that comparison for?

20 A. To entertain him.

21 Q. Do you know if that million fourteen score was
22 ever accepted by Twin Galaxies as a world record?

23 A. No. I never asked it to be.

24 Q. What about the ten forty-seven two hundred --
25 excuse me -- two hundred score, did you ever request

1 that be acknowledged as a world record?

2 A. I did not.

3 Q. Is it a -- was it a world record at the time?

4 A. Yeah, it would have been.

5 Q. But you've never asked anyone at Twin Galaxies
6 to -- well, strike the question.

7 You never submitted that score performance as
8 a world record; is that right?

9 A. I did not.

10 Q. Okay. Was it ever a world record on Twin
11 Galaxies leaderboards for Donkey -- for Donkey Kong
12 arcade?

13 A. Yes, they did put it up.

14 Q. Who put it up?

15 A. Robert did.

16 Q. Robert Mruzczek?

17 A. Yeah.

18 Q. When did he put it up?

19 A. I don't know when he put it up, but it was a
20 long time after. It was first seen at Fun Spot, when
21 they did the movie. And it was a long while after
22 that, a long time, at least six months.

23 Q. It was first seen at Fun Spot during the
24 movie; how do you know that?

25 A. Because I would very often send video tapes to

1 Brian Coo (phonetic) who would watch them and enjoy
2 them and he asked me if it was okay to show the movie
3 in -- in the cabin.

4 Q. What cabin?

5 A. The cabin that they stay at at night. When
6 they're at the competition, group of people, when the
7 arcade closes they go to the cabin. So they show the
8 film for the purpose of -- excuse me -- he showed it
9 for the purpose of entertainment and the film crew was
10 there.

11 Q. The film crew for?

12 A. King of Kong.

13 Q. How do you know a film crew was there?

14 A. Because they were calling me.

15 Q. Who was calling you?

16 A. Other players.

17 Q. And what were they telling you?

18 A. We're in the cabin, we're watching this tape.

19 Gee, it's fun. The film crew is there.

20 They wanted me to go to Fun Spot but I
21 couldn't go.

22 Q. Do you know if that -- the tape of your ten
23 forty-seven performance was also displayed at Fun Spot?

24 A. Yes, it was.

25 Q. And when was that?

1 A. Well, it was in the cabin, in the cabin and
2 then at Fun Spot.

3 Q. So two times in the cabin?

4 A. Yeah. Well --

5 Q. Why?

6 A. A third, a third and a final third at Fun
7 Spot.

8 Q. Did you instruct anyone to only watch a third
9 per night?

10 A. No. That was Brian's decision. He thought
11 people would fall asleep for a three-hour.

12 Q. Did he tell you that?

13 A. I remember him saying something to that
14 effect.

15 Q. So I just want to get this straight. You
16 never intended that the ten forty-seven two
17 hundred score be a world record; is that right?

18 MR. ELLROD: It's a yes or no question.

19 THE WITNESS: It's a bigger answer.

20 No.

21 BY MR. TASHROUDIAN:

22 Q. So you never intended. So what's the bigger
23 answer?

24 A. It was very complicated with the film crew,
25 that's all.

1 Q. Why was it complicated with the film crew?

2 A. Because they captured it on film, or captured
3 some of it, and later on Robert decided to put it up.

4 Q. Did you ever tell Robert to take it down
5 because you didn't intend it to be a world record?

6 A. I don't think so.

7 Q. You saw it as a world record, though, didn't
8 you?

9 A. No, I didn't go on the website.

10 Q. You've never been on the website to determine
11 --

12 A. I've never been on Twin Galaxies website; how
13 about that?

14 Q. You've never been?

15 A. Never.

16 Q. Have you ever seen the Twin Galaxies score
17 board?

18 A. No.

19 Q. For the Donkey Kong Arcade?

20 A. No. That would be on the website, wouldn't
21 it?

22 Q. I'm asking you, have you ever seen that
23 scoreboard?

24 A. No.

25 Q. Did you ever know whether or not you held any

1 world record with Twin Galaxies?

2 A. Oh yeah.

3 Q. How'd you know that?

4 A. Simply talking.

5 Q. Talking to who?

6 A. Any player.

7 Q. Which players?

8 A. Walter Day.

9 Q. So you talked to Walter Day about your scores
10 on Twin Galaxies website leaderboards?

11 A. I'm sure I did at times.

12 Q. And he told you you held world records; is
13 that right?

14 A. He didn't have to tell me.

15 Q. So how did you know?

16 A. No, he never said, You hold the world record.

17 Q. Okay. Did you know you had a world record in
18 Donkey Kong ever?

19 A. Yes, I did.

20 Q. How'd you know that?

21 A. Wow, this is really a question, but I'll
22 answer it.

23 When I set a score and it's the world record,
24 the second somebody beats it, the communication comes
25 roaring in.

1 Q. But you've never seen a Twin Galaxies Donkey
2 Kong Arcade scoreboard; is that right?

3 A. No, that's not right.

4 Q. Oh, have you seen a scoreboard?

5 A. I'm trying to be honest with you. You're
6 doing a really good job here trick --

7 MR. ELLROD: Answer the question. Don't --
8 don't have --

9 THE WITNESS: Have I ever gone on the website
10 to see it, never. Have I been somewhere where a
11 fellow player pulls it up and I've seen it, yeah,
12 I've seen it.

13 BY MR. TASHROUDIAN:

14 Q. Okay. When -- when -- when was that?

15 A. I don't know.

16 Q. Where was that?

17 A. I don't know.

18 Q. How many times did that occur?

19 A. Handful of times.

20 Q. More than five?

21 A. Don't know.

22 Q. What years?

23 A. Don't know.

24 Q. Prior to 2008 at all? 2018, I'm sorry, prior
25 to 2018 at all?

1 A. Yes.

2 Q. In 2018 did you understand that you held any
3 world records in the Donkey Kong game?

4 A. No, I didn't understand that I did because I
5 didn't.

6 Q. You didn't hold any world records?

7 A. No.

8 Q. What about any rankings on the Twin Galaxies
9 leaderboard, did you understand that you held any
10 rankings there?

11 A. I was told that.

12 Q. And who told you that?

13 A. I don't know.

14 Q. What scores were ranked on leaderboard?

15 A. What score was there?

16 Q. Yeah, what scores were ranked?

17 A. First of all, there's only one score ranked.
18 When you beat that score, your other scores fall off,
19 I'm told. So the one score that would have been there
20 in 2018 would have been a million sixty-two.

21 Q. And that's your Boomers score?

22 A. Yes.

23 Q. And you performed that at the Boomers Arcade,
24 right?

25 A. That's correct.

1 Q. Yeah. And Todd Rogers was there?

2 A. He was, he was there, yes.

3 Q. He adjudicated it?

4 A. He was one of the adjudicators, correct.

5 Q. Is this the -- is this the incident where the
6 fake board swap video occurred?

7 A. Afterwards it occurred, yes.

8 Q. What do you mean afterwards?

9 A. Afterwards.

10 Q. So there was a fake board swap video?

11 A. Long -- not by me, but long afterwards, after
12 the game was over.

13 Q. Robert Childs pretended to swap boards?

14 A. He did.

15 Q. Okay. But that never occurred, did it?

16 A. I just said it occurred.

17 MR. ELLROD: Vague as to what never occurred?

18 MR. TASHROUDIAN: Yeah. Bad question. We'll
19 strike the question.

20 BY MR. TASHROUDIAN:

21 Q. Has anyone ever confronted you about the fake
22 board swap video?

23 A. Clarify the question?

24 Q. The question is has anyone ever confronted you
25 about the fake board swap video?

1 A. More detail?

2 Q. Apollo Legend, do you know who that is?

3 A. Oh, yes, I do.

4 Q. Okay. Has he ever confronted you about the
5 fake board swap video?

6 A. Like this, no, not that I'm aware.

7 MR. TASHROUDIAN: We've been on for an hour
8 fifteen. Madam Reporter, are you okay, you want to
9 take a quick break? Okay. How about five. Yeah?
10 Very good.

11 THE VIDEOGRAPHER: Okay. It's 11:12. We are
12 going off the record.

13 (Recess was had at 11:12 a.m., resuming at
14 11:23 a.m.)

15 THE VIDEOGRAPHER: Okay. It's 11:23. We're
16 back on the record.

17 MR. TASHROUDIAN: Madam Reporter, would you
18 please read back the last question and answer.

19 (Portion of the record was read.)

20 BY MR. TASHROUDIAN:

21 Q. So we were talking about Apollo Legend; do you
22 recall that?

23 A. I recall that.

24 Q. Yeah. Has he ever confronted you about the
25 fake board swap video?

1 MR. ELLROD: I think that's exactly the last
2 question that she read back.

3 BY MR. TASHROUDIAN:

4 Q. That's no?

5 A. I don't believe so.

6 Q. Yeah. What about February 2018, did he ever
7 confront you about the fake board swap video?

8 A. Oh, he showed up at an event that I was at in
9 costume, and he watched me play Donkey Kong.

10 Q. Did he ever mention the fake board swap video
11 to you?

12 A. I have no idea because I didn't know it was
13 him.

14 Q. What -- what about the person in costume, did
15 he ever confront you about the fake board swap video?

16 A. I don't recall. He -- he asked me if I was
17 playing MAME.

18 Q. And what did you say?

19 A. No. And I invited him around to look at the
20 machine.

21 THE WITNESS: You were right, I should have
22 just said no.

23 BY MR. TASHROUDIAN:

24 Q. Did you sue Apollo Legend ever?

25 A. Actually sue him, serve him?

1 Q. Yeah.

2 A. No.

3 Q. Not sue him, did you ever file a lawsuit
4 against him?

5 A. Let me say it the way I understand it. Yes,
6 we filed paperwork and before anything could commence,
7 he reached out and contacted somebody close to me.

8 Q. Isaiah Triforce Johnson, right?

9 A. (No oral response.)

10 Q. Is that correct?

11 A. You have --

12 MR. ELLROD: Is that yes?

13 THE WITNESS: That's a yes.

14 Sorry. No nodding.

15 BY MR. TASHROUDIAN:

16 Q. What was the paperwork that was filed, sir?

17 A. It was paperwork challenging the accusations
18 that he was making, and the fact that he came into a
19 private event and recorded, that broke various laws. I
20 mean, I don't have it in front of me, but these were
21 the things that we were...

22 Q. Where was the lawsuit filed?

23 A. That was here in Florida, Broward County.

24 Q. Do you have a copy of that lawsuit?

25 A. I do not.

1 Q. Who's the plaintiff?

2 A. The plaintiff would have been William
3 Mitchell.

4 Q. Do you know if you claimed emotional distress
5 damages as a result of the actions that gave rise to
6 that lawsuit?

7 A. I don't recall.

8 Q. What were your claims against Mr. -- it's
9 Benjamin Smith, right, Apollo Legend, Benjamin Smith?

10 A. Yes, I think.

11 Q. What were your claims against him?

12 MR. ELLROD: Objection, relevance.

13 You can answer. Although I think you just
14 did, but.

15 THE WITNESS: Yeah. I think I just did.

16 I mean, he came into an event, he recorded,
17 broke various Florida laws. He obviously lied or
18 manipulated as to what was going on there, or we
19 felt he was going to. And he began to put out that
20 illegal material in a slanderous manner so we filed
21 something.

22 BY MR. TASHROUDIAN:

23 Q. Did you sue him for defamation?

24 A. It would have been defamation.

25 Q. How many people have you sued for defamation

1 in the last five years? People or entities.

2 A. Well, how many people have I --

3 MR. ELLROD: Answer the question. He's asking
4 for a number.

5 THE WITNESS: I have to ask you. Does that
6 mean filed a paperwork or served people, or what
7 does that mean?

8 MR. ELLROD: It means filed lawsuits.

9 THE WITNESS: File paperwork.

10 BY MR. TASHROUDIAN:

11 Q. Yeah.

12 A. One, two, three. One, two, three, oh, four.
13 One in Australia.

14 Q. All right. The first one, who'd you sue for
15 defamation?

16 MR. ELLROD: Objection, relevance.

17 But you can answer.

18 THE WITNESS: Who was I going to sue, my
19 words, Apollo Legend.

20 BY MR. TASHROUDIAN:

21 Q. All right. What about number two?

22 A. Donkey Kong Forums.

23 Q. You also sued Jeff Harrist, though, right?

24 A. Well, that was part of Donkey Kong Forums; he
25 was the owner.

1 Q. And Jeremy Young?

2 A. Part of Donkey Kong Forums. Kind of like
3 Twins Galaxies and Jace Hall.

4 Q. What do you mean by that?

5 A. It means -- it means they're affiliated.

6 MR. ELLROD: Just answer the question.

7 THE WITNESS: I thought I did.

8 BY MR. TASHROUDIAN:

9 Q. What about the third one?

10 A. Karl Jobst.

11 Q. You also sued Twin Galaxies and that's why
12 we're here, right?

13 A. I hope so, yes.

14 Q. Yeah. You sued Twin Galaxies twice, though,
15 didn't you?

16 A. Explain?

17 Q. In two different places?

18 A. Oh, yes.

19 Q. Florida and --

20 A. Yes.

21 Q. -- California?

22 What happened to the Florida case?

23 A. We never served it.

24 Q. Did you try to serve that?

25 A. No.

1 Q. You never tried to serve that?

2 A. Never tried.

3 Q. Why not?

4 MR. ELLROD: Objection, calls for
5 attorney-client privilege; relevance.

6 If you can answer that without revealing
7 conversations or communications you had with your
8 attorneys, then you can answer it, otherwise don't.

9 THE WITNESS: Because everything went well in
10 California.

11 BY MR. TASHROUDIAN:

12 Q. Why did it go well?

13 A. Because we found the attorney, we filed the
14 case, it was a one year statute of limitations, we got
15 in. Florida had two years, so backup.

16 Q. You sued in Florida as a backup?

17 A. Right.

18 Q. Did you ever go to any office in Florida to
19 try to serve Twin Galaxies?

20 A. Never.

21 Q. Did you know that Twin Galaxies had an agent,
22 an agent for service of process here in Florida?

23 A. I do.

24 Q. Who is the agent, do you know?

25 A. No, but it's like Pine Island Road and Sunrise

1 or somewhere.

2 Q. Did you ever go there to try to serve Twin
3 Galaxies?

4 A. Never.

5 Q. Was that Florida case eventually dismissed?

6 A. Yes, it was.

7 Q. When was it dismissed?

8 A. About a year after filing it, about, maybe a
9 little less, like 11 months.

10 Q. How was it dismissed?

11 A. The judge called for a hearing and at the
12 hearing they said you haven't served this yet, and I
13 said no, and I -- I said -- he said, well, he said,
14 I'll dismiss it -- again, I don't want to screw things
15 up, is it without prejudice where you can reopen it if
16 you need to, is that the correct term?

17 MR. ELLROD: Typically.

18 THE WITNESS: So, oh well, I was out of luck.

19 BY MR. TASHROUDIAN:

20 Q. Yeah, during that hearing did you tell the
21 judge you had attempted to serve Twin Galaxies?

22 A. Oh, I had attempted to find the people in this
23 area. I didn't know who they were yet.

24 Q. Did you tell the judge that you attempted to
25 serve Twin Galaxies?

1 A. I don't recall.

2 Q. If I showed you a video recording of that
3 hearing would that refresh your recollection?

4 A. Very much.

5 Q. And if you told the judge that you had been
6 attempting to serve Twin Galaxies, would that be a lie?

7 A. Nope.

8 Q. Why wouldn't it be a lie?

9 A. Because I was trying to find out who their
10 agent was in this area.

11 Q. But you already just -- you just told me you
12 never tried to serve Twin Galaxies; is that correct?

13 MR. ELLROD: I'll object. It's argumentative.
14 It misstates the testimony.

15 THE WITNESS: Yes, it does misstate it.

16 MR. ELLROD: He -- he testified that he was
17 trying to determine who to serve.

18 BY MR. TASHROUDIAN:

19 Q. Did you ever tell the judge that you went over
20 to an office to try to serve Twin Galaxies?

21 A. No.

22 Q. All right. Let's talk about the lawsuit
23 against Donkey Kong Forum, Jeff Harrist and Jeremy
24 Young.

25 A. Yes.

1 Q. What did you sue them for?

2 MR. ELLROD: Object to relevance.

3 You can answer.

4 THE WITNESS: Basically it -- it would be
5 defamation, but my greatest concern was to preserve
6 the paperwork, and if they're under a lawsuit, they
7 wouldn't be able to delete or destroy stuff.

8 BY MR. TASHROUDIAN:

9 Q. Let's go back to the -- the Apollo -- Apollo
10 Legend defamation suit.

11 Did you claim emotional distress damages from
12 the -- the defamatory statements that he made against
13 you?

14 MR. ELLROD: Objection, asked and answered.

15 He said he couldn't recall.

16 BY MR. TASHROUDIAN:

17 Q. Did you suffer any emotional distress damages?

18 MR. ELLROD: Objection, relevance.

19 BY MR. TASHROUDIAN:

20 Q. Did you? Did you suffer any emotional
21 distress damages from the defamation that Apollo Legend
22 performed?

23 MR. ELLROD: Objection, relevance. Calls for
24 expert testimony, but you can answer if you have a
25 feeling about it.

1 THE WITNESS: There's a tremendous amount of
2 emotional distress, okay, but it started -- begins,
3 ends, and is primarily Twin Galaxies.

4 BY MR. TASHROUDIAN:

5 Q. My question's a little bit different.

6 MR. ELLROD: It is.

7 Listen to the question, answer only the
8 question.

9 THE WITNESS: Okay.

10 BY MR. TASHROUDIAN:

11 Q. Did you suffer any emotional distress from the
12 defamatory statements made by Apollo Legend?

13 A. I'm sure.

14 Q. So that's yes?

15 A. A small -- yes.

16 Q. Now, what about the Donkey Kong Forum, did you
17 -- what about -- Well, let's strike that.

18 Do you contend -- Let's strike that as well.

19 Did you claim any emotional distress damages
20 in your defamation suit against the Donkey Kong Forum,
21 Jeff Harrist and Jeremy Young?

22 A. Yes.

23 MR. ELLROD: Objection, relevance.

24 You can answer.

25 THE WITNESS: Yes.

1 BY MR. TASHROUDIAN:

2 Q. That's a yes?

3 A. Yes.

4 Q. Now, what about the defamation suit against
5 Karl Jobst, did you claim any emotional distress
6 damages in that suit also?

7 MR. ELLROD: Same objection.

8 THE WITNESS: So I should skip the answer?

9 MR. ELLROD: No, no. You can answer if you
10 know. It's just not relevant, but answer.

11 THE WITNESS: Yes.

12 BY MR. TASHROUDIAN:

13 Q. Is there any way for you to parse out the
14 emotional distress damages that you incurred --

15 A. That's so vague I --

16 Q. -- between the four of these lawsuits?

17 MR. ELLROD: Objection, calls for speculation,
18 lacks foundation, calls for expert opinion.

19 You can answer if you feel like you can
20 segregate what distress you experienced from one
21 defamation situation versus another.

22 THE WITNESS: I can't, not here, no.

23 BY MR. TASHROUDIAN:

24 Q. So they all sort of meld together, right?

25 MR. ELLROD: Same objection.

1 BY MR. TASHROUDIAN:

2 Q. Is that correct?

3 A. No, I'm sure that's not correct.

4 Q. Well, I'm asking you. Is all of this
5 defamation or all of the -- Let's strike the question.

6 A. Good.

7 Q. Are all of the emotional distress damages that
8 you suffer from these various acts of defamation --
9 Well, you know, let's strike the question; it's a bad
10 one.

11 MR. ELLROD: No commentary.

12 BY MR. TASHROUDIAN:

13 Q. No commentary is commentary, though.

14 A. Yeah. I'm picking on him, actually.

15 Q. What did you sue the Donkey Kong Forum for?

16 MR. ELLROD: Objection, relevance, but you can
17 summarize.

18 THE WITNESS: Yeah, why don't they just read
19 the suit?

20 MR. ELLROD: Answer the question. Don't --

21 THE WITNESS: Okay.

22 BY MR. TASHROUDIAN:

23 Q. Yeah, what did you sue Jeff Harrist, Jeremy
24 Young and Donkey Kong Forum for?

25 A. Okay, falsification.

1 Q. What does that mean?

2 A. Lying.

3 Q. Lying about what?

4 A. Lying about the facts.

5 Q. What facts?

6 A. About my scores.

7 Q. Which scores?

8 A. The Donkey Kong scores.

9 Q. Which ones?

10 A. There was a million sixty-two, a million fifty
11 and a million forty-seven.

12 Q. How did they lie?

13 A. They lied saying that I played on MAME.

14 Q. You never played on MAME, though, did you?

15 A. You're right, I did not. You're correct.

16 Q. Is that the same claim that you're mak --
17 making against Twin Galaxies?

18 A. That is absolutely correct.

19 Q. So the two claims are the same, right?

20 MR. ELLROD: I'll object. It calls for
21 speculation, lacks foundation, and needs expert
22 opinion.

23 But you can answer if you have an opinion
24 whether they're identical claims.

25 THE WITNESS: No, they're not quite identical

1 but.

2 BY MR. TASHROUDIAN:

3 Q. What's the difference between them?

4 MR. ELLROD: Same objection.

5 THE WITNESS: Yeah, we'll skip that question
6 because --

7 MR. ELLROD: No, you can't.

8 THE WITNESS: No, I -- I don't mean that.

9 You've got to give me a better question.

10 BY MR. TASHROUDIAN:

11 Q. Yeah. What's the difference between the
12 claims that you made against Donkey Kong Forum versus
13 the claims you're making against Twin Galaxies?

14 A. Well, Donkey Kong Forum's basically talked
15 about the scores and that's what they did.

16 What Twin Galaxies did was far greater and the
17 damage they inflicted and lies they perpetuated, okay,
18 exacerbated the situation beyond anything you can
19 imagine.

20 Q. Well, Jeff Harrist and Jeremy Young in the
21 Donkey Kong Forum essentially said that your scores
22 weren't -- or the videotape recordings of your scores
23 weren't from an original arcade machine, right?

24 A. Correct.

25 Q. And that's the basis for your claim?

1 A. Well, that's, yeah, that would be where they
2 began.

3 Q. Okay. And is that the same basis as the
4 claims you're making against Twin Galaxies?

5 MR. ELLROD: Objection, same objection.

6 You can answer if you have an opinion.

7 THE WITNESS: I don't have an opinion.

8 BY MR. TASHROUDIAN:

9 Q. What about Karl Jobst, why are you suing him?

10 A. Karl Jobst has nothing to do with video games.
11 He's being sued because he's blaming the death of an
12 individual, Apollo Legend, on me.

13 Q. And you're suing him for defamation for making
14 that claim?

15 A. That's correct. It has nothing to do with
16 video games.

17 Q. Has that case resolved?

18 A. No.

19 Q. Has the Apollo Legend matter resolved?

20 A. Very favorably, yes.

21 Q. For you?

22 A. No, for all of us.

23 Q. Because he died?

24 A. No. Stupid question.

25 MR. ELLROD: Let's go off the record for a

1 second.

2 THE COURT: One second. It's 11:38. We are
3 going off the record.

4 (Recess was had at 11:38 a.m., resuming 11:43
5 a.m.)

6 THE VIDEOGRAPHER: Okay. It's 11:43. We're
7 back on the record.

8 BY MR. TASHROUDIAN:

9 Q. All right. We were talking about the
10 resolution of the matter with Apollo Legend; do you
11 recall that?

12 A. I do.

13 Q. How did that matter resolve?

14 A. It was settled out of court.

15 Q. Via settlement agreement?

16 A. Yes.

17 Q. All right. Have you produced a copy of that
18 settlement agreement?

19 MR. ELLROD: If you know.

20 THE WITNESS: I don't know.

21 BY MR. TASHROUDIAN:

22 Q. All right. What were the terms of the
23 settlement agreement?

24 MR. ELLROD: I'm going to object, I --

25 THE WITNESS: Yeah.

1 MR. ELLROD: -- on the ground that I think the
2 settlement agreement is confidential.

3 MR. TASHROUDIAN: We can mark this portion of
4 the deposition as confidential if you'd like.

5 MR. ELLROD: I don't think it's relevant. I
6 don't -- I don't think we want to talk about it.
7 I'll instruct him not to answer. He'd be in
8 violation of the -- of the settlement agreement.

9 BY MR. TASHROUDIAN:

10 Q. Well, let me ask you this: Did Mr. Legend
11 turn over any ownership to any videos to you by reason
12 of that settlement agreement?

13 MR. ELLROD: You can ask him if he turned over
14 ownership, but not as it relates to the settlement
15 agreement.

16 MR. TASHROUDIAN: Okay.

17 BY MR. TASHROUDIAN:

18 Q. Do you own any rights in any videos that
19 Apollo Legend made?

20 MR. ELLROD: You can answer that.

21 THE WITNESS: Yes.

22 BY MR. TASHROUDIAN:

23 Q. What videos?

24 A. I don't know how to describe the videos.
25 Basically the videos that included me.

1 Q. How many -- how many videos are those?

2 A. Handful of them.

3 Q. Handful?

4 A. Less than ten, more than three.

5 Q. Where were those videos taken?

6 A. The only one I know where it was taken was
7 when he dressed up as me.

8 MR. ELLROD: Where? Where is the question.

9 THE WITNESS: Yeah. In Arcade Game Sales.

10 MR. ELLROD: Okay.

11 THE WITNESS: The other ones I don't know.

12 BY MR. TASHROUDIAN:

13 Q. What -- can you describe the other ones to me?

14 A. No.

15 Q. Have you seen them?

16 A. No.

17 Q. You've never seen them?

18 A. I haven't seen them in-depth, no.

19 Q. Have you seen them at all?

20 A. Clips of them, yes.

21 Q. Okay. Can you describe the clips that you've
22 seen?

23 A. Talked about playing MAME, talked about him
24 being encouraged by Jace to sue me. And he said he
25 felt he was being used by Jace.

1 Q. He's never sued you, though, has he?

2 A. Well, from what I understand he did a Go Fund
3 Me, he collected money to sue me and he contacted you.
4 And you told him he didn't have a case. That's what he
5 told me.

6 MR. ELLROD: The question, by the way, was
7 whether or not he sued you.

8 THE WITNESS: I don't know.

9 MR. ELLROD: So -- I know, but what I'm
10 telling you is listen to the question and answer
11 the question.

12 THE WITNESS: Oh.

13 BY MR. TASHROUDIAN:

14 Q. You say --

15 A. He --

16 MR. ELLROD: You've answered.

17 THE WITNESS: Yeah.

18 BY MR. TASHROUDIAN:

19 Q. You say you have ownership of videos from the
20 night that he showed up at Arcade Game Sales, right?

21 A. I don't know if that's one of the videos. My
22 son is the one who handles the custodial portion of
23 that.

24 Q. So he has those videos?

25 A. Per he has the rights to those videos, yes.

1 Q. Do you have the rights to those videos?

2 A. Okay. I'm trying to answer you honestly. Are
3 they in my name but he controls them, I believe that's
4 the case.

5 Q. Yeah. So if I asked you for a copy of the
6 videos from Arcade Game Sales, would you be able to
7 produce --

8 A. No.

9 Q. -- produce those to me?

10 A. No.

11 Q. Why not?

12 A. I wouldn't even know how to get them. I'd
13 have to go through my son.

14 Q. So you can ask him, though, he's your son, to
15 produce those videos to you, right?

16 A. That particular one, I don't know.

17 Q. Can you describe that video for me?

18 A. I was playing Donkey Kong and there was no
19 room. I was like at the -- like at the end of a hall,
20 but it was -- it was a door. So nobody was on that
21 side, everybody was behind me watching on the monitor
22 above and they informed me that somebody was here
23 dressed as me, which is very common, very common.
24 There was another guy, another -- a little kid.

25 MR. ELLROD: Okay, keep going.

1 THE WITNESS: When I finished the game I
2 immediately got up and sought him out, which wasn't
3 hard, he was standing right behind me, to say
4 hello, and shake his hand, and that's what
5 happened.

6 BY MR. TASHROUDIAN:

7 Q. Did he ask you about the dispute concerning
8 your scores?

9 A. I don't recall him asking that. I do recall
10 him asking about the machine and I took him around and
11 he looked in the back of the machine.

12 Q. Did you ever point to Carlos Pineiro while you
13 were talking to Apollo Legend?

14 A. I don't believe so, but -- or maybe I did, but
15 Carlos was seated behind me as well.

16 Q. Why was Carlos there?

17 A. Carlos was very much an enthusiast, interested
18 in everything going on there. He was offering his
19 opinions.

20 Q. Opinions about what?

21 A. About game play.

22 Q. Whose game play?

23 A. Mine.

24 Q. To who?

25 A. To whoever would listen.

1 Q. Did you ever tell Apollo Legend that Mr.
2 Pineiro has the answers concerning the dispute about
3 your Donkey Kong scores?

4 A. I don't recall.

5 Q. Do you have a Skype account?

6 A. Do I?

7 Q. Yeah.

8 A. No.

9 Q. Have you ever had a Skype account?

10 A. Never.

11 Q. Do you receive phone calls on Skype?

12 A. I wouldn't know. How do you tell a Skype call
13 from another one?

14 Q. Has Isaiah Triforce ever called you through
15 Skype?

16 A. He probably has.

17 Q. Yeah. And how do you know it comes through
18 Skype?

19 A. Because I think he typically places calls
20 through Skype.

21 Q. And it comes directly to your cell phone?

22 A. Or wherever I am.

23 Q. Where else would it come through if not your
24 cell phone?

25 A. I could be seated at a desk.

1 Q. So your desk phone?

2 A. Yeah, that could be.

3 Q. Is that a landline?

4 A. Yes, it is.

5 Q. In your office?

6 A. Yes.

7 Q. So has Isaiah ever called your office land
8 line?

9 A. Yes.

10 Q. Through Skype?

11 A. Yes.

12 Q. And how do you know he was calling through
13 Skype?

14 A. Well, I think he doesn't have a cell phone, so
15 I shouldn't be guessing that he's using Skype.

16 Q. Have you called Mr. Hall with Isaiah Triforce
17 Johnson through Skype?

18 A. Yes.

19 Q. How many times?

20 A. More times than I can fill my fingers. A lot.

21 Q. How did you make those calls?

22 A. He calls me, then he does a three way call.

23 Q. To Jace Hall?

24 A. If we're calling Jace Hall he calls Jace Hall.

25 Q. So Isaiah Triforce would call Jace Hall

1 through Skype?

2 A. You'd have to ask Isaiah.

3 (Jason Hall entered the deposition room.)

4 BY MR. TASHROUDIAN:

5 Q. I'm going to mark now as Exhibit DD a video
6 clip of Mr. Mitchell appearing at a hearing regarding
7 the dismissal of Twin Galaxies in Florida.

8 (Exhibit DD to be marked for Identification.)

9 MR. TASHROUDIAN: Could you put that up,
10 please?

11 MR. HALL: Yeah. Exhibit DB is what you
12 called it?

13 MR. TASHROUDIAN: DD.

14 MR. HALL: DD.

15 MR. TASHROUDIAN: Yes.

16 THE WITNESS: Yep, that's him.

17 MR. ELLROD: How is this going to get on the
18 record?

19 MR. TASHROUDIAN: Madam Reporter, can you take
20 down the audio?

21 She'll take down the audio.

22 MR. ELLROD: I mean, how's -- how -- how we
23 going to get the video on the video record?

24 MR. TASHROUDIAN: I'll produce the video to
25 you and represent it's the same video.

1 MR. ELLROD: Okay. I've just never seen it
2 done this way. We'll save the evidentiary issues
3 for later, I suppose.

4 Go ahead.

5 MR. TASHROUDIAN: Can you play this, please?

6 MR. HALL: You want me to start from the
7 beginning --

8 MR. TASHROUDIAN: Yeah.

9 MR. HALL: -- or do you want me to jump to --

10 MR. TASHROUDIAN: The beginning.

11 MR. HALL: It's not very long. Okay. Make
12 sure the audio -- when I unplug the computer it
13 changed the audio so I'll just turn that on. Get
14 some volume there and test. Okay. Sound. Oh,
15 here, here we go. Turn this up. Make it full
16 screen and I can back it up to the beginning if you
17 want. Here, you can see it play.

18 (Video playing:)

19 THE COURT: Mr. Mitchell, Billy Mitchell.

20 MR. MITCHELL: Yes, Your Honor, I'm here.

21 THE COURT: Okay. What case are you here for,
22 sir?

23 MR. MITCHELL: It's William Mitchell,
24 Plaintiff, that's myself, versus Twin Galaxies.

25 I heard the gentleman speak earlier about your

1 bow tie and I concur. As a matter of fact, I have
2 a West Point tie on myself.

3 THE COURT: Thank you, sir.

4 Okay, it's number 17.

5 MR. MITCHELL: Yes.

6 I spoke with Melanie Griffith yesterday, she
7 was terrific. I discovered this hearing, I would
8 have contacted sooner, I discovered it in my junk
9 mail. And the trouble that I faced is the entity,
10 Twin Galaxies, the last time they filed a -- a real
11 annual report was 2018. They allowed the
12 corporation to go inactive. The address on Pine
13 Island Road, nobody there would help in any way.
14 But I came to notice that a little over a month ago
15 they suddenly became active, they reinstated it on
16 April 17th, so I now believe that I won't have a
17 problem, and if I don't get satisfaction making
18 contact there on Pine Island Road, then I'm told
19 that I can serve them through the Secretary of
20 State.

21 THE COURT: The problem is that the complaint
22 was filed -- or the amended complaint was filed
23 back in May 2020 and the notice for the lack of
24 prosecution was filed in March 18, 2021, and it
25 required either record activity or a statement to

1 of good cause why the case should remain open
2 (indecipherable) --

3 MR. WILLIAMS: Well, again, the good --

4 THE COURT: -- hearing. So neither one has
5 been filed.

6 MR. WILLIAMS: Okay. Well, the good cause is
7 the fact that there was nowhere to serve. They had
8 allowed the company to go inactive. And I believe
9 they activated it, again, as I'm looking on SunBiz
10 Org in April because they saw that you had had the
11 order on March 18th. I think it was in preparation
12 for that, but luckily I did discover it and if I
13 could, you know, just have you consider that, I
14 will -- I will get it done. As a matter of fact,
15 I'm in a position shortly where I'll actually get
16 an attorney and I know attorneys can be less
17 headache than pro se.

18 THE COURT: Not necessarily.

19 MR. WILLIAMS: Okay.

20 THE COURT: The problem, sir, really
21 realistically is that the Rule requires that I
22 dismiss the case in these circumstances and so I am
23 going to dismiss the case, I have to. The Rule
24 states shall dismiss the case, so I've got to
25 dismiss the case without prejudice. If you get an

1 attorney, the attorney can file a motion before the
2 Court and I can address that motion.

3 MR. WILLIAMS: Okay. Without prejudice, does
4 it -- does it make a difference that it's -- that
5 it would take it beyond the statute of limitations?
6 And again, I believe they've done this on purpose
7 and that's why they allowed it to go inactive.

8 THE COURT: Well, yeah, see the Rule's
9 designed for the plaintiff to keep the case active
10 and moving because the plaintiff is seeking relief
11 from the Court so, you know, it's been since last
12 May, been well over a year, so it is without
13 prejudice, and if you get an attorney your attorney
14 will, you know, can do what he or she feels is
15 necessary. I apologize, but the Rule does state
16 the case shall, shall be dismissed.

17 MR. MITCHELL: Okay. But the statute of
18 limitations would not come into play because of the
19 without prejudice, is that the case?

20 THE COURT: I can't tell you that because I
21 would be giving you legal advice if I did. But
22 talk, talk to an attorney and, and they can try and
23 give you their thoughts.

24 MR. WILLIAMS: Okay. Again, I would just like
25 to say for the record, I -- we made every effort to

1 contact them. We went by the address. There were
2 people there. There was no one who would help or
3 give any information in any way and then suddenly
4 here in April they went ahead and reinstated their
5 corporation. I believe, again, all this was done
6 maliciously on their part, you know. I guess we
7 can't look in their minds to know that, but that's
8 what I believe and that's the position I'll pursue
9 it from. I just, being -- I -- this -- this is not
10 what I expected, to be honest.

11 THE COURT: I understand. Sorry, sir. Sorry,
12 sir.

13 (End of video playing.)

14 BY MR. TASHROUDIAN:

15 Q. All right. So that's it.

16 Did you go to Pineapple (sic) Road?

17 A. Did I?

18 Q. Yeah.

19 A. No.

20 Q. Who went for you? Did anyone go for you?

21 A. Yes.

22 Q. Who did?

23 A. A guy named Neil went for me.

24 Q. Neil Hernandez?

25 A. Yes.

1 Q. Have you asked him to lie under oath for you?

2 A. No.

3 Q. Okay. So when did he go?

4 A. I don't know. I said to go by and see if
5 there's any indication of Twin Galaxies there and there
6 was none.

7 Q. So is what you told the judge there the truth?

8 A. That --

9 Q. About going to Pineapple Hill (sic) Road?

10 A. Again, me, myself, no. Did I ask somebody if
11 there was any indication, he said no.

12 Q. You're also suing David Race, right?

13 A. That's correct.

14 Q. Are you claiming any emotional distress
15 damages for that -- that lawsuit?

16 A. No, I don't believe so.

17 Q. Did you suffer any emotional distress from
18 what David Race did to you?

19 A. That's argumentative. I mean, that's all
20 stressful.

21 Q. Did that cause you any emotional stress, what
22 he did?

23 A. I don't know.

24 Q. You don't know whether it's causing any
25 emotional distress?

1 MR. ELLROD: Objection, asked and answered.
2 Instruct him not to answer. It's
3 argumentative.

4 BY MR. TASHROUDIAN:

5 Q. Why are you suing Mr. Race?

6 A. I'm suing him because he -- he illegally
7 recorded 27 phone calls between he and I; he edited
8 those calls and he distributed them. Violation of
9 Florida law.

10 Q. Did that cause you any emotional distress?

11 A. Yeah, I'm sure it did.

12 Q. When did that occur?

13 MR. ELLROD: Objection, relevance.

14 You can answer.

15 BY MR. TASHROUDIAN:

16 Q. Or when -- when did the emotional distress
17 occur?

18 A. The emotional distress began to occur as soon
19 as he sent the recordings to you.

20 Q. And when was that?

21 A. I don't know. You should ask Mr. Hall
22 yourself.

23 Q. Would that be around 2020?

24 A. That sounds about right.

25 MR. TASHROUDIAN: Will you pull up Exhibit W?

1 MR. HALL: Yes. Okay.

2 MR. TASHROUDIAN: Let's play that in its
3 entirety.

4 (Exhibit W to be marked for Identification.)

5 THE WITNESS: Play it in its --

6 MR. TASHROUDIAN: This is going -- this is
7 going to be a video, Exhibit W, of what appears to
8 be Robert Childs, Apollo Legend and Billy Mitchell.

9 MR. HALL: Okay.

10 MR. TASHROUDIAN: Let's play that.

11 (Video playing:)

12 MR. MITCHELL: He's the gentleman that has the
13 proof. He has the proof.

14 MALE VOICE: He does.

15 MR. MITCHELL: Can I see it?

16 MALE VOICE: We're working on it right now.

17 MR. MITCHELL: We're working on it. When --
18 when can we see it?

19 MALE VOICE: It'll be -- we'll have it --
20 we'll have it for you in a few days.

21 (End of playing video.)

22 BY MR. TASHROUDIAN:

23 Q. All right. He's the gentleman that has the
24 proof, and you point -- you pointed over to, is that
25 Mr. Pineiro?

1 A. That is him.

2 Q. What kind of proof did you have?

3 A. At that point -- at that time, nothing.

4 Q. What proof were you referring to?

5 A. The fact that he was working on it. That was
6 a comical moment if you didn't notice.

7 Q. Working on what?

8 A. He was supposedly, said he would have the
9 answer because he said he was a Sega engineer.

10 Q. The answer to what?

11 A. The answer to the anomalies that everyone's
12 questioning.

13 Q. Is that the answer to whether or not your
14 Donkey Kong score performances that are at issue were,
15 in fact, from an original unmodified Donkey Kong Arcade
16 PCB; is that correct?

17 A. Yes, that's what he said.

18 Q. How did you know he had the proof?

19 A. He didn't have the proof.

20 Q. Well, you pointed to him and said he has the
21 proof?

22 A. That's right, in a comical moment with people
23 dressed like me I pointed to him.

24 Q. So --

25 A. And he never did.

1 Q. -- did you ever believe he had the proof?

2 A. I thought he made strides but, you know, he
3 wasn't honest, so.

4 Q. Oh, he wasn't honest?

5 A. No.

6 Q. How wasn't he honest?

7 A. He was never a Sega engineer. He wasn't an
8 engineer at all.

9 Q. He worked for Sega, though, didn't he?

10 A. Nope.

11 Q. Never worked for Sega Game Works?

12 A. Sega Game Works?

13 Q. Yeah.

14 A. That's an arcade. He said he worked for Sega
15 of America. That's in San Diego. He said he was an
16 engineer.

17 Q. All right. We talked a little bit about --
18 I'm going back to the ten forty-seven score here, where
19 in the arcade you achieved this score, you walk in to
20 the right, correct, on an original, unmodified Donkey
21 Kong cabinet, correct?

22 A. That's correct.

23 Q. How did you record the score?

24 A. There was a VCR and there was a machine that
25 had a capture device set up to it. I put the tape in

1 and I pressed play.

2 Q. Okay. Was the machine open in the back?

3 A. Yeah, it was.

4 Q. You could see the capture device was hooked
5 up?

6 A. I'd imagine you could see everything inside.

7 Q. Were there cables running to the VCR?

8 A. Yes.

9 Q. What happened to the tape? Let's start with
10 this.

11 A. You don't want to --

12 Q. Yeah. What happened to the tape right after
13 you did -- you made the recording?

14 A. I had the tape and sometime after that I sent
15 it to Brian Co.

16 Q. How much after you -- how much longer after
17 you performed the score did you send the tape to Brian?

18 A. I don't know.

19 Q. A year?

20 A. I don't know.

21 Q. Less than a year?

22 A. I don't know.

23 Q. More than a year?

24 A. I don't know.

25 Q. Can you give me an estimate?

1 A. No.

2 Q. It would have to be less than two years,
3 though, right?

4 A. I would say that it was less than a year.
5 2004, and they played it 2005.

6 Q. Do you know if that game play was ever played
7 anywhere other than at Fun Spot or in the cabin?

8 A. No. I can tell you it was not supposed to be
9 so I don't think it was.

10 Q. What about on MTV, was it ever displayed on
11 MTV?

12 A. I was told Robert Mruczek did it.

13 Q. Did you ever see that?

14 A. No.

15 Q. Do you know if the game play that appears on
16 MTV is actually yours?

17 A. I don't -- don't have an opinion either way.

18 Q. Do you suspect it's not yours?

19 A. I don't have an opinion either way. I haven't
20 seen it.

21 Q. Have you ever -- have you ever publicly
22 claimed that your score was done in June 2004, your ten
23 forty-seven two hundred score?

24 A. Yeah, but that's when it was revealed, I
25 think.

1 MR. ELLROD: Say that again.

2 BY MR. TASHROUDIAN:

3 Q. Yeah. Let's try this, let's try this: Have
4 you ever publicly claimed that your ten forty-seven two
5 hundred score was performed in June 2004?

6 A. No. If I did, it was a mistake.

7 MR. TASHROUDIAN: Can we pull up Exhibit C?

8 MR. HALL: Let's turn it down a little bit so
9 it doesn't destroy your ears in case -- there you
10 go.

11 (Exhibit C to be marked for Identification.)

12 (Video playing:)

13 VOICE: My question --

14 (Video stopped.)

15 MR. TASHROUDIAN: Let's pause it.

16 BY MR. TASHROUDIAN:

17 Q. Exhibit C is a video of Mr. Mitchell on stage
18 with Walter Day and a third unknown gentleman?

19 A. Steve Sanders.

20 Q. Steve Sanders.

21 Before we start, do you recognize this -- this
22 setting, sir?

23 A. No.

24 Q. Okay. Let's play it.

25 (Video playing:)

1 VOICE: My question is for Mr. Mitchell, how
2 long did you -- (indecipherable).

3 MR. MITCHELL: Yeah, my -- my -- Mr.
4 Mitchell's my dad. He's old and grouchy. You
5 don't want to talk to him.

6 Go ahead.

7 VOICE: How long did you have the videotape of
8 your one million forty-seven thousand score?

9 MR. MITCHELL: That score was done in June of
10 2000 -- oh, 2004, so two years or so before. But
11 again, I had done scores beyond a million points, I
12 had done scores that were witnessed, but I don't
13 submit scores that aren't at a live venue. And one
14 thing you'd be fooled by here is, the score that
15 eventually was put up as a world record at -- at a
16 million fifty was done at a live venue in Orlando
17 and the record that it beat, which was a million
18 forty-nine, was done in Steve's garage. That's the
19 exact opposite of what the movie would have you
20 believe, but if it was showing exactly the truth,
21 the way I just described it to you, it would be as
22 exciting.

23 VOICE: For those that --

24 (Video stopped.)

25 BY MR. TASHROUDIAN:

1 Q. So that was a mistake when you said that the
2 score was performed June 2004?

3 A. Yeah, it would have been 2005, but that's not
4 when it was performed, that was when it would have been
5 shown. And that, I believe, is the Smithsonian in
6 Washington, DC.

7 Q. So the movie, your score was displayed
8 June 2005?

9 A. Yeah, I believe it was.

10 Q. That's when it -- when it was played --

11 A. Displayed by Brian Coe.

12 Q. At the cabin?

13 A. Yeah, I believe.

14 Q. So there were only really six months in
15 between the time you performed the score and the time
16 that it was sent over to Brian Coe?

17 A. Right. That's why I said it was --

18 MR. ELLROD: You've answered.

19 BY MR. TASHROUDIAN:

20 Q. Have you -- have you seen clips of the King of
21 Kong movie?

22 A. Clips, yes.

23 Q. Yeah.

24 A. Yes.

25 Q. How many?

1 A. A handful.

2 Q. Yeah, what clips do you recall seeing?

3 A. I see -- I remember seeing where I pick up the
4 phone and say world record headquarters, which is not
5 real. I mean, no, I'm not going to sit here. I mean,
6 clips, clips, clips, clips.

7 Q. Have you seen clips of your ten forty-seven
8 two hundred game play shown in the movie?

9 A. No, I don't think so.

10 Q. Did you reach a kill screen in your ten
11 forty-seven two hundred score?

12 A. No. I stopped it shy of the kill screen.

13 Q. How much shy of the -- of the -- of the kill
14 screen did you stop it?

15 A. Actually, that game, I'm thinking of another
16 game. Yeah, I did. I was -- I don't know how far shy.
17 I don't know. Not -- not that far.

18 Q. What is a kill screen?

19 A. It's the end of the game. The game comes to
20 an end. They say the code collapses on itself, but in
21 the end you can't get by the board. It's the end of
22 the game.

23 Q. So did you stop the ten forty-seven two
24 hundred game prior to...

25 A. Prior to the kill screen, yes.

1 Q. Prior to the kill screen?

2 A. Yes, I did.

3 Q. And why did do that?

4 A. To be cocky. I slowed down the game play.

5 Q. You told me that Robert Mruczek adjudicated
6 your ten forty-seven two hundred score; do you recall
7 that?

8 A. I did not tell you that.

9 Q. Let me ask you the question then.

10 Did Robert Mruczek adjudicate your ten
11 forty-seven two hundred score?

12 A. Robert Mruczek stole the tape from Brian.
13 That's how he adjudicated it.

14 MR. ELLROD: Answer the question only.

15 BY MR. TASHROUDIAN:

16 Q. Did he adjudicate your score?

17 A. He says he did.

18 Q. Do you have any reason to believe he didn't?

19 A. Yes.

20 Q. What's the --

21 A. I didn't ask him to.

22 Q. Was the ten forty-seven two hundred score used
23 as a prop for the movie?

24 MR. ELLROD: Objection, what movie?

25 BY MR. TASHROUDIAN:

1 Q. The King of Kong movie.

2 A. I guess if you could give me a little more
3 detail on the question.

4 Q. Yeah. Did you create that score for the
5 movie?

6 A. You mean like in cooperation with the --

7 Q. Yeah.

8 A. -- producers, no.

9 Q. Did they ask you to -- to prepare a score that
10 would beat Steve Wiebe's score?

11 A. They -- they did not.

12 Q. So it just was happenstance that you had
13 performed the score that beat Steve Wiebe's?

14 A. I already had the score. Brian had it.

15 Q. Okay. And did you --

16 A. It was six months prior to.

17 Q. Do you know when the movie started filming?

18 A. No.

19 Q. When were you first engaged?

20 A. First engaged -- there were about seven film
21 crews following us, so first engaged by King of Kong,
22 no, I don't know.

23 Q. When were you first approached to do the
24 movie?

25 A. Again, I can't answer that question. I don't

1 -- it's too vague of a question. What I mean is crews
2 were following us. We didn't have a contract to do a
3 movie.

4 Q. When was the first time the crews started
5 following you?

6 A. In, I'm going to guess at 2005. I'm going to
7 guess. I don't know.

8 MR. ELLROD: Estimate.

9 THE WITNESS: Estimate, yeah. That's okay.

10 Estimate.

11 BY MR. TASHROUDIAN:

12 Q. Do you have a contract -- did you have a
13 contract for the shooting of the film?

14 A. No. For the shooting, no.

15 Q. Do you have a contract related to the film at
16 all?

17 A. To the -- the contract came in June of 2007.

18 I'm sorry, can I -- I need to go to the
19 bathroom.

20 Q. Yeah. I meant to say, if you need a break,
21 just let me know.

22 A. It's just a bathroom run.

23 MR. TASHROUDIAN: Yeah, please. Let's break.

24 Off the record.

25 THE WITNESS: But then again, I -- I want to

1 keep going, so.

2 MR. TASHROUDIAN: What about you, Madam
3 Reporter, are you okay?

4 THE WITNESS: Sorry.

5 MR. ELLROD: That's all right. If you have to
6 go to the bathroom, that's fine.

7 We can go off.

8 THE WITNESS: I mean, if you guys stay here
9 I'll run and run back.

10 THE VIDEOGRAPHER: It's 12:14. We're off the
11 record.

12 (Luncheon recess was had at 12:14 p.m.
13 resuming at 1:09 p.m.)

14 BY MR. TASHROUDIAN:

15 Q. All right, Mr. Mitchell, you told me earlier
16 you never intended for your ten forty-seven two
17 hundred score to be submitted as a world record; is
18 that correct?

19 A. Not -- not initially, no.

20 Q. Did that change?

21 A. No, it didn't.

22 Q. Do you still or do you today intend it to be a
23 world record?

24 A. Yeah, it is.

25 Q. So it did change at some point?

1 A. So I'll leave it as it is.

2 Q. So when did that change?

3 A. You would say that I let my opinion go of it
4 many years ago.

5 Q. What does that mean, let your opinion go of
6 it; I don't quite understand?

7 A. Just what I said. My opinion of let it go.

8 Q. Let what go, sir?

9 A. In other words, whether it is or is not a
10 score, because all the scores that I submit are done at
11 live venues. That's the only one in question that was
12 done at a smaller venue. So when I initially did it,
13 it was not my intention.

14 Q. Was anyone present when you did the ten
15 forty-seven?

16 A. Yes. We went -- yes, we went over that and
17 they were.

18 Q. Yeah. People saw you do it?

19 A. Yes.

20 Q. Did Robert Childs see you do it?

21 A. Yes. He was in and out.

22 Q. You recall that, though, right?

23 A. Yeah.

24 Q. You recall him being there in and out?

25 A. Yes.

1 Q. Did he see the final score?

2 MR. ELLROD: Objection, calls for speculation.

3 But you can answer.

4 THE WITNESS: He said awesome, so I hope he
5 saw it.

6 BY MR. TASHROUDIAN:

7 Q. When did he say awesome?

8 A. Afterwards.

9 Q. In your presence?

10 A. Yes.

11 Q. Did he say that in front of the Donkey Kong
12 machine?

13 A. He said it at his place.

14 Q. Yeah, where in his place?

15 A. It was -- it was a small area. I mean, he was
16 -- I don't -- I don't have an answer for such a
17 question.

18 Q. Was your score in his eyesight when he said
19 awesome?

20 A. I'm just -- I don't know. You'll have to ask
21 him.

22 Q. Is there anyone else that still lives in the
23 United States that witnessed your score, your ten
24 forty-seven two hundred score performance?

25 A. Again, there were people in there, like

1 customers that who knows who they are. And there was
2 Arcade Games Sales. That's all.

3 Q. Did you ever tell Guinness World Records that
4 you never intended for your ten forty-seven two hundred
5 to be a world record?

6 A. Did I ever tell Guinness?

7 Q. Yeah.

8 A. I don't think so.

9 Q. Is there a reason you didn't tell them?

10 A. Yeah. I didn't tell them because I didn't
11 tell them.

12 Q. And that's the reason, right?

13 A. Yeah.

14 Q. Okay.

15 A. I don't think I ever -- I don't think I spoke
16 to them about it prior to, you know, 2019 or 2020, or
17 whatever.

18 Bless you. Bless you.

19 Q. Thank you.

20 A. That was at a time period --

21 MR. ELLROD: No question pending.

22 BY MR. TASHROUDIAN:

23 Q. That was at a time period where?

24 A. That was at a time period where there was no
25 question pending.

1 Q. You also achieved a ten -- one -- 1,050,200
2 score in Donkey Kong, didn't you?

3 A. I did.

4 Q. When did that happen?

5 A. When?

6 Q. Yeah.

7 A. Okay. That would have been in 2007, it would
8 have been in July.

9 Q. At the Mortgage Brokers Convention?

10 A. Yes, exactly.

11 Q. Okay. How many days was the convention?

12 A. Either three or four.

13 MR. ELLROD: By the way, there was something
14 about that -- I think he wanted to clear up about
15 your questioning earlier.

16 THE WITNESS: Yeah. I think we were coming to
17 that.

18 MR. ELLROD: It had -- was it on the first
19 score, the first?

20 THE WITNESS: Yeah. In other words, you're
21 asking about if you play through the kill screen?

22 BY MR. TASHROUDIAN:

23 Q. Yes.

24 A. Meaning you play to get the highest score you
25 can?

1 Q. Uh-huh.

2 A. The only score I can recall that I've done
3 that is the million ninety-two, which you may not ask
4 me about. Other scores I either stop short of the kill
5 screen, you never see it, or I slow down to try to
6 target a score. So in other words, there's a slow
7 down, there's play through, there's the slow down, then
8 there's the you don't go there at all.

9 Q. Okay. Got it. Thank you.

10 MR. ELLROD: I misunderstood it myself.

11 That's why I figured --

12 THE WITNESS: That's why he asked me that.

13 MR. TASHROUDIAN: Yeah. This stuff is so
14 esoteric, so.

15 MR. ELLROD: Exactly.

16 BY MR. TASHROUDIAN:

17 Q. So where were we, we were talking about --

18 A. The million fifty.

19 Q. The million fifty. And the number of days for
20 the convention, you said three or four?

21 A. Yeah. I got there on Thursday.

22 Q. You got there on Thursday?

23 A. Thursday evening.

24 Q. Thursday evening. So how many days were you
25 there for?

1 A. Friday, Saturday.

2 Q. So Thursday, Friday, Saturday you were there?

3 A. Again, Thursday I got there in the evening,
4 there was nothing going on. I didn't go into a
5 convention where there were people. I was there at
6 10:00 at night.

7 Q. Okay. What about Friday?

8 A. On Friday I was there in the morning.

9 Q. Were you there the whole day?

10 A. Yes.

11 Q. What were you doing?

12 A. Playing.

13 Q. Donkey Kong?

14 A. Yes.

15 Q. The whole time?

16 A. Yes.

17 Q. From what -- what time did you start?

18 A. Between nine and ten, I'd say.

19 Q. What time did the convention open?

20 A. About then.

21 Q. Between nine and ten?

22 A. Yeah.

23 Q. Where did you stay?

24 A. Oh, in the same hotel.

25 Q. Did anyone stay there with you?

1 A. My wife and two kids.

2 Q. Anyone else?

3 A. In the room, no.

4 Q. How about at the hotel with you?

5 A. People I know --

6 Q. Yeah.

7 A. No, nobody.

8 Q. What about Tom Rogers, where did he stay?

9 A. I don't know where he stayed.

10 Q. But he met you there at the convention?

11 A. He did.

12 Q. Which days?

13 A. He was there Friday and Saturday.

14 Q. What about Kimberly Mahoney?

15 A. She was with him.

16 Q. Friday and Saturday?

17 A. Correct.

18 Q. You recall seeing her there, right?

19 A. Oh yeah.

20 Q. Did you take any photos with her there?

21 A. I don't take photos. She does, but I don't.

22 Q. You don't pose for photos?

23 A. Oh, do I?

24 Q. Yeah.

25 A. I do.

1 Q. Did you -- did she pose for any photos with
2 you there?

3 A. I don't know. She's a photo-er but I'm not.

4 Q. What about Todd Rogers, did he pose for any
5 photos with you?

6 A. I don't recall.

7 Q. What was Todd wearing?

8 A. He was wearing his referee shirt.

9 Q. And what about Kimberly, what was she wearing?

10 A. Something else.

11 Q. She wasn't wearing a referee shirt?

12 A. I don't recall any referee shirt.

13 Q. Do you -- do you know if she was a referee at
14 that time?

15 A. She was.

16 Q. How do you know that?

17 A. Because they said so and Walter said so. He's
18 the one who coordinated it.

19 Q. Walter coordinated the performance?

20 A. Everything.

21 Q. Did he find -- what -- what do you mean he
22 coordinated everything; can you tell me exactly what it
23 is?

24 A. In other words, he makes the rules, I follow
25 them.

1 That's more than...

2 Q. Was Robert Childs present when you performed
3 your ten fifty -- ten fifty score?

4 A. No.

5 Q. Did he set up the cabinet?

6 A. Well, yeah, the cabinet was just taken from
7 Arcade Games.

8 Q. The whole cabinet itself was taken from Arcade
9 Games.

10 Do you know which cabinet that is?

11 A. Donkey Kong.

12 Q. Is it still there?

13 A. No.

14 Q. What happened to it?

15 A. I don't know.

16 Q. So the cabinet was taken from Arcade Games
17 Sales down to Orlando, is it?

18 A. (No oral response.)

19 Q. Is that a yes?

20 A. That's a yes.

21 Q. Okay. Who took it there?

22 A. I don't know.

23 Q. Were you involved in the transportation at
24 all?

25 A. I don't recall.

1 Q. Would there have needed to have been a truck
2 or something like that to take it down there?

3 A. Yes, they would have needed a truck.

4 Q. Did Robert take it down there?

5 A. He did not.

6 Q. How do you know he didn't?

7 A. Because Robert doesn't do anything.

8 Q. Who could it have been that took the cabinet
9 there?

10 MR. ELLROD: Objection, calls for speculation,
11 but you can answer if you have an idea.

12 THE WITNESS: A trucking company? I don't
13 know. I don't know.

14 BY MR. TASHROUDIAN:

15 Q. Had you seen that cabinet in Robert Childs'
16 store prior to the performance in Orlando?

17 A. Oh yeah.

18 Q. How did it look?

19 A. What do you mean? It looks like a cabinet,
20 looks the same.

21 Q. Was it a blue cabinet or a red -- red cabinet?

22 A. It was -- that's a good question. Yeah. I
23 think it was blue, but that's a good question.

24 Q. What about the color of the buttons, what
25 color were they?

1 A. I don't remember anything being different than
2 the usual blue, blue, red.

3 Q. We talked a little bit about --

4 A. I'm sorry, I don't know the color of the
5 buttons.

6 Q. What about the color of the joystick?

7 A. If it wasn't black I wouldn't have played it.

8 Q. Why is that?

9 A. Because the other joysticks are not real
10 joysticks, they're not Donkey Kong joysticks.

11 Q. They're not four-way joysticks?

12 A. They're not authentic joysticks.

13 Q. They'd be something else?

14 A. Yeah. They'd be something either not from
15 Nintendo or something I'm not familiar with playing.

16 Q. If the buttons were incorrect, would that make
17 it -- would that make the arcade machine not authentic?

18 MR. ELLROD: Objection --

19 BY MR. TASHROUDIAN:

20 Q. If you know?

21 MR. ELLROD: -- vague as to incorrect and
22 calls for speculation.

23 You talking about the color or the --

24 By MR. TASHROUDIAN:

25 Q. Yeah, the color.

1 A. The color?

2 Q. Yeah.

3 A. The color --

4 Q. Like if they were purple buttons, would that
5 make it a non-authentic machine?

6 A. No. If it wasn't what we call a plunger
7 button or a Nintendo button, plunger button's the
8 better word --

9 Q. Right.

10 A. -- then that would be incorrect, I guess.

11 Q. And then if it wasn't either a black or white
12 joystick, would that make it a non-authentic machine?

13 A. No. It's a four-way joystick, the ball on top
14 is almost always black, very rarely have I seen
15 anything else. If it wasn't black, then I wouldn't
16 play it.

17 Q. And why wouldn't you play it?

18 A. Because it would be a different feel. When I
19 say that I -- when I express it confidentially, it's
20 just I know I would have ran away from it if it was
21 something different.

22 Q. Do you have any photos of the mortgage brokers
23 score --

24 A. No.

25 Q. I'm sorry. Do you have any photos of you at

1 the Mortgage Brokers Convention?

2 A. No, I don't.

3 Q. Do you have any photos of the Donkey Kong
4 arcade machine that you played there?

5 A. No.

6 Q. Did you ask Robert Childs if he had any photos
7 of it?

8 A. He wasn't there.

9 Q. If I showed a photo of the machine with a
10 purple joystick, would that be the machine that you
11 played on?

12 A. No.

13 Q. Definitely not. What about a green joystick,
14 would that be the machine you played on?

15 A. I remember it being black.

16 Q. Okay. What if it was a red joystick, would
17 that be the machine you played on?

18 A. I remember it being black.

19 Q. But what if it was a red joystick?

20 MR. ELLROD: Objection, lacks foundation;
21 calls for speculation. It's -- you're -- you're
22 asking him if the joystick he says is black was red
23 --

24 MR. TASHROUDIAN: Yeah.

25 MR. ELLROD: -- what then?

1 MR. TASHROUDIAN: Yeah.

2 MR. ELLROD: Doesn't make any sense. Do you
3 -- are you asking whether he would have played the
4 machine?

5 BY MR. TASHROUDIAN:

6 Q. Yeah. Would you have played the machine then,
7 if it was a red joystick?

8 A. No. I would have made them change it to
9 black.

10 Q. Did that happen?

11 A. It was black.

12 Q. I'm going to now show you Exhibit G, a picture
13 of Mr. Mitchell with Todd Rogers at the Florida
14 Association Mortgage Brokers Show.

15 (Exhibit G to be marked for Identification.)

16 BY MR. TASHROUDIAN:

17 Q. Is that you?

18 A. That's me.

19 Q. Is that Todd Rogers?

20 A. That's Todd.

21 Q. Who's the other gentleman there?

22 A. Don't know.

23 Q. Okay. Is that the Donkey Kong arcade cabinet
24 that you played on?

25 A. It looks like it's it.

1 Q. Where was the cabinet situated in relation to
2 the rest of the --

3 A. Put this here?

4 Q. Yeah. You can put it there. That was G.

5 Where was that cabinet situated in relation to
6 the rest of the convention?

7 A. The booth was in the center of the room. The
8 cabinet was in the booth.

9 Q. All right. Can I see that back, please?

10 A. Sure.

11 Q. I'm now going to show you Exhibit H, a
12 picture, another picture of Mr. Mitchell at the Florida
13 Association Mortgage Brokers.

14 A. Uh-huh.

15 (Exhibit H to be marked for Identification.)

16 BY MR. TASHROUDIAN:

17 Q. Do you see that there?

18 A. Yep.

19 Q. Is that still the same cabinet that you played
20 on?

21 A. That doesn't look like the joystick, though.

22 Q. Was the joystick changed?

23 A. Not by me. Maybe in the photo.

24 Q. So are you contending that photo was altered?

25 A. Oh no, I'm not saying. I'm saying I don't

1 remember the joystick being red, that's all.

2 Q. Isn't it true, Mr. Mitchell, that you played
3 that machine on an eight-way joystick?

4 A. No.

5 Q. All right. Maybe you can pop over to Exhibit
6 I.

7 (Exhibit I to be marked for Identification.)

8 MR. ELLROD: Okay.

9 BY MR. TASHROUDIAN:

10 Q. That's you in the photo, right?

11 A. That is.

12 Q. Who's that lady there?

13 A. That's Sheila.

14 Q. Kinnery, correct?

15 A. Yes.

16 Q. Is that Todd Rogers?

17 A. That is.

18 Q. Did this -- when was this photo taken?

19 A. I'd imagine at the convention.

20 Q. Was it taken during your game play, after your
21 game play?

22 A. I would think it was after but I don't know.

23 Q. Okay. Do you see that camcorder there over
24 Ms. Kinnery's shoulder?

25 A. Yes, I do.

1 Q. Do you recall that camcorder recording your
2 game play?

3 A. It did not.

4 Q. All right. So I want to get back to this.

5 Mr. Childs allowed you to borrow that Donkey
6 Kong cabinet to play in Orlando, correct?

7 A. That is correct.

8 Q. All right. Did it have a PCB in it when he
9 gave it to you?

10 A. No, it didn't.

11 Q. Okay. So he gave you a -- a cabinet without a
12 PCB, right?

13 A. That's correct.

14 Q. Are you sure of that?

15 A. I'm a hundred percent sure of that.

16 Q. So it was delivered to you in Orlando without
17 a PCB?

18 A. It wasn't delivered to me, it was delivered to
19 the venue.

20 Q. It was delivered to the venue, got it.

21 And how was that Donkey Kong machine set up,
22 can you explain that to me?

23 A. No. Explain the question.

24 Q. Yeah. So eventually that Donkey Kong machine
25 had a PC board put into it, right?

1 A. Correct.

2 Q. Who did that?

3 A. It was a guy who Walter contacted, he was a
4 manager of Game Stop, he came over, received the board
5 that had been sent there, he put it inside the machine,
6 and that camcorder was used by the lady, Sheila, to
7 videotape him putting it in.

8 Q. Were you there?

9 A. I was, I watched.

10 Q. You watched the whole thing?

11 A. Yes.

12 Q. So explain to me what you saw.

13 A. I saw him take the board, and it was pretty
14 self-explanatory that this connects here, there, here,
15 there because you, it only connects one way. He
16 connected everything. He locked up the cabinet. He
17 put a padlock on it so that it could not be opened.

18 Q. When you say he connected everything, what --
19 what exactly do you mean?

20 A. He hooked up the board to all the connectors
21 -- excuse me, and the converter board got connected in
22 order to draw the signal that would be recorded, and
23 then he locked the cabinet.

24 Q. So he installed the converter board?

25 A. Yeah. Well, the converter board was already

1 there. It just had to be plugged in.

2 Q. The converter was already -- board was already
3 where?

4 A. Inside the cabinet.

5 Q. Okay. And he -- you saw him?

6 A. I saw him do it.

7 Q. You saw him install the converter board?

8 A. I saw him do everything.

9 Q. Okay. How did he install the converter board?

10 A. He plugged the stuff in where it goes.

11 Q. Does the converter board get plugged directly
12 into the Donkey Kong machine?

13 A. Well, how else? I don't understand the
14 question.

15 Q. Well, I'm asking you, like, what did he do to
16 plug in the converter board?

17 MR. ELLROD: If you know.

18 THE WITNESS: No. I mean, I -- I don't.

19 BY MR. TASHROUDIAN:

20 Q. But you saw him do it, right?

21 A. Yeah. I don't know how it works.

22 Q. Yeah. What else -- what did you see him do?

23 A. I saw him take many different wires that were
24 hanging all over the place and find the places where
25 they should go because, for example, three-prong only

1 goes into three-prong, it doesn't go into six-prong.
2 So it was kind of self-explanatory. I'd say he
3 struggled for about 30 seconds and then it all came
4 together.

5 Q. So he struggled for 30 seconds to install the
6 converter board?

7 A. No. I'd say he struggled for about 30 seconds
8 to install the entire game.

9 Q. It took 30 seconds for him to install the PCB
10 with the converter board?

11 A. I would say he looked at it about 30 seconds.
12 He struggled looking at it and then he installed it all
13 like that.

14 Q. How long did it take him to install it?

15 A. A minute.

16 Q. Just one minute?

17 A. Not much more.

18 Q. So it was one minute between the time the
19 arcade cabinet was opened, the PCB and -- and converter
20 board were placed in, cabinet closed, locked up?

21 A. No.

22 Q. How long?

23 A. I don't know. Those are your words.

24 Q. Well, I'm asking.

25 A. Cabinet opened, everybody looking, opening the

1 box that came from Nintendo, okay. Oh, there's a
2 security guard there, too, because they held the
3 equipment, okay, and he looked at it and Sheila talked
4 with the camera, said what was going on, and spoke of
5 things as they happened. I don't know, two minutes,
6 three minutes, four minutes, one minute. I don't know.

7 Q. Less than five minutes, though, right?

8 A. Yeah. And then he padlocked it.

9 Q. What tools did he have with him?

10 A. He had nothing.

11 Q. No tools?

12 A. No, not that I recall.

13 Q. Not even a screwdriver?

14 A. No, not that I recall.

15 Q. Hammer?

16 A. Not that I recall.

17 Q. Measuring tape?

18 A. Not that I recall.

19 Q. Scissors?

20 A. (No oral response.)

21 MR. ELLROD: Do you recall him having scissors
22 with him?

23 THE WITNESS: He had no tools, no scissors.

24 BY MR. TASHROUDIAN:

25 Q. What about wire stripper?

1 A. No.

2 Q. What about electrical tape?

3 A. Nope.

4 Q. Definitely not, right?

5 A. No.

6 Q. Any wire nuts?

7 A. Nope.

8 Q. Did he have to splice into any part of the
9 machine to install the converter board?

10 A. Nope, not that I recall.

11 Q. And if he did, you'd know, right, because you
12 witnessed it with your eyeballs?

13 A. I would have been amazed. That's how I would
14 have known.

15 Q. My question is you -- you would have known if
16 he spliced into the PCB itself to install the converter
17 board, wouldn't you?

18 A. I have no idea what that even means.

19 Q. You didn't see him expose any of the plastic
20 sheathing on the wires on the motherboard, did you --

21 A. No.

22 Q. -- the PCB board?

23 MR. ELLROD: Is that no? I can't --

24 THE WITNESS: That's no. Sorry.

25 BY MR. TASHROUDIAN:

1 Q. You never saw him twist any wires together,
2 did you?

3 A. I never saw him do that, no.

4 Q. But you saw the whole thing happen?

5 A. I saw the whole thing happen.

6 Q. Who instructed -- and that's Josh Ryan, right?

7 A. Yes.

8 Q. Oh. You know his name now?

9 A. Yes.

10 Q. Have you talked to him?

11 A. No.

12 Q. When was the last time you talked to him?

13 A. 2007.

14 Q. How do you know his name?

15 A. Because we found the old email where Walter
16 was giving him the directive on what to do.

17 Q. So Walter gave him directions on -- on how to
18 -- how to install the motherboard?

19 A. No.

20 Q. What kind of directions did he give him?

21 A. Walter told him what he wanted him to do. He
22 had the knowledge to install the board.

23 Q. And you were copied on that email, right?

24 A. Yes.

25 Q. Let's show you that email. That's going to be

1 Exhibit -- Exhibit E, E, like Edward. Are you there?

2 MR. ELLROD: I'm -- I'm looking at it.

3 (Exhibit E to be marked for Identification.)

4 MR. ELLROD: Okay.

5 THE WITNESS: Okay. Back to you?

6 BY MR. TASHROUDIAN:

7 Q. No, you can hold on to it.

8 Is that your email up there in the cc,
9 RickeysHotSauce@aol.com?

10 A. It is.

11 Q. All right. Did you receive any other
12 instructions or were you copied on any other
13 instructions to set up the Donkey Kong board in
14 Orlando?

15 A. No, not that I recall.

16 Q. This is the only set?

17 A. Yes.

18 Q. Did you see anywhere in here where Walter Day
19 instructs Mr. Ryan on how to install the P -- the PCB?

20 A. No.

21 Q. What about on how to install the converter
22 board?

23 A. No.

24 Q. Do you know if Ryan was told how to install
25 the converter board?

1 MR. ELLROD: Objection, vague as to time, but
2 you can answer if you know.

3 THE WITNESS: I don't know.

4 BY MR. TASHROUDIAN:

5 Q. Do you know where Josh Ryan works now?

6 A. No.

7 Q. Have you tried to look him up?

8 A. I have.

9 Q. And what happened?

10 A. I'm working on it.

11 Q. What are you working on?

12 A. Trying to find him.

13 Q. To depose him?

14 MR. ELLROD: Objection, calls for
15 attorney-client communications. I'll instruct him
16 not to answer.

17 BY MR. TASHROUDIAN:

18 Q. You'd agree with me that he's a pretty
19 important witness to you, right?

20 A. Oh yeah.

21 Q. There really wasn't a PCB with a converter --
22 with a converter board hooked up in that machine, was
23 there?

24 A. Yes, there was.

25 Q. You saw it, right?

1 A. I saw it.

2 Q. What was that converter board hooked up to?

3 A. It was in the machine. He plugged it in.

4 MR. ELLROD: Object as vague. What do you
5 mean?

6 MR. TASHROUDIAN: Okay.

7 THE WITNESS: It's not my area of expertise.

8 BY MR. TASHROUDIAN:

9 Q. That converter board outputted to a recording
10 device, right?

11 A. Oh yeah.

12 Q. What kind of recording device?

13 A. VCR.

14 Q. And where was that recording device placed?

15 A. It was on top of the machine.

16 THE WITNESS: I can't say nothing to you, huh?

17 MR. ELLROD: No, you can't. If you want to
18 chat, let us know and we'll go off the record.

19 BY MR. TASHROUDIAN:

20 Q. Do you want to go off the record?

21 A. No, I was just going to say something to him
22 that --

23 MR. ELLROD: Don't worry about it.

24 BY MR. TASHROUDIAN:

25 Q. Okay. So you arrived there Thursday night.

1 A. Yes.

2 Q. You were there Friday night, Saturday night
3 you left. Which of those three days did you perform
4 the score?

5 A. Saturday.

6 Q. Saturday. What time was it?

7 A. Early afternoon.

8 Q. So around what time?

9 A. One.

10 Q. Why do you think --

11 A. Not later than two.

12 Q. Is there a reason that you -- that you're
13 telling me that it was between one and two when you
14 started? Was it -- was that when you started or when
15 you finished?

16 A. No, that's when I finished, about two I'd say.

17 Q. When'd you start?

18 A. Like -- like nine, ten in the morning.

19 Q. You started around nine or ten and finished
20 around one or two?

21 A. Yeah.

22 Q. Was the convention open at the time?

23 A. Yes.

24 Q. Were people watching you?

25 A. Yes.

1 Q. About how many people?

2 A. There were thousands of people there.

3 Q. Milling about?

4 A. Yes.

5 Q. Did anyone see you achieve the ten fifty two
6 hundred score?

7 A. Yes.

8 Q. Who?

9 A. Well, Sheila was this far away. There was
10 another lady there, Valerie.

11 Q. Valerie Saunders, right?

12 A. Yeah. I believe Sheila called Valerie who
13 came running up from the door. There was another guy
14 named Richard Mallion (phonetic) and his wife were
15 there.

16 Q. You know Richard, though, don't you?

17 A. Yes, I do.

18 Q. You went to high school with him, right?

19 A. Yes.

20 Q. How long have you known him?

21 A. That's how it was easy to remember.

22 Q. Yeah.

23 A. I mean, I -- in high school, and I can't say
24 I've run across him more than a half dozen times since
25 then.

1 Q. And he saw you perform the score?

2 A. Yes.

3 Q. The ten fifty two hundred part?

4 A. Exactly.

5 Q. So right when you hit the high score he was
6 there?

7 A. When I turned around and it was hi, hello, and
8 congratulations and thank you, yes, he was there.

9 Q. Okay. And Sheila Kinnery, too, right?

10 A. Yes.

11 Q. Valerie Saunders, though, wasn't there?

12 A. Right. She was there like moments after. I
13 mean, she could see, but she didn't see the conclusion,
14 she didn't see the end of the game.

15 Q. Yeah. Did you point out to her that you had
16 scored ten thousand fifty-two hundred?

17 A. Yeah. We pointed to the screen or maybe
18 Sheila did.

19 Q. While Valerie was there, right?

20 A. Yeah. Sheila's husband was there, too.

21 Q. And you saw that happen?

22 A. I saw it happen with a number of people.

23 Q. What's Sheila's husband name?

24 A. Good question. Geech. I don't --

25 Q. The same Sebring -- same Kinnery family in

1 Sebring?

2 A. I -- I don't know.

3 Q. When was the first time you met Sheila?

4 A. Twenty years earlier.

5 Q. Where?

6 A. Probably at -- she knows my sister, so it's
7 something -- function to do with my sister.

8 Q. How many sisters do you have?

9 A. Three -- four.

10 Q. How's your relationship with your sisters?

11 A. It's all good.

12 MR. ELLROD: Objection, relevance.

13 You can answer.

14 THE WITNESS: No. I don't want to answer. No
15 family. You get nothing.

16 BY MR. TASHROUDIAN:

17 Q. Is it strained?

18 A. No. You get nothing.

19 Q. Strained relationship, right?

20 A. Oh, are you answering the question now?

21 Q. No, I'm asking you.

22 A. Well, then the answer is no.

23 Q. It's not a strained relationship?

24 A. That's what I said.

25 Q. So if we depose your sister she'd say it's not

1 a strained relationship?

2 A. Bring her in. Her name's Kristina.

3 MR. ELLROD: Objection, calls for speculation;
4 relevance.

5 BY MR. TASHROUDIAN:

6 Q. I know her name.

7 Okay. So you started around nine or ten and
8 you finished between one and two?

9 A. Closer to two, I'd say.

10 Q. On Saturday?

11 A. Yes.

12 Q. Okay. And then what about on Friday, did you
13 attempt to score then?

14 A. Yes.

15 Q. Did you fail?

16 A. Many times.

17 Q. But you achieved it on Saturday, right?

18 A. Yes.

19 Q. Have you talked to Sheila Kinnery at all about
20 your Donkey Kong scores that day?

21 A. I had to go -- I had to -- I introduced her to
22 Walter Day when he was in town in the very, very
23 beginning and she said, okay. She said, no problem.
24 She said, let me know. She says yes, I'll tell you
25 what I know. That was all.

1 Q. What year was that?

2 A. Either '19 or '20.

3 Q. Did she tell you that she remembered seeing
4 you perform your score?

5 A. She didn't talk to me, she talked to Walter
6 and, yes, she said that.

7 Q. Did Walter tell you that she remembered the
8 time that you performed your score?

9 A. Yes.

10 Q. And what did Walter say?

11 A. Walter was right there. He said, Okay, thank
12 you.

13 Q. Walter was right where, I'm sorry?

14 A. He was standing next to her when she was
15 speaking. She was speaking to him. I was listening.

16 Q. Oh, you were there --

17 A. Yes.

18 Q. -- in person?

19 And she told Walter that she saw you perform
20 your score from nine to two or so, nine or ten to two?

21 A. Okay. I'm -- I'm not going to guess at the
22 exact words. She said she saw the score. She said she
23 was two feet away. I remember her going like this.

24 Q. Yeah?

25 What about Valerie Saunders, have you talked

1 to her about your score performance after it happened?

2 A. No.

3 Q. Has anyone on your behalf talked to her?

4 A. Probably my son.

5 Q. Did he tell you what she said?

6 A. Yeah. She was confident.

7 Q. Confident about what?

8 A. Confident in her recollection of the facts.

9 Q. What facts?

10 A. Facts that I got the score, I was there.

11 Q. And what about the time that you got the

12 score?

13 A. Early in the day.

14 Q. Not in the morning?

15 MR. ELLROD: I'm --

16 THE WITNESS: Started in the morning.

17 MR. ELLROD: Objection. Are we talking about

18 what she told his son?

19 BY MR. TASHROUDIAN:

20 Q. Yeah, what she told his son, what facts?

21 A. Well, then you should -- you could ask my son
22 that.

23 Q. You've never talked to Valerie Saunders, have
24 you?

25 A. I don't think I have, no.

1 Q. So if she testifies at trial that you started
2 the score on Saturday before the convention opened,
3 would she be mistaken?

4 MR. ELLROD: Objection, calls for speculation,
5 lacks foundation.

6 BY MR. TASHROUDIAN:

7 Q. Would she be mistaken?

8 A. What time did the convention open?

9 Q. How about this --

10 A. Missing a few points.

11 MR. ELLROD: Don't -- don't -- no commentary.

12 Just answer the questions.

13 BY MR. TASHROUDIAN:

14 Q. If she testifies at trial that you performed
15 your score on Saturday before the convention was open
16 to the public, would she be lying?

17 MR. ELLROD: Objection, characterizes
18 testimony, calls for speculation.

19 But you can answer if you think that she would
20 be mistaken --

21 THE WITNESS: She --

22 MR. ELLROD: -- or it's inconsistent with your

23 --

24 THE WITNESS: Yes. She wouldn't know when I
25 started, game after game after game failure. She

1 would only know when it ended.

2 BY MR. TASHROUDIAN:

3 Q. If she testifies at trial that -- that it
4 ended prior to people coming into the convention, would
5 she be lying?

6 A. She'd be mistaken.

7 Q. She'd be mistaken.

8 If she testifies at trial that it only took
9 you 45 minutes to achieve the score would she be
10 mistaken?

11 A. She'd be very mistaken.

12 Q. Was Todd Rogers watching you the whole time?

13 A. He was.

14 Q. Both days?

15 A. Both days.

16 Q. What about Kimberly Mahoney, was she watching
17 you?

18 A. She was watching me.

19 Q. The whole time?

20 A. The whole time.

21 Q. Both days?

22 A. Both days.

23 Q. When was the first time you met Carlos
24 Pineiro?

25 A. I'm going to guess it was earlier part of

1 February 2018.

2 Q. Where'd you meet him?

3 A. At Arcade Game Sales.

4 Q. Who was there?

5 A. Rob, Steve Kleisath, Steve, an employee. I
6 don't know who else.

7 Q. So we had Rob, Steve Kleisath, and Rob, an
8 employee?

9 A. No, Rob is -- Rob is the owner.

10 Q. Oh, you said someone else. Oh, Rob's employee
11 was there?

12 A. Yeah, Steve. He's there working.

13 Q. Steve.

14 A. You were just asking me who was there, and I'm
15 thinking of who was there at that moment.

16 Q. Did you know that Carlos was coming in?

17 A. Yes.

18 Q. How'd you know that?

19 A. Steve had told Rob. No. Yes. Steve Kleisath
20 had told Rob, I think.

21 Q. And Rob told you?

22 A. Yeah.

23 Q. What did Rob tell you?

24 A. He said Steve says he's got some guy coming in
25 who says is going to help.

1 Q. Help with what?

2 A. Help understand the anomalies.

3 Q. So help you determine the validity of the
4 dispute regarding your scores?

5 A. Correct.

6 Q. Did -- did Carlos do that, did he help you?

7 A. At times he was helpful. That's all.

8 Q. Was he working on your behalf?

9 A. No.

10 Q. Definitely not?

11 A. Definitely not.

12 Q. He wasn't working to help you, though, right?

13 A. Definitely not working on my behalf.

14 Q. Was anyone working on your behalf to disprove
15 the challenge to your scores?

16 MR. ELLROD: I'm going to object as vague as
17 to on your behalf.

18 THE WITNESS: Yeah.

19 MR. ELLROD: Do -- do you mean at his request?

20 BY MR. TASHROUDIAN:

21 Q. At your request.

22 A. No.

23 Q. There we go. No one was?

24 A. No.

25 Q. What about Eric Tessler?

1 A. He wasn't at my request. He's just
2 volunteering his insight and knowledge as to
3 improprieties, as he called them.

4 Q. What about Neil Hernandez?

5 A. Same thing.

6 Q. He wasn't working on your -- at -- at your --
7 your request?

8 A. No. He chose to volunteer information, some
9 of which is terrific, some of which is lousy.

10 Q. What about Joel West?

11 A. Yeah. Joel was a self-appointed paralegal, so
12 he said.

13 Q. Was he working at your request?

14 A. No. Was he giving me advice as a friend, yes.

15 MR. ELLROD: That's it. The question's
16 answered.

17 BY MR. TASHROUDIAN:

18 Q. Was he giving you advice as what?

19 A. Yeah. He'd give me advice, that's all.

20 Q. What kind of advice did he give you?

21 A. To shut up and not say anything.

22 Q. Did you -- did he give you any advice
23 concerning the merits of your dispute?

24 A. No.

25 Q. What about David Race, did he help you with

1 the dispute?

2 A. Initially. Again, he offered his help, and
3 some of it was valuable.

4 Q. Did you ever turn -- turn any of these people
5 away?

6 A. I guess I don't understand the question.

7 Q. Did any of these people who offered to help
8 you, did you ever turn any of them away?

9 A. Go away, don't help me?

10 Q. Yeah.

11 A. No, I don't speak that way.

12 Q. What about Isaiah Triforce Johnson, did he
13 help you through this dispute?

14 A. Same thing. He volunteered his -- his
15 knowledge.

16 Q. But he did help you during the dispute, right?

17 MR. ELLROD: Again, I'm going to object, it's
18 vague.

19 THE WITNESS: Yeah.

20 MR. ELLROD: You mean at his request, did he

21 --

22 BY MR. TASHROUDIAN:

23 Q. At -- at your request. I mean what the words
24 mean.

25 A. I -- I mean -- I mean, my wife helped me. She

1 gave me inspiration, you know.

2 Q. So your wife was part of Team Billy?

3 A. Oh yeah. What a stupid -- whatever. I'll
4 shut up.

5 MR. ELLROD: Answer -- answer the question.

6 Listen to the question, answer the question.

7 BY MR. TASHROUDIAN:

8 Q. Your wife, was she part of Team Billy?

9 A. No.

10 Q. Who was?

11 MR. ELLROD: Objection, vague as to Team
12 Billy.

13 THE WITNESS: Yeah. What is Team Billy?

14 BY MR. TASHROUDIAN:

15 Q. Have you ever heard that term?

16 A. No. I -- I -- I've seen that term from the
17 King of Kong movie, Team Billy, Team Steve or Steve --
18 Team Wiebe.

19 Q. What about in connection with the dispute at
20 issue?

21 A. I never said the words Team Billy.

22 Q. I know you've never said it. Have you seen it
23 used to describe the people helping you?

24 A. No.

25 Q. You've never seen that used?

1 A. I don't see it used, no.

2 Q. Did you ever submit an evidence package
3 containing a document that signed off Team Billy?

4 MR. ELLROD: Objection, vague as to -- you
5 mean he, himself, submit something?

6 BY MR. TASHROUDIAN:

7 Q. Yeah. He or anyone on your behalf submit an
8 evidence package that was signed off Team Billy
9 anywhere?

10 A. The only one that would submit anything is the
11 attorney or my son, that's all.

12 Q. Signed off Team Billy, did you ever see that?

13 A. Did I ever see it, no, I don't think so.

14 Q. Did you ever see any correspondence from Joel
15 West signed off Team Billy?

16 A. Oh, yeah. I yelled at him for it, told him
17 not to do that.

18 Q. Why's that?

19 A. Because he doesn't speak for me.

20 Q. Joel doesn't speak for you?

21 A. No.

22 Q. Have you ever told Mr. Hall that Joel speaks
23 for you?

24 A. Yeah, and then I corrected it quickly.

25 Q. How'd you correct -- so what did you tell Mr.

1 Hall?

2 A. I copied an email when I was traveling and I
3 sent it and then at the bottom I realized that it said
4 what it said and I immediately called him and said, no,
5 nobody speaks on my behalf.

6 Q. Was it an email or a text?

7 A. That's what happened.

8 Q. Was it an email or a text message?

9 A. Oh, it was a text message and followed by a
10 phone call.

11 Q. So you got a text message -- you sent Mr. Hall
12 a text message, you realize it was incorrect?

13 A. Yeah, and at some point afterwards I corrected
14 it.

15 Q. How'd you correct it?

16 A. Verbally. Like in the next call or something.

17 Q. You called up Mr. Hall and corrected it?

18 A. I believe it was a call.

19 Q. A telephone call?

20 A. I don't know.

21 Q. What kind of call would it have been?

22 A. Telephone call's the only ones I know.

23 Q. On that same day?

24 A. I don't know.

25 Q. Could it have been the day after?

1 A. I don't know. I said on more than one
2 occasion nobody speaks on my behalf.

3 Q. I guess we can jump over to that one. All
4 right.

5 I'd like to -- I'd like you to look at Exhibit
6 AA.

7 (Exhibit AA to be marked for Identification.)

8 BY MR. TASHROUDIAN:

9 Q. Do you have it right there? This is a text
10 message between Jace Hall, William Mitchell and I think
11 Carlos Pineiro. And Joel West.

12 MR. ELLROD: Put that away. Put that away.

13 Okay.

14 THE WITNESS: This one?

15 MR. ELLROD: Yeah.

16 BY MR. TASHROUDIAN:

17 Q. Let me know when you've had an opportunity to
18 review that document.

19 MR. ELLROD: Starts up here.

20 Actually, is this all -- hang on. Oh yeah.

21 THE WITNESS: Okay. As I said, I recall it.

22 MR. ELLROD: There's not a question pending
23 yet. He just asked you to read it.

24 BY MR. TASHROUDIAN:

25 Q. Is that the --

1 A. Okay.

2 MR. ELLROD: Just answer the questions.

3 BY MR. TASHROUDIAN:

4 Q. Is that the text message that you received
5 from -- well, let's start with this: Do you see that
6 first gray box there? Yeah, at the top there.

7 A. Yes.

8 Q. Is this the text message that you forwarded
9 that was originally written by Joel West?

10 A. Yes. I -- I believe so.

11 Q. So Joel West sent you this email -- this text
12 message to send to Jace Hall; is that correct?

13 A. What I believe is that Joel West sent this, he
14 said we need some more time for A, B and C, he said
15 send this message.

16 Q. He told you that?

17 A. Yes.

18 Q. We needed more time for what?

19 A. In other words, to look at some of the new
20 developments.

21 Q. Joel told you he needed more time?

22 A. No.

23 Q. Uh-huh.

24 A. He was aware of some of the recent
25 developments we had, that we had learned.

1 Q. Who's we?

2 A. Rob, Neil, and they were things that --

3 Q. Carlos, too, right?

4 A. -- that -- they were figured out by Neil and
5 Rob. But the point I'm making is they were things that
6 TG was not aware of so therefore, needed brought to
7 their attention.

8 Q. Were Neil and Rob working on your behalf?

9 MR. ELLROD: Objection, vague as to on your
10 behalf. Do you mean at his request?

11 BY MR. TASHROUDIAN:

12 Q. At your request.

13 A. They offered their help, and when it was
14 helpful I was appreciative. No good...

15 Q. So they needed more time to make a submission
16 to TG; is that correct? We'll get back to that. I
17 don't mean to get off track, so let's strike that
18 question.

19 My question was is this the text message that
20 you received from Joel West and then forwarded to Jace
21 Hall?

22 A. It looks correct.

23 Q. Yeah. And -- and this is the -- the
24 inadvertent text message, right?

25 A. What is the inadvertent text message?

1 Q. You inadvertently sent this to -- to -- Jace
2 Hall?

3 MR. ELLROD: You mean the one he followed up
4 with the call?

5 MR. TASHROUDIAN: Yeah, the one he followed up
6 with a call.

7 THE WITNESS: Yeah.

8 BY MR. TASHROUDIAN:

9 Q. So you sent this and then a little bit later
10 you realized it was incorrect and you called up Jace
11 and said, Hey, this is incorrect?

12 A. Or when I read it more thoroughly, yes.

13 Q. What part of this is incorrect?

14 A. Well, Joel always feels as though he needs to
15 help people. Like I say, he's a self-appointed
16 paralegal.

17 Okay. The other factor is I had become less
18 and less --

19 MR. ELLROD: The question is what of this is
20 incorrect? That's the question.

21 THE WITNESS: Okay. Carlos did not head up
22 this -- the team.

23 BY MR. TASHROUDIAN:

24 Q. Did Carlos ask for more time?

25 A. I don't know if Carlos asked for more time. I

1 know collectively, you know, Rob thought with what they
2 discovered more time would be good. I don't know
3 Carlos' opinion.

4 Q. The technical end is headed up by Carlos.
5 Hope this clarifies any confusion, BM. BM, that's you?

6 A. I think so.

7 Q. You think so or it is?

8 A. It is.

9 Q. How do you typically sign off?

10 A. Usually I sign off Billy. Joel writes BM.

11 Q. So you just took this and sent it over. Did
12 you make any alterations to this?

13 A. I don't think so.

14 Q. That BM is pretty close to the name Carlos,
15 right?

16 MR. ELLROD: Objection, vague. I'm -- I'm not
17 sure. You mean physically in the text?

18 MR. TASHROUDIAN: Yeah, physically in the
19 text.

20 MR. ELLROD: The location. Okay.

21 BY MR. TASHROUDIAN:

22 Q. You have BM there at the bottom, Carlos two
23 lines up, three or four words over?

24 A. Two lines up, fifth word over.

25 Q. Yeah. Is that how you knew to include Carlos

1 on this text with -- with Jason and Joel?

2 A. I don't know.

3 Q. Let's try it this way. Let's go to Exhibit Y.

4 (Exhibit Y to be marked for Identification.)

5 THE WITNESS: I was looking to see. Up here?

6 MR. ELLROD: Yeah. The whole thing.

7 THE WITNESS: Okay.

8 BY MR. TASHROUDIAN:

9 Q. So is this the message that you received --
10 well, let's start with this: That gray box under
11 message received from Joel West 4/5/2018, 7:59:06 a.m.,
12 is that the document -- is that the text message you
13 received from Joel?

14 A. I don't know. For a hundred percent sure, I
15 don't know.

16 Q. What makes you unsure?

17 A. These are not the words as I would choose
18 them.

19 Q. You didn't write this, though, right?

20 A. Yeah.

21 Q. Joel wrote it?

22 MR. ELLROD: It says from Joel West.

23 THE WITNESS: Right.

24 MR. ELLROD: So is this a text that you
25 received from Joel West?

1 THE WITNESS: Yes, it looks familiar.

2 BY MR. TASHROUDIAN:

3 Q. And then you sent this over, you copied a
4 portion of it and sent it over to Jace Hall, right?

5 A. I don't know.

6 Q. Well, that's the text that we looked at in AA.

7 A. Okay.

8 Q. You want to go back to AA?

9 A. No.

10 Q. Let's go back to AA.

11 A. I remember it.

12 Q. Okay. You remember AA. How was AA signed
13 off?

14 A. BM.

15 Q. And this is signed Billy?

16 A. Right. I have no idea why.

17 Q. Did you -- did you change the text message
18 when you sent it to Jace?

19 A. I have no idea why. I normally write Billy.

20 Q. Did you change the text message when you sent
21 it?

22 A. I have no idea.

23 Q. It changed, though, right, from here to Jace?

24 A. Yes, that changed.

25 Q. The sign-offs changed, right?

1 MR. ELLROD: You mean that, yeah, that the
2 other -- the other one doesn't have BM on it.

3 MR. TASHROUDIAN: Right.

4 MR. ELLROD: The other one is BM and this says
5 Billy at the end of the paragraph.

6 MR. TASHROUDIAN: Yes.

7 BY MR. TASHROUDIAN:

8 Q. So you changed it, right?

9 A. I --

10 MR. ELLROD: He didn't change it.

11 THE WITNESS: I don't know.

12 MR. ELLROD: He cut and pasted something onto
13 a text.

14 BY MR. TASHROUDIAN:

15 Q. Yes. And you changed it from Billy to BM,
16 correct?

17 A. I have no idea. I can't recall.

18 Do you want me to guess? It sounds like
19 you're --

20 MR. ELLROD: No, don't guess, don't guess.

21 BY MR. TASHROUDIAN:

22 Q. If you didn't change it, who would have?

23 A. I don't know.

24 Q. Was somebody else -- did somebody else have
25 your phone and send that text message to Jace Hall?

1 A. I don't believe so.

2 Q. It would have been you, right?

3 MR. ELLROD: Objection, argumentative. If he
4 doesn't recall, he doesn't recall.

5 BY MR. TASHROUDIAN:

6 Q. Isn't it true, Mr. Mitchell, that you read
7 this entire text message, approved it, changed the
8 signature and sent it off to Jace Hall?

9 A. I don't know, but I do remember calling Jace
10 Hall and saying nobody speaks on my behalf.

11 Q. Did you call him after this?

12 A. Yes.

13 Q. What time?

14 A. Next phone call I had with him.

15 Q. What --

16 A. We can look through the call logs.

17 Q. Did you call him on your phone?

18 A. Yes, I did.

19 Q. On your cell phone, right?

20 A. Yes.

21 Q. You recall that, dialing his number directly
22 on the cell phone?

23 A. Only way to call him.

24 Q. What about through Skype, did you call him
25 through Skype?

1 A. I've never used Skype.

2 Q. Did you have Isaiah Triforce Johnson call Mr.
3 Hall?

4 A. I don't know. I know it was the next call to
5 Jace Hall.

6 Q. With your -- through -- by your phone, though,
7 right?

8 MR. ELLROD: Objection, asked and answered.

9 THE WITNESS: I don't know.

10 BY MR. TASHROUDIAN:

11 Q. Oh, now -- now you don't know?

12 MR. ELLROD: The question is whether he used a
13 phone to make a call?

14 MR. TASHROUDIAN: Yes.

15 THE WITNESS: I didn't use a smoke signal.

16 Please clarify the question.

17 BY MR. TASHROUDIAN:

18 Q. Did you use your cell phone is what I asked
19 you.

20 MR. ELLROD: The answer's yes or no.

21 THE WITNESS: Well, if I called him I would
22 have used my cell phone. If I was on a call --

23 MR. ELLROD: That's all. You've answered.

24 BY MR. TASHROUDIAN:

25 Q. If you were on a call with who?

1 A. If I made the call myself, it would have been
2 with a cell phone.

3 Q. All right. I want to now direct your
4 attention to Exhibit X.

5 MR. ELLROD: What is it, X?

6 MR. TASHROUDIAN: X, like xylophone.

7 MR. ELLROD: Is there anything in particular
8 here that you want to go over?

9 MR. TASHROUDIAN: Yes, page 9. Exhibit 9,
10 page 58. Is that it?

11 MR. ELLROD: Page 9?

12 MR. TASHROUDIAN: Bear with me a second here.
13 My notes might be -- Okay. So page 58.

14 MR. ELLROD: Page 58.

15 MR. TASHROUDIAN: Yes.

16 MR. ELLROD: Of the entire document?

17 MR. TASHROUDIAN: Yes.

18 MR. ELLROD: How do I tell what the page
19 number is? I mean, but there is page numbers and
20 then it's going into exhibits.

21 MR. TASHROUDIAN: I'm sorry, let's do this,
22 just go to paragraph 24.

23 MR. ELLROD: Okay. Okay. Paragraph 24.

24 THE WITNESS: Okay. Sounds like what we spoke
25 of.

1 MR. ELLROD: No question.

2 BY MR. TASHROUDIAN:

3 Q. I just want to make sure that on April 5, like
4 you say here, that same day, you called Jace Hall on a
5 phone and told him to disregard that text message. I
6 just want to make sure your testimony is consistent.

7 A. It's not.

8 Q. It's not?

9 A. You're not correct.

10 Q. What's -- what's -- how am I incorrect?

11 A. I said -- I didn't say that. Could we --
12 could we have the court reporter read it back?

13 MR. ELLROD: No, no. Just answer the
14 question. What's the question?

15 THE WITNESS: I said on the next call to Jace.
16 I told him as I had told him many times, nobody
17 speaks for me. I didn't say I did it that day or
18 whatever. I said I did it -- I said I did it in
19 the next call. That's what I just said here.

20 BY MR. TASHROUDIAN:

21 Q. I told Jace -- this is paragraph 19 -- I'm
22 sorry, paragraph 24, in between lines 19 and 20, I told
23 Jason Hall to disregard it on our phone call later that
24 same day.

25 A. Okay.

1 Q. So the phone call took place on April 5, 2018,
2 where you told him to disregard that text message.

3 MR. ELLROD: Does that refresh your
4 recollection as to whether it was the same day?

5 THE WITNESS: No. What refreshes -- refreshes
6 my recollection --

7 MR. ELLROD: That's it, whether it does or it
8 doesn't.

9 THE WITNESS: No.

10 MR. ELLROD: If it doesn't --

11 THE WITNESS: It doesn't.

12 MR. ELLROD: -- then you've answered.

13 BY MR. TASHROUDIAN:

14 Q. Then why did you put that in your declaration
15 here?

16 A. Because it was the next phone call and I
17 thought that was the next phone call. It might have
18 been the next day, I don't know. Could be human error.

19 Q. So this is wrong?

20 A. I don't know.

21 MR. ELLROD: Objection, misstates the
22 testimony.

23 BY MR. TASHROUDIAN:

24 Q. Well, I'm asking you. Is this incorrect, did
25 you call him that same day, April 5?

1 A. I don't know.

2 Q. But you're saying that you did in this
3 paragraph 24.

4 MR. ELLROD: Objection, the document speaks
5 for itself, argumentative. He told you he doesn't
6 recall.

7 MR. TASHROUDIAN: Exhibit X. It's still
8 there. Exhibit X.

9 (Exhibit X to be marked for Identification.)

10 MR. TASHROUDIAN: Document page...

11 THE WITNESS: I don't see X.

12 MR. ELLROD: Don't. If you can tell me how to
13 read the document pages I can do it.

14 MR. TASHROUDIAN: I think you just have to
15 scroll.

16 MR. ELLROD: And count them?

17 MR. TASHROUDIAN: Document page number 20 --

18 THE WITNESS: Nine.

19 MR. ELLROD: But that's page number of this
20 document, it's not -- there's, more than -- there's
21 other things attached to this. Is it -- is it part
22 of the declaration?

23 MR. TASHROUDIAN: It is. The signature page.

24 MR. ELLROD: Oh, what paragraph? Signature
25 page?

1 MR. TASHROUDIAN: Yeah, page 20 and 21.

2 MR. ELLROD: Okay.

3 BY MR. TASHROUDIAN:

4 Q. You signed this declaration under -- under
5 penalty of perjury, correct?

6 A. Yes.

7 Q. In fact, you state here, I declare under
8 penalty of perjury of the laws of the state of
9 California that the foregoing is true and correct.

10 A. Correct.

11 Q. Right?

12 So paragraph 24, though, isn't correct?

13 MR. ELLROD: Objection, misstates the
14 testimony. He did not say that that paragraph is
15 incorrect. He said he doesn't recall as he sits
16 here today whether he called the same day or
17 another day, but it was the first call. He's not
18 -- so he never testified it was incorrect.

19 THE WITNESS: Correct.

20 BY MR. TASHROUDIAN:

21 Q. Well, was it that same day? I mean, can you
22 categorically tell me that it was not that same day
23 that you called him?

24 A. Categorically?

25 Q. Yeah.

1 A. I can't tell you.

2 Q. Let's go back to Exhibit AA.

3 MR. ELLROD: All right.

4 BY MR. TASHROUDIAN:

5 Q. You had quite a few text messages with Mr.
6 Hall in this thread, correct?

7 MR. ELLROD: Objection, vague as to quite a
8 few. You can answer if you know how many text
9 messages were in that string.

10 Are you referring to ever or on this day?

11 MR. TASHROUDIAN: In this stream. In this --

12 MR. ELLROD: On that day?

13 MR. TASHROUDIAN: On that day in this exhibit
14 itself.

15 MR. ELLROD: Okay.

16 If you believe that's quite a few, give your
17 opinion on that. The question was is that -- is
18 that quite a few or to adopt your statement, is
19 that quite a few?

20 MR. TASHROUDIAN: Yeah.

21 BY MR. TASHROUDIAN:

22 Q. Is it -- you texted him back and forth that
23 day, let's try it that way. That's the question. You
24 texted with Mr. Hall back and forth that day, right?

25 MR. ELLROD: That's yes or no.

1 THE WITNESS: Yes, apparently I did.

2 BY MR. TASHROUDIAN:

3 Q. All right. Before we get to that, I want to
4 ask you another question here: How did you know to
5 send this text message, the first one here, how did you
6 know to send that to Carlos as well?

7 A. The one at the top?

8 Q. Yeah.

9 A. I don't recall. I would imagine -- no, I
10 shouldn't imagine.

11 MR. ELLROD: Yeah.

12 THE WITNESS: I don't recall.

13 MR. ELLROD: If you don't recall, you don't
14 recall.

15 BY MR. TASHROUDIAN:

16 Q. You just copied Carlos blindly?

17 A. No.

18 MR. ELLROD: Objection, misstates the
19 testimony. He said he doesn't recall.

20 BY MR. TASHROUDIAN:

21 Q. Is there a reason that you copied him?

22 A. No. I don't know.

23 Q. Isn't it because you read this text message
24 and you saw his name in there and you copied him for
25 that reason?

1 A. I don't have an answer for you.

2 Q. Why did you include Joel West?

3 A. I don't know. Is this the one that came from
4 Joel West?

5 MR. ELLROD: I don't know.

6 BY MR. TASHROUDIAN:

7 Q. That's the one that came from Joel West, the
8 one that you changed the signature block from Billy to
9 BM.

10 A. Right. I would say there's just a tremendous
11 amount of confusion.

12 Q. So you're just confused all over the place?

13 A. At the moment.

14 MR. TASHROUDIAN: All right. Madam Reporter,
15 it's been about an hour and ten, why don't we take
16 five minutes.

17 MR. ELLROD: Okay.

18 MR. TASHROUDIAN: Off the record.

19 THE VIDEOGRAPHER: All right. It's 2:10,
20 we're going off the record.

21 (Recess was had at 2:10 p.m., resuming at 2:23
22 p.m.)

23 THE VIDEOGRAPHER: Okay. It's 2:23. We're
24 back on the record.

25 BY MR. TASHROUDIAN:

1 Q. Okay, Mr. Mitchell, I'd like you to now take a
2 look at Exhibit GG. I'll pull it up for you. Let me
3 know --

4 (Exhibit GG to be marked for Identification.)

5 BY MR. TASHROUDIAN:

6 Q. These are Plaintiff William James Mitchell's
7 response to first set of request for admission
8 propounded by Defendant Twin Galaxies, LLC.

9 MR. ELLROD: Is there any one in particular
10 you want him to take a look at?

11 MR. TASHROUDIAN: Number one, yes.

12 THE WITNESS: (Indecipherable) know how to
13 work this. I'm sorry, which one?

14 MR. ELLROD: Number one.

15 THE WITNESS: Okay.

16 MR. ELLROD: Okay.

17 BY MR. TASHROUDIAN:

18 Q. Is that response still correct?

19 A. The response --

20 MR. ELLROD: It says you deny that you called
21 -- wait. It essentially says that you called Jace
22 Hall on April 5.

23 MR. TASHROUDIAN: It asks.

24 MR. ELLROD: It says admit that you did not,
25 and you say you deny that, so.

1 THE WITNESS: I don't know a particular date
2 almost five years later.

3 MR. ELLROD: He's just asking you whether
4 that's -- whether that's accurate or not as best as
5 you can recall as you sit here now.

6 THE WITNESS: Yeah, I mean, I don't...

7 BY MR. TASHROUDIAN:

8 Q. Do you want to change that answer?

9 MR. ELLROD: Which answer, the request for
10 information?

11 MR. TASHROUDIAN: Yeah, the request.

12 THE WITNESS: Admit that you did not call Jace
13 Hall on April 5th. I -- I don't have an answer if
14 I called him or not on that particular day.

15 BY MR. TASHROUDIAN:

16 Q. Well, you say there that you deny it. It's
17 kind of hard because it's a --

18 MR. ELLROD: You deny that you didn't call
19 him, so that means maybe you did. As you sit here
20 today, is that still accurate?

21 THE WITNESS: I'm uncertain.

22 MR. TASHROUDIAN: All right. Let's go to
23 Exhibit HH.

24 (Exhibit HH to be marked for Identification.)

25 MR. ELLROD: Any particular one?

1 MR. TASHROUDIAN: Yeah, 15.1.

2 MR. ELLROD: Plaintiff's responses to the
3 first set of interrogatories. 15.1?

4 MR. TASHROUDIAN: 15.1. It's going to be on
5 page -- 17.1.

6 MR. ELLROD: I got it.

7 MR. TASHROUDIAN: 17.1, I'm sorry.

8 MR. ELLROD: Oh, 17.1.

9 MR. TASHROUDIAN: Yes, page 21.

10 MR. ELLROD: This one right here. And just to
11 let you know, this is an interrogatory that asks
12 you to explain every denial on the request for
13 admissions that we just talked about.

14 THE WITNESS: Okay.

15 MR. ELLROD: So this relates to --

16 THE WITNESS: 17.1?

17 MR. ELLROD: You're talking about the request
18 number one?

19 MR. TASHROUDIAN: Yes.

20 MR. ELLROD: So this is the explanation for
21 denying request number one which said admit that
22 you didn't call on April 15.

23 MR. TASHROUDIAN: April 5.

24 MR. ELLROD: April 5.

25 THE WITNESS: April 5th.

1 By MR. TASHROUDIAN:

2 Q. The same day as the text messages from
3 Exhibits Y and X -- and Z. I'm sorry. No, Y and AA.

4 A. You know, I -- I would say that I --I stand
5 behind it to the best of my knowledge.

6 MR. ELLROD: Okay.

7 BY MR. TASHROUDIAN:

8 Q. So you called Mr. Hall on April 5 with Isaiah
9 Triforce Johnson on Skype, right?

10 A. I believe -- I believe it's correct.

11 Q. Okay. How did you know to call Mr. -- well,
12 let's -- let's start with this: Why did you use Mr.
13 Triforce Johnson's help to call Mr. Hall?

14 A. Triforce has his own dealings with Twin
15 Galaxies, they're not to be trusted. I wanted Triforce
16 as a -- as a witness and his help. He's got his
17 understanding. I had long since stopped trusting.

18 MR. ELLROD: Objection. The question was why
19 did you enlist the help of Triforce?

20 THE WITNESS: Oh, I didn't enlist the help, I
21 just -- he was just on the phone, and I valued his
22 opinion.

23 BY MR. TASHROUDIAN:

24 Q. Did Jace Hall know that Triforce was on the
25 phone?

1 A. I have no idea.

2 Q. Did you tell Mr. Hall that Triforce was on the

3 --

4 A. I have no idea.

5 Q. Do you recall the cell phone call?

6 A. There were many calls. You're asking me to
7 recall one. No.

8 Q. Yeah, the one from April 5.

9 A. No.

10 Q. You don't recall it?

11 A. That particular one, to pinpoint it, no.

12 Q. Was it common for you to make calls with Mr.
13 Triforce Johnson on Skype?

14 A. It was reasonably common.

15 Q. How common?

16 A. Half a dozen times, dozen times.

17 Q. How did you -- did you initiate the call to
18 Mr. Johnson to then call Mr. --

19 A. No.

20 Q. -- Hall?

21 A. Mr. Johnson called me.

22 Q. On April 5?

23 A. He called me each time he called me.

24 Q. Okay. So how did he know to call you, for you
25 guys to call Mr. Hall?

1 MR. ELLROD: Objection, lacks foundation.
2 Calls for speculation. If you know, you can
3 answer.

4 THE WITNESS: No. We were talking often then.

5 BY MR. TASHROUDIAN:

6 Q. So you just happened to be talking to him that
7 date on April 5 and you had him call Mr. Hall on a
8 three-way; is that what happened?

9 A. We were talking often.

10 Q. So I'm trying -- I'm trying to figure out how
11 Mr. Johnson knew to call you to then call Mr. Hall
12 together.

13 A. I don't think he necessarily knew. I was
14 speaking to him often.

15 Q. So you were probably speaking to him on April
16 5 and you guys just decided to call Mr. Hall?

17 A. That would not have been uncommon.

18 Q. Okay. So do you know around what time this
19 telephone call took place?

20 A. Not at all.

21 Q. Do you have any records of this telephone
22 call?

23 A. No.

24 Q. Do you recall having any telephone call with
25 Mr. Johnson and Mr. Hall where you told Mr. Hall that

1 that text message was erroneous, the April 5 text
2 message was erroneous?

3 MR. ELLROD: I'm sorry, I didn't --

4 THE WITNESS: Yeah. I got lost, too.

5 MR. TASHROUDIAN: Yeah.

6 BY MR. TASHROUDIAN:

7 Q. Let's try it this way: Do you recall having
8 any telephone call with Mr. Johnson, you and Mr. Hall,
9 where you told Mr. Hall that the April 5 text message
10 that you sent him, the one we were talking about, was
11 erroneous?

12 A. Okay. If I can repeat the question, please,
13 I'll repeat it?

14 Q. Yeah. Let me see if it's right.

15 A. You're asking me if I can recall Triforce
16 being on the phone with me to call Jace to say, Hey,
17 forget that text message, nobody speaks for me?

18 Q. Yes.

19 A. No, I don't recall.

20 Q. Did it happen?

21 A. The call to Jace, it definitely happened, more
22 than once.

23 Q. No, the call where you told Jace to -- to
24 disregard the text message you sent.

25 A. More than once.

1 Q. Oh, you told him more than once?

2 A. More than once that nobody speaks for me.

3 Q. Did you tell him more than once about the text
4 message in Exhibit --

5 A. No.

6 Q. -- AA?

7 A. I'm sure it was only once.

8 Q. But you can't recall that telephone call for
9 me right now, right?

10 MR. ELLROD: You mean other than that's what
11 he told him?

12 MR. TASHROUDIAN: Yeah.

13 BY MR. TASHROUDIAN:

14 Q. Do you recall that call specifically? Well,
15 let's try it this way: Do you recall what Jace Hall
16 told you in response?

17 A. No. I think he understood.

18 Q. Why do you think he understood?

19 A. I -- I remember him being -- he understood.

20 Q. How did he understand? What were his words?

21 A. I don't know his words.

22 Q. Do you remember them?

23 A. Nope.

24 Q. Did you hear him say anything?

25 A. Yeah, I'm sure I did.

1 Q. Okay. What did he say?

2 A. I don't know. You're asking me to recall five
3 years ago.

4 MR. ELLROD: Other than that he seemed to
5 understand.

6 THE WITNESS: He seemed to understand my
7 frustration.

8 BY MR. TASHROUDIAN:

9 Q. Did you explain to him what your frustration
10 was?

11 A. Yes, I did.

12 Q. And what was that?

13 A. Nobody speaks for me.

14 Q. Do you recall anything about what he said?

15 MR. ELLROD: Other than that he seemed to
16 understand that no one speaks for him?

17 MR. TASHROUDIAN: Yes.

18 THE WITNESS: That's what I remember.

19 BY MR. TASHROUDIAN:

20 Q. Yeah. How did get the understand -- how did
21 you come to the understanding that he was sympa --
22 well, let's -- let's strike the question.

23 How long did that telephone call with Mr. Hall
24 last?

25 A. Don't know.

1 Q. Was it more than five minutes?

2 A. I can't pinpoint the call, so therefore, it's
3 too hard to pinpoint the conversation.

4 MR. ELLROD: If you don't know the time, just
5 say you don't know the time.

6 THE WITNESS: Don't know the time.

7 MR. ELLROD: If you have an estimate, give him
8 your best estimate.

9 BY MR. TASHROUDIAN:

10 Q. Do you know, did Mr. Hall do anything
11 afterward?

12 A. I don't know.

13 Q. Getting back to this text message exchange
14 between you and Mr. Hall as Exhibit AA, is there any
15 reason why you didn't text Mr. Hall about the message,
16 the first message being erroneous?

17 A. I call far more than I text. I only tend to
18 text when I can't get ahold of people.

19 Q. You'd agree with me that you texted with Mr.
20 Hall way more than you called him, right?

21 A. No, I wouldn't agree with that.

22 Q. Do you know how many calls you had with Mr.
23 Hall from January 1, 2018, through the end of April --

24 A. No.

25 Q. -- 2018?

1 A. No. I can just tell you the last call --

2 MR. ELLROD: You answered.

3 BY MR. TASHROUDIAN:

4 Q. You're not certain of how many telephone calls
5 you had with him; is that right?

6 A. Don't know how I could be.

7 Q. Let's go back to Exhibit X. Let's try
8 paragraph 60.

9 MR. ELLROD: Sixty?

10 MR. TASHROUDIAN: Six-zero, yes.

11 Maybe this is the wrong --

12 MR. ELLROD: I only have 49.

13 MR. TASHROUDIAN: Yeah. Yeah, I'm sorry.

14 This is the wrong declaration. Let's try a
15 different way.

16 Let's try Exhibit A, response to special
17 interrogatory number 16.

18 MR. ELLROD: Sixteen, one-six?

19 MR. TASHROUDIAN: Yeah, one-six.

20 MR. ELLROD: This is the question, and this is
21 the response. Question, response is down here.

22 By the way, I'm going to request that this
23 exhibit be marked *confidential because it includes
24 phone numbers.

25 Got it?

1 THE WITNESS: All right. Okay.

2 BY MR. TASHROUDIAN:

3 Q. Does -- does that refresh your recollection on
4 how many times you called Mr. Hall during this time
5 period?

6 A. Well, I mean, I can clearly see my --

7 MR. ELLROD: The question is yes or no, does
8 that refresh your recollection?

9 THE WITNESS: No. It's what I stated before.

10 BY MR. TASHROUDIAN:

11 Q. Did you call him four times like you state
12 here in response to special interrogatory number 16, on
13 page 15 of Exhibit A?

14 A. You're not asking a clear question.

15 Q. My question --

16 MR. ELLROD: He's asked you did you call --
17 did you call him four times which is what it
18 indicates here in the response to this
19 interrogatory?

20 THE WITNESS: Okay. Did I call him those four
21 times, I probably did.

22 BY MR. TASHROUDIAN:

23 Q. Did you call him more than that?

24 A. I'm sure I did.

25 Q. Did -- did you call him from your cell phone?

1 A. For some of the times, yes.

2 Q. What other numbers did you call him with?

3 A. Would have been with Triforce.

4 Q. Okay. How many times with Triforce?

5 A. I don't know. A good number. I don't know.

6 Often.

7 Q. So I really want to be clear on how you knew
8 to call Mr. Hall with Triforce. So Tri -- tell me if
9 I'm wrong. Triforce would call you, you guys would be
10 chatting, and then decide to call Mr. Hall?

11 A. No, he would -- we would be chatting about
12 whatever it was and we would know that we need to call
13 him to try to clarify something, to try to gain
14 information or give information.

15 Q. And you would call Mr. Hall?

16 A. Correct or Triforce would.

17 Q. Triforce would call Mr. Hall. By Skype?

18 A. Yes.

19 Q. Okay. Did you tell Mr. Hall that Triforce was
20 on the phone?

21 A. I don't know if we did, and I don't know if we
22 did sometimes or sometimes we didn't.

23 Q. Sometimes you might have kept it secret,
24 though, right?

25 A. I don't know.

1 Q. Has Triforce ever offered to provide his Skype
2 logs to you to prove that he did, in fact, call Mr.
3 Hall?

4 A. No.

5 Q. Have you asked him for those?

6 A. No.

7 Q. If you asked him, would he comply?

8 MR. ELLROD: Objection, calls for speculation.

9 THE WITNESS: Don't know what a Skype log is.

10 BY MR. TASHROUDIAN:

11 Q. Is there any other method to prove that you
12 did, in fact, call Mr. Hall on Skype with Triforce,
13 that you know of?

14 A. We could ask Mr. Triforce.

15 Q. Aside from that.

16 A. You could ask Mr. Hall.

17 Q. This text message that we're talking about
18 here in Exhibit AA, let's go back to it.

19 MR. ELLROD: Okay.

20 By MR. TASHROUDIAN:

21 Q. It was a request for more time. Do you see
22 that there?

23 A. Yes.

24 Q. Was that part -- was that part incorrect, did
25 you guys need more time?

1 A. No, I think we needed more time.

2 Q. Needed more time to do what?

3 A. To expand on the recent findings that Rob and
4 Neil came up with.

5 Q. Okay. And Mr. Hall granted you that
6 additional time?

7 A. One time he did, one time he didn't.

8 Q. When didn't he?

9 A. Well, one point he did and at the end he
10 didn't.

11 Q. Did he grant you more time pursuant to this
12 request?

13 A. There were two requests, one yes, one no.

14 Q. Okay.

15 A. Which request is this --

16 Q. Yeah, can you tell me?

17 A. -- I don't know.

18 Q. Is this the first one that he granted more
19 time or not?

20 A. I don't know. I would think this is the first
21 time, but I don't know.

22 MR. ELLROD: Don't guess. If you know, you
23 know. If you don't, no.

24 BY MR. TASHROUDIAN:

25 Q. Did you make the request to Mr. Hall directly

1 for more time?

2 A. I remember speaking to him about it. Whether
3 others did or not, I don't know.

4 Q. Were you ever in the room where Carlos and
5 Steve Kleisath called Mr. Hall and asked for more time?

6 A. Yes.

7 Q. You were there?

8 A. I was there.

9 Q. Where did that phone call take place?

10 A. That was inside Arcade Game Sales.

11 Q. Who else was present?

12 A. Rob was there, I believe Triforce was there,
13 and Neil was there but left.

14 Q. Was Steve Kleisath there?

15 A. Yes, he was.

16 Q. Was Carlos Pineiro there?

17 A. Just as I said, yes.

18 Q. Okay. So, and these people were working at
19 your request?

20 MR. ELLROD: Objection, that misstates his
21 testimony.

22 BY MR. TASHROUDIAN:

23 Q. Well, let's try this way: Were these people
24 -- so let's get -- let's write those people down, just
25 so we have a clear record.

1 You've got Neil Hernandez, correct?

2 A. Yeah, he was -- he was --

3 MR. ELLROD: That's not a question, just
4 whether -- whether he was there.

5 BY MR. TASHROUDIAN:

6 Q. Rob Childs?

7 A. Yes.

8 Q. Carlos Pineiro?

9 A. Yes.

10 Q. Steve Kleisath?

11 A. Yes.

12 Q. Anyone else?

13 A. During the phone call?

14 Q. Yeah.

15 A. No.

16 Q. So there were five of you at Arcade Game Sales
17 that day?

18 A. There was another guy named Steve.

19 Q. Right.

20 A. He was at Arcade Game Sales, but not out front
21 with us.

22 Q. You guys were outside?

23 A. No. He was in the back doing work.

24 Q. Why had the five of you gentlemen congregated
25 at Arcade Game Sales that day?

1 A. Neil and Rob were working and they were
2 excited about whatever they found.

3 Q. Why was Carlos there?

4 A. Because I guess he was interested in it, too.

5 Q. And what about Steve Kleisath?

6 A. Steve was there because he wanted the
7 attention.

8 Q. And did they call you over to come by or how
9 did you decide to get there?

10 A. I spend -- no, they didn't. I decided to be
11 there.

12 Q. So the five of you guys were together and you
13 guys called Jace Hall together?

14 A. No.

15 Q. Who called Jace?

16 A. Steve Kleisath.

17 Q. Was he the only -- only one that spoke to Mr.
18 Hall?

19 A. Yes, that I'm aware of.

20 Q. Did Carlos Pineiro speak to Mr. Hall --

21 A. I don't know.

22 Q. -- also?

23 A. I don't know.

24 Q. Did Mr. Hall ever tell Mr. Kleisath on that
25 phone that he couldn't grant an extension because it's

1 not coming from you?

2 A. No, I never heard that.

3 Q. Do you know if he granted that extension that
4 was requested --

5 A. As I said --

6 Q. -- during that phone call?

7 A. -- one yes, one no.

8 Q. These five -- these four gentlemen, they
9 weren't working at your request, were they?

10 A. No.

11 Q. Just happened to congregate to determine the
12 validity of the dispute?

13 MR. ELLROD: Objection, calls for speculation
14 as to what they were thinking.

15 But I think you can answer if you have an
16 opinion on it.

17 THE WITNESS: Rob and Neil made a
18 breakthrough, whatever that was, they told others
19 who got excited, who drove by.

20 BY MR. TASHROUDIAN:

21 Q. You'd at least agree with me that they were
22 working on your dispute case, right?

23 A. No, I'm not going to agree to anything.

24 Q. Well, were they working on your dispute case?

25 A. They were working on their own. They were

1 using the equipment that was in Arcade Game Sales.

2 Q. And you were there?

3 A. I was there more than anybody.

4 Q. In fact, you helped Carlos in his testing,
5 didn't you?

6 A. No.

7 Q. Not at all, never once?

8 A. Never once.

9 Q. Did you see Carlos performing any testing?

10 A. I saw him doing different things, yes.

11 Q. Yeah. What did you see him doing?

12 A. Looking inside games.

13 Q. Did you understand why he was looking inside
14 the games?

15 A. Not at all.

16 Q. You had no idea why he was?

17 A. No.

18 MR. HALL: Do you want me to stop the vacuum?

19 MR. TASHROUDIAN: Yeah, maybe, just --

20 MR. ELLROD: Ah, you're better than I thought.

21 THE WITNESS: Okay.

22 MR. ELLROD: He did it just like that.

23 MR. TASHROUDIAN: Jace is multitalented.

24 Madam Reporter, would you read back the last
25 question and answer, please.

1 (Portion of the record was read.)

2 MR. TASHROUDIAN: You got it. Thank you. Can
3 we go off the record for a second, please.

4 THE VIDEOGRAPHER: Hold it. Okay. It's 2:46,
5 we're going off the record.

6 (Discussion off record.)

7 THE VIDEOGRAPHER: Okay. It's 2:46. We're
8 back on the record.

9 BY MR. TASHROUDIAN:

10 Q. So the question was you had no idea what
11 Carlos was doing when he was looking in the back of the
12 machine?

13 A. No.

14 MR. ELLROD: Is that correct? You asked a
15 negative question. Was it correct that you had no
16 idea?

17 THE WITNESS: I didn't understand what he was
18 doing at all, no.

19 BY MR. TASHROUDIAN:

20 Q. Did you ever play for him?

21 A. I played regularly --

22 Q. Yeah. That's not --

23 A. -- at Arcade Game Sales. I don't play for
24 Carlos, I play for me.

25 Q. Well, did you ever play for Carlos

1 specifically?

2 A. I guess I'm missing the question a little.

3 Q. Yeah. Did you ever play for Carlos where, say
4 for example, when the back of a arcade machine was
5 open, he had a white table set up right next to him
6 with a Dell monitor and a PCB hooked up to a converter
7 board; did you ever do that?

8 A. Oh, I was already playing on my own --

9 Q. Okay.

10 A. -- own, yes.

11 Q. So, but you remember that incident, right?

12 A. I do.

13 Q. Okay. How many times did that happen?

14 A. That I think happened that day.

15 Q. What day?

16 A. The day you're speaking of.

17 Q. The day that you guys all called up Jace Hall?

18 A. The day that Steve Kleisath called Jace Hall.

19 Q. The day Steve Kleisath called up Jace Hall.

20 So are you still telling me that you weren't
21 helping Carlos in his testing that day?

22 MR. ELLROD: Objection, vague, as to helping.

23 He testified that he was playing before Carlos was
24 there.

25 BY MR. TASHROUDIAN:

1 Q. You were playing before Carlos got there; is
2 that correct?

3 A. That's correct.

4 Q. And he just opened up the back of the machine?

5 A. The back was already open.

6 Q. It was already open. Was his testing
7 equipment already set up?

8 A. Yes.

9 Q. Okay. And his testing table was already set
10 up?

11 A. Yes. It's not his table, it's Rob's but, yes.
12 It's his equipment -- it's Rob's equipment as well.

13 Q. Did you -- did you ask Carlos why he had his
14 testing set -- set up?

15 A. No.

16 Q. You had no idea why? Or did you have any idea
17 why he had his testing set up?

18 A. No, I don't understand any -- anything like
19 that.

20 Q. Did you understand that he was trying to
21 determine the validity of your score with that testing
22 set up?

23 A. I don't know what it was he was trying to
24 achieve.

25 Q. Okay. Let's -- let us mark now as Exhibit --

1 THE WITNESS: Don't say nothing.

2 BY MR. TASHROUDIAN:

3 Q. -- R, a video recording of Mr. Mitchell
4 playing Donkey Kong.

5 (Exhibit R to be marked for Identification.)

6 MR. TASHROUDIAN: Can you play that for us?

7 MR. ELLROD: Not on there.

8 MR. HALL: I have it here on the short -- give
9 me a second. Send the audio to the television so
10 we can hear it. And I'll open this, and this one
11 looks open so we'll close this and move this over
12 here.

13 MR. TASHROUDIAN: Can you pause this?

14 MR. HALL: This is -- this is the -- that's
15 the other one. Hold on.

16 THE WITNESS: I think that's the Apollo
17 Mitchell one.

18 MR. HALL: That's the other one. It is -- we
19 didn't mark it here in our -- our group.

20 MR. TASHROUDIAN: Yeah, she is taking down
21 everything you say.

22 MR. HALL: Yeah. Okay. Well, give me a
23 couple minutes to -- to locate it.

24 MR. TASHROUDIAN: All right. Let's -- you do
25 that.

1 BY MR. TASHROUDIAN:

2 Q. Okay. So we were talking about the incident
3 where Carlos was working on an open machine, he had
4 wires hooked up to that machine, right?

5 A. Uh-huh. Yes.

6 Q. Output to a monitor, correct?

7 A. I believe so.

8 Q. Do you remember that monitor, what it looked
9 like?

10 A. Was that the Hello Kitty one?

11 Q. No.

12 A. Was it pink?

13 Q. No.

14 A. Okay.

15 Q. Was it is a Dell monitor, do you recall that?

16 A. I don't recall.

17 Q. Do you recall what he -- I'm sorry, do you
18 recall what he was doing with the setup?

19 A. I mean, no, I don't. I mean, what he was
20 attempting to do for a long period of time was draw the
21 signal from the game.

22 Q. In which fashion, draw the signal in the
23 game --

24 A. Yes.

25 Q. -- to show the three girders?

1 A. No, to simply show game play.

2 Q. Do you recall who else was there that day?

3 A. We stated those. You want me to state them
4 again?

5 Q. Oh, so all -- all these gentlemen were there
6 that day?

7 A. The day that we're thinking of where Steve
8 called Jace, yes.

9 Q. Yes. And the same day that Carlos sat with
10 you and -- well, let's strike the question. Let's just
11 wait for the video. Sorry, Jace.

12 MR. HALL: That's all right.

13 MR. ELLROD: Just one.

14 THE WITNESS: Thank you, sir.

15 MR. ELLROD: You're welcome.

16 MR. HALL: Okay. You want me to hit play now?

17 MR. TASHROUDIAN: Sure. We'll -- we'll let it
18 play all the way through.

19 MR. HALL: Okay.

20 (Video playing:)

21 MALE VOICE: (Indecipherable) that little
22 bump, bump, extra 300 each time you do it. That's
23 what's so funny, different from Mario Brothers and
24 Donkey Kong. Donkey Kong you're trying to squeeze
25 the juice out of a lemon, Mario Brothers you're

1 trying not to -- want to survive. (Indecipherable)

2 What are you doing there, Carlos?

3 MALE VOICE: Running some video test.

4 MALE VOICE: Okay. I was about to say
5 anything else you can do now.

6 MALE VOICE: Yeah.

7 MALE VOICE: You know, short of the CRT --

8 MALE VOICE: People are going to want you to
9 (indecipherable).

10 MALE VOICE: He's going to have a full mailbox
11 by the time he gets home.

12 MALE VOICE: You guys.

13 MALE VOICE: I've already got a bunch of
14 people asking questions. I'm like all right. I
15 don't mind, as long --

16 (Video stopped.)

17 BY MR. TASHROUDIAN:

18 Q. Is that you in the video, Mr. Mitchell?

19 A. Yes.

20 Q. Okay. And you were playing the Donkey Kong
21 machine?

22 A. Yes.

23 Q. Do you know who was recording this video?

24 A. Well, it was hooked up and I -- I did some
25 recording, too.

1 MR. ELLROD: He's talking about the video we
2 just watched.

3 THE WITNESS: Oh, who has the camera?

4 BY MR. TASHROUDIAN:

5 Q. Yes.

6 A. No.

7 Q. Did you hear Mr. Pineiro's voice in there?

8 A. Yes.

9 Q. Is there any reason for you to believe it
10 wasn't Mr. Pineiro that recorded this?

11 A. No.

12 Q. Did you hear Mr. Pineiro saying he's
13 conducting a video test?

14 A. Yeah, he did.

15 Q. All right. Did you understand he was
16 conducting a video test when this incident occurred?

17 MR. ELLROD: When this video was taken you
18 mean?

19 BY MR. TASHROUDIAN:

20 Q. Yeah, when this video was taken.

21 A. Yeah.

22 Q. You did.

23 A. Uh-huh.

24 Q. And you were helping him in his testing,
25 right?

1 A. No. I'm playing the game, okay. If that
2 helps him in his testing, then I'm happy to help him.

3 Q. You previously denied that you did any help
4 for Mr. Pineiro -- Pineiro in his testing; do you
5 recall that testimony?

6 A. Yes, I do.

7 Q. Has it changed after watching this?

8 A. No.

9 Q. Let's look at Exhibit GG, request for
10 admission number 49.

11 A. Forty-nine. Okay.

12 Q. So the -- the request for admission is, Admit
13 that you played Donkey Kong for Carlos Pineiro to test
14 the validity of the claims against your Donkey Kong
15 score -- score performances that are at issue in this
16 case?

17 A. Uh-huh.

18 Q. And then you make some objections, subject to
19 and without waiving the objections, you respond, deny;
20 is that still correct?

21 A. That's correct.

22 Q. Let's go to Exhibit HH.

23 MR. TASHROUDIAN: This is going to be response
24 to form interrogatory number 17.1, request for
25 admission number 49.

1 THE WITNESS: Okay.

2 MR. ELLROD: That's explaining that prior
3 request for admission that we denied.

4 THE WITNESS: Right. Got it.

5 MR. TASHROUDIAN: Subsection B here.

6 THE WITNESS: Yeah.

7 BY MR. TASHROUDIAN:

8 Q. Page 38, lines one through three. Respond --
9 excuse me. Responding party bases its denial on the
10 fact that responding party has never played Donkey Kong
11 for the purposes of -- for the purpose of helping
12 anyone test the validity of the claims against his
13 Donkey Kong score performances that are at issue in
14 this case.

15 That video that we just watched, was that you
16 helping Carlos test the validity of the claims against
17 you?

18 A. No.

19 Q. So how do you describe that video?

20 A. I was playing Donkey Kong. That's what I do.

21 Q. For who?

22 A. For me. Two to three hours a day.

23 Q. Hooked up to Carlos' testing rig?

24 A. That's not Carlos' testing. That's Arcade
25 Game Sales.

1 Q. But that was a testing rig, though, you'd
2 agree, right?

3 A. Yes.

4 Q. Let's pull up -- let's put this video up as
5 Exhibit II.

6 (Exhibit II to be marked for Identification.)

7 MR. HALL: I'll scan through it.

8 MR. TASHROUDIAN: We'll do it later, after the
9 break.

10 BY MR. TASHROUDIAN:

11 Q. Could you please pull up Exhibit S.

12 (Exhibit S to be marked for Identification.)

13 MR. ELLROD: F, as in Frank?

14 MR. TASHROUDIAN: S, as in Sam.

15 MR. ELLROD: Sam.

16 THE WITNESS: Okay. Where am I looking?

17 MR. ELLROD: Just read them.

18 By MR. TASHROUDIAN:

19 Q. There're quite a few pages, so take a look at
20 all of them. We'll go to specific ones, if you wish.

21 MR. ELLROD: Scroll it when you're done.

22 THE WITNESS: Oh, more. Keep going?

23 MR. ELLROD: Yeah.

24 MS. ROSS: David, can you send me the exhibit
25 while we're waiting?

1 MR. TASHROUDIAN: I'm sorry, what was that?

2 MS. ROSS: Can you send me the exhibit while
3 were waiting for them to review?

4 MR. TASHROUDIAN: Which one?

5 MR. ELLROD: The one we're looking at.

6 MS. ROSS: The one they're looking at.

7 MR. TASHROUDIAN: Sure.

8 MS. ROSS: Thanks.

9 MR. ELLROD: How long is this?

10 MR. TASHROUDIAN: Twenty-seven pages.

11 THE WITNESS: I've heard this before.

12 MR. ELLROD: Okay.

13 MR. TASHROUDIAN: All right.

14 THE WITNESS: It's almost break time.

15 MR. TASHROUDIAN: I think we were on our
16 break.

17 THE WITNESS: Okay.

18 MR. ELLROD: Off?

19 MR. TASHROUDIAN: No, I thought we were on our
20 break. We're good to go?

21 MR. ELLROD: Yeah, we're good to go.

22 MR. TASHROUDIAN: Madam reporter, you're still
23 good?

24 THE VIDEOGRAPHER: We've been on the record.

25 MR. ELLROD: We've been on the record.

1 MR. TASHROUDIAN: Yeah, I know.

2 BY MR. TASHROUDIAN:

3 Q. All right. Before we get to Exhibit S, I want
4 to play now for you Exhibit II. This will be a video
5 of Mr. Mitchell, Triforce Johnson and Mr. Pineiro.

6 MR. TASHROUDIAN: We're going to skip to 3:38.

7 MR. HALL: That's quite some distance for me
8 to see, so tell me when I can take a look at the
9 video itself.

10 MR. TASHROUDIAN: Here, we can start it here.
11 What is this, what's the time stamp, 3:31?

12 MR. HALL: Yeah.

13 THE WITNESS: Yes.

14 MR. TASHROUDIAN: We'll start this at 3:31.

15 (Video playing:)

16 MALE VOICE: So we're here at Lester's, here
17 with the man, Billy himself, and then this is
18 Carlos. Hey, what's going on, Carlos?

19 MR. PINEIRO: Hey, how's it going?

20 MALE VOICE: You're a -- you're a technical
21 engineer, electrical --

22 MR. PINEIRO: Electrical engineer for Sega of
23 America in the late 90s, early 2000s.

24 MALE VOICE: (Indecipherable) work?

25 MR. PINEIRO: Actually, I was a circuit board

1 engineer. I would do the repairs on the games and
2 on the pinball machines. Yeah.

3 MR. MITCHELL: And vaguely familiar with the
4 subject matter.

5 MR. PINEIRO: I'm incredibly familiar with it.
6 One of my jobs was to take the classic board games
7 and make them operate on the new cabinets that we
8 would use at our gaming venues, that particularly
9 the venue I was at the most was in Sunset Place at
10 a place called Sega Game Works. And there I would
11 take the old gaming boards and have to make
12 modifications, like components to make it work with
13 brand new monitors, which at the time in -- in '98,
14 '99, the internet was still kind of fresh, so you
15 couldn't just find a part, you had to literally
16 design parts to work for the monitors of the day in
17 2000. So, and when it comes to the subject, I have
18 real life experience when it comes to classic
19 boards and how the monitor operates and stuff.

20 MR. MITCHELL: Well, the fact of the matter is
21 what happened was one day, for lack of a better
22 term, I guess he had seen something online and he
23 basically walked into the arcade and says, Hey, I
24 heard what's going on here. He said, he said,
25 actually, he says, I read what it was you put out,

1 Rob, you're right on target. I could probably
2 explain it better than you did. And without him
3 walking in the place, at least me, I'd just still
4 be here scratching my head. Things like that have
5 come forward.

6 Somebody sends a video and says, Oh Billy, I
7 found this online where you were playing, Steve
8 Sanders is playing Donkey Kong and you walk up and
9 you push him out of the way and you start playing
10 and I noticed, I zoomed in on the footage of the
11 game, and I noticed it loaded in the same manner
12 that everybody says is MAME. And I said, Oh, well,
13 quite honestly without all these people stepping
14 forward, about all this information arriving, I
15 would just -- I would have heard everything that
16 everybody's saying and I would have just went like
17 this, I don't know. Well, it looks like MAME. I
18 would have said, What's that mean? So the fact of
19 the matter if it wasn't for these people, this
20 information, everything coming forward and someone
21 smart enough to explain it, I'm not too proud to
22 say I'd be totally lost. It's the truth.

23 MALE VOICE: Let me ask you a question.

24 MR. TASHROUDIAN: Pause it.

25 (Video stopped.)

1 BY MR. TASHROUDIAN:

2 Q. All right. When you were talking about
3 someone smart enough to explain it, what did you mean
4 about that?

5 A. Most anybody's smarter than me to explain it.

6 Q. And you were sort of gesturing toward Carlos;
7 is that right?

8 A. He's smarter than I am, so is Rob, so is
9 Triforce, so is Neil.

10 Q. And you relied on him to explain the dispute,
11 right?

12 MR. ELLROD: Objection, with respect to the
13 term relied on. In what -- relied for what?

14 BY MR. TASHROUDIAN:

15 Q. Did you rely on Carlos as part of your team to
16 explain the technical portion of the dispute?

17 A. Did I take his opinion, is that what you're
18 asking me?

19 Q. No. My question's a little bit different.

20 MR. TASHROUDIAN: Madam Reporter, can you read
21 back the question, please.

22 (Portion of the record read.)

23 THE WITNESS: So is he the one that explained
24 the technicality of the dispute to me?

25 BY MR. TASHROUDIAN:

1 Q. As part of your team, yes.

2 A. Others did, he did as well. Everybody had a
3 different opinion.

4 Q. Do you still deny that Carlos was working on
5 your behest?

6 A. On my behest?

7 Q. Yes.

8 A. You're losing me.

9 No, he wasn't.

10 Q. All right. Let's go back to Exhibit S.

11 MR. ELLROD: X?

12 MR. TASHROUDIAN: S, like Sam. The text
13 message thread with Mr. Pineiro.

14 MR. ELLROD: Okay.

15 BY MR. TASHROUDIAN:

16 Q. Are you in the green here, sir?

17 A. I think so.

18 Q. All right. The first text message here,
19 1:51.18 seconds p.m., Carlos, we got off. Let me just
20 say thank you so much. What were you thanking him for?

21 A. For offering his assistance.

22 Q. You also say here, Thank you so much, sir. I
23 look forward to it. It will really help me and my
24 family. Thank you.

25 A. Uh-huh.

1 Q. Was that also you thanking him for helping
2 with your dispute?

3 A. I'm a thankful person, yes.

4 Q. Let's go to the next page, 2936.

5 MR. ELLROD: Okay.

6 BY MR. TASHROUDIAN:

7 Q. You say here, Hey sir, we will be at Rob's
8 place by three, the last text message there.

9 MR. ELLROD: Okay.

10 THE WITNESS: Okay.

11 BY MR. TASHROUDIAN:

12 Q. What did you mean by that?

13 A. It means I'll be at Rob's place about three.

14 Q. Why were you telling Mr. Pineiro you were
15 going to be at Rob's place at three?

16 A. Because I think he wanted to meet me.

17 Q. For what reason?

18 A. He didn't tell me for what reason.

19 Q. Did you meet with him on that day?

20 A. (No oral response.)

21 Q. You have no idea?

22 A. I was there often. He was there often.

23 Q. Did you do any testing with him on that day?

24 A. Don't know. Couldn't pinpoint a particular
25 day.

1 Q. But you did do testing with him at Arcade Game
2 Sales, right?

3 A. Okay. Everybody else did the testing, I did
4 the playing.

5 Q. Do you understand that the playing was
6 required for the testing?

7 A. No. Other people can play, too.

8 Q. Let's go to page 2938.

9 MR. ELLROD: Okay.

10 BY MR. TASHROUDIAN:

11 Q. At the very top there.

12 Sir, this message below came in last night.

13 A. Yes.

14 Q. Please read it and give me your thoughts.

15 Why were you asking him to give you -- give
16 you his thoughts?

17 A. His opinion?

18 Q. Yeah.

19 A. Because I asked for his opinion.

20 Q. What were you asking for his opinion on?

21 A. Probably his opinion of how this would go.

22 Q. We are planning -- the message is from Joel
23 West to Billy Mitchell, Neil Hernandez, Rob Childs,
24 Steve Kleisath, Triforce Johnson, Joel West, David
25 Race, Richie Knuklez, Walter Day and Eric Tessler, and

1 it says, We are planning to release all of our info on
2 the TG dispute thread this weekend.

3 Did you understand what that meant?

4 A. Yeah.

5 Q. What did that mean?

6 A. That meant Joel thought he was going to
7 release this on the TG dispute thread.

8 Q. Did you agree with that?

9 A. Hell, no.

10 Q. Why not?

11 A. Because I wouldn't put anything on there.

12 Q. Why wouldn't you?

13 A. Because it's venomous, it's unprofessional.

14 Q. Were all the other people on this text message
15 that I read off in a two line helping you with your
16 investigation into the score dispute?

17 A. They all offered their opinions.

18 Q. I think we talked a little bit about Neil
19 Hernandez, Rob Childs, Steve Kleisath, looks like
20 Triforce Johnson, Joel West, David Race. What about
21 Richie Knuklez, did we talk about him at all?

22 A. We didn't talk about him yet.

23 Q. Okay. So Mr. Knuklez, did he help you at all
24 with the dispute?

25 MR. ELLROD: Again, just maybe to -- so I

1 don't have to keep objecting, we're not talking
2 about people that were working at his request,
3 we're just talking about people that were
4 investigating the dispute?

5 MR. TASHROUDIAN: Yeah, helping him out.

6 MR. ELLROD: Okay. Because I -- I just want
7 to be clear that we're not adopting that -- that
8 they -- that he requested these people but we're --

9 THE WITNESS: Technically helping me, no, not
10 all of them.

11 BY MR. TASHROUDIAN:

12 Q. Richie Knuklez, was he?

13 A. He doesn't have the technical -- technical
14 savvy to help me.

15 Q. Did he provide copies of your two -- of your
16 ten forty-seven and ten fifty score performances to
17 you?

18 A. No.

19 Q. Did he provide those copies to anyone else?

20 A. You'd have to ask those people.

21 Q. Do you know whether or not he provided copies
22 to anyone else?

23 A. You'd have to ask him.

24 Q. No, I'm asking you. Do you know?

25 A. I don't know exactly what he provided, no.

1 Q. But you know he provided digital copies of the
2 ten forty-seven score, right?

3 A. Which score I don't know.

4 Q. But you know he did provide digital copies of
5 your scores, at least one of them?

6 A. Yeah, you're trying to pin me down on a
7 particular score and I -- I can't do that.

8 Q. I'm not trying to pin you down on anything.

9 MR. ELLROD: It's a yes or no whether --
10 whether it's your understanding that he provided
11 scores --

12 THE WITNESS: Yeah.

13 MR. ELLROD: -- and it's yes or no.

14 BY MR. TASHROUDIAN:

15 Q. Digital copies of scores.

16 A. Yeah, did he have one copy, yes.

17 Q. Do you know which score that was?

18 A. No.

19 Q. Do you -- do you claim that copy that he had
20 is not a copy of your original score performance?

21 A. I don't claim it. I haven't seen it.

22 Q. During this entire dispute, did you understand
23 that people were testing what was purported to be your
24 actual game performance tapes or copies thereof?

25 A. Different people were testing.

1 Q. Yes. Did you understand those to be --

2 A. Be more specific, please.

3 Q. Yeah. Did you understand those to be copies
4 of your performances?

5 MR. ELLROD: Objection, lacks foundation;
6 calls for speculation. You're asking him whether
7 they were actual true copies of his performance?

8 BY MR. TASHROUDIAN:

9 Q. Let's try it this way -- let's try it this
10 way: Rob Childs, Steve Kleisath and Carlos Pineiro
11 were working to disprove the claim against your scores;
12 is that correct?

13 A. They were trying to help me, yes.

14 Q. Yeah, they were trying to help you. Got it
15 there.

16 Did you provide them with a true and correct
17 copy of your score performances for the test?

18 A. No, I did not.

19 Q. Do you know where they got their score
20 performances to test from?

21 A. They didn't get any. They got it off the
22 dispute thread.

23 Q. Do you contend that those score performances
24 are not true and accurate representations of your
25 actual score performance?

1 A. I don't contend anything. I haven't seen
2 them.

3 Q. Let's go to 2940, right in the middle of the
4 page, message sent 3-19-2018; do you see that?

5 MR. ELLROD: 3-19-20?

6 MR. TASHROUDIAN: 2018, yeah, 8:59:46.

7 THE WITNESS: Okay.

8 BY MR. TASHROUDIAN:

9 Q. Why did you send Mr. Pineiro Mr. Hall's phone
10 number?

11 A. Don't know. I thought he said that he had
12 missed a call and he was wondering if it was Jace's,
13 but I don't know for sure.

14 Q. Did you ever request that Mr. Pineiro contact
15 Mr. Hall on your behalf?

16 A. I don't know. I might have -- I might have
17 said, Tell that to Jace.

18 Q. But if Carlos didn't speak for you, why did
19 you tell him to convey some of your -- convey anything
20 to Mr. Hall?

21 A. Nobody spoke for me. I spoke for myself.

22 Q. Did you understand at the end of this
23 investigation or testing by Carlos, Steve, Rob and
24 whoever else was helping you, that they would be
25 putting their finding into the TG thread?

1 A. No. Nothing was to go into TG threads.

2 Nothing went in before that. TG thread was toxic.

3 Q. Did you understand that they would -- that
4 these people would eventually make their findings known
5 to Mr. Hall?

6 A. I didn't know what they were going to do.

7 Q. Well, you knew they were asking for more --
8 more time, right?

9 A. Correct.

10 Q. What were they asking for more time for?

11 A. To learn more.

12 Q. With the ultimate goal of what?

13 A. Drawing a positive conclusion.

14 Q. And conveying that conclusion to who?

15 A. I don't know that they have to convey it to
16 anyone.

17 Q. But no one ever found -- no one ever came to a
18 positive conclusion, right, about your scores?

19 A. Who are you speaking of?

20 Q. Carlos, Steve.

21 A. There were many positives. There were a few
22 negatives.

23 Q. Has anyone ever determined that the score
24 performances that were at issue did, in fact, come from
25 an unmodified arcade PCB?

1 MR. ELLROD: I'll object as vague --

2 THE WITNESS: Yeah.

3 MR. ELLROD: -- calls for speculation, lack of
4 foundation, but if you know of any --

5 THE WITNESS: Yeah, I know --

6 MR. ELLROD: -- absolute proof.

7 THE WITNESS: -- because I only played on a
8 Donkey Kong.

9 BY MR. TASHROUDIAN:

10 Q. But only you, right? Anyone else?

11 A. Sure. Everyone who -- who played with me,
12 everybody who watched me play, everybody who played at
13 the same time.

14 Q. So who -- who else is that, Rob Childs and --
15 and Todd Rogers?

16 A. No. There -- there were many people.

17 Q. Who else? I'm talking about these -- these
18 scores at issue, the ten forty-seven and the ten fifty?

19 A. Okay. So now we're narrowing it down to these
20 scores?

21 Q. Yes.

22 A. Well, you have a list of all the witnesses.
23 And you're asking me about those scores. They were
24 played on a Donkey Kong arcade machine and you're
25 asking me about the tapes that are available on the

1 dispute thread and what they mean. They mean nothing
2 to me because I never saw them, they weren't mine.
3 Exactly how good or bad they are, I would have no idea.

4 Q. So are you denying that those tapes on a
5 dispute thread are your -- are copies of your score
6 performances?

7 A. I cannot deny it. I haven't seen them. What
8 I'm telling you is --

9 MR. ELLROD: You've answered.

10 THE WITNESS: Okay.

11 BY MR. TASHROUDIAN:

12 Q. Did you ever obtain a TV for Carlos?

13 A. Yeah, the Hello Kitty TV was mine.

14 Q. Any other ones?

15 A. There was another TV, I don't know where it
16 came from.

17 Q. From Craig's List, right?

18 A. I don't know.

19 Q. Twenty bucks, does that sound familiar?

20 A. I don't know.

21 Q. Did Carlos ever reimburse you \$20 for a TV
22 that you purchased from Craig's List?

23 A. I don't recall. I do recall Craig's List.

24 Q. Let's play now Exhibit T.

25 MR. ELLROD: Want to take five while you --

1 MR. TASHROUDIAN: Yeah, let's do that. We're
2 off the record.

3 (Recess was had at 3:29 p.m., resuming at 3:39
4 p.m.)

5 THE VIDEOGRAPHER: Okay. It's 3:39, back on
6 the record.

7 BY MR. TASHROUDIAN:

8 Q. All right. I'm going to play now for you
9 Exhibit JJ, is it? JJ. This is going to be an audio
10 clip. We're starting at where?

11 MR. HALL: 15:30.

12 MR. TASHROUDIAN: At 15:30.

13 (Exhibit JJ to be marked for Identification.)

14 MR. ELLROD: What is this?

15 MR. TASHROUDIAN: JJ, it's an audio clip.

16 MR. ELLROD: Of what?

17 MR. TASHROUDIAN: Of an interview with Mr.
18 Mitchell.

19 MR. ELLROD: Okay. And was it recorded with
20 his knowledge?

21 MR. TASHROUDIAN: I'll ask him.

22 MR. ELLROD: Or was it illegally recorded?

23 MR. TASHROUDIAN: It isn't illegally recorded.

24 MR. ELLROD: Okay.

25 MR. HALL: Okay. So play it?

1 MR. TASHROUDIAN: That's all relative.

2 Yes.

3 MR. HALL: You want me to play it?

4 MR. TASHROUDIAN: Sure.

5 MR. HALL: Okay.

6 (Audio playing)

7 MALE VOICE: They said, Look, they look
8 different, and oh my gosh, it can't be a video
9 game. It must be MAME. Well, when the gentleman
10 came in the arcade and played them side by side
11 and, first we had trouble finding a CRT. Went to a
12 TV shop, the guy didn't have one, and we bought one
13 online for \$20 off like Craig's List or something
14 and when we put the Donkey Kong play on the screen
15 --

16 MR. TASHROUDIAN: Pause it.

17 (Audio stopped)

18 BY MR. TASHROUDIAN:

19 Q. When you say -- when you refer to we --

20 A. Excuse me, who am I speaking to here?

21 Q. We'll start it from the beginning. Can you go
22 to the beginning? We'll get you a little bit of --

23 A. You can answer the question as to who I'm
24 speaking to.

25 Q. I'm not a hundred percent sure.

1 MR. ELLROD: You don't know who he's talking
2 to on the tape?

3 MR. TASHROUDIAN: No. We do at the very
4 beginning here, yeah.

5 THE WITNESS: Go ahead and let us know that
6 first. It's David Race. It's David Race and one
7 of his illegal recordings that he's being sued for.
8 So I --

9 MR. HALL: I can give you the title.

10 MR. TASHROUDIAN: Yeah. What is --

11 MR. ELLROD: I'm going to ask --

12 MR. HALL: The title -- it's a -- it's a
13 public, it's an interview that was done called --
14 from Gen X called Grownups Special Edition, Billy
15 Mitchell Interview.

16 MR. ELLROD: I'm going to designate this
17 portion of the deposition going forward as
18 attorneys' eyes only. Well, I'll just designate it
19 confidential as we believe it's an illegal
20 conversation.

21 MR. TASHROUDIAN: Well, let's start from the
22 beginning --

23 MR. HALL: Okay.

24 MR. TASHROUDIAN: And maybe that'll give you
25 some context.

1 MR. ELLROD: Sure.

2 (Audio playing:)

3 Gen X Grown Up is a YouTube channel website
4 and audio podcast you're listening to right now.
5 All made for and by people who love exploring media
6 games, tech and toys of yesterday and today through
7 the eyes of Gen Xers who refuse to grow up.

8 Hello Gen X Grown Up podcast listener.
9 Welcome to this special edition of the Gen X Grown
10 Up podcast. If you linked here from our YouTube
11 channel and aren't a regular listener, please
12 consider subscribing and checking out our regular
13 show which is released every Thursday. If you're
14 already one of our (indecipherable) listeners, we
15 hope you'll enjoy this special edition. But don't
16 worry, our regular show will be out on Thursday
17 right on schedule.

18 All of us at Gen X Grown Up had a love for
19 those classic arcade games we grew up playing in
20 our corner arcades, so it should come as no
21 surprise that we've been closely following the
22 controversy surrounding Billy Mitchell. Mitchell,
23 the first man to ever get a perfect score on
24 Pac-Man, was in the news more than usual recently
25 due to accusations of rules violations in achieving

1 his recorded Donkey Kong high score. His score was
2 removed from Twin Galaxies, the de facto video game
3 high score governing body. He was barred from ever
4 submitting again and his Guinness World record was
5 removed. Now, a few weeks ago we met up with
6 Mitchell at a Southern Fried Gaming Expo for a
7 quick interview where his answers to our
8 questions --

9 MR. TASHROUDIAN: Pause it.

10 (Video stopped.)

11 BY MR. TASHROUDIAN:

12 Q. Does this refresh your recollection as to
13 where they came from?

14 A. Yeah, it's a show in Atlanta.

15 Q. Okay.

16 A. 2018, I think.

17 MR. TASHROUDIAN: All right. Can we remove
18 the attorneys' eyes only designation, Tony?

19 MR. ELLROD: Well, I -- I took that off
20 because -- because it's clear your client's sitting
21 next to you, but I want to keep it confidential.

22 MR. TASHROUDIAN: Until when? On what basis?

23 MR. ELLROD: Until I investigate whether or
24 not it's a legal recording.

25 BY MR. TASHROUDIAN:

1 Q. Is this an illegal recording, Mr. Mitchell?

2 A. I'm not a lawyer.

3 Q. Did you give this interview at this podcast on
4 your own volition?

5 A. I'll know after I hear it.

6 Q. How much do you want to hear?

7 A. As much as you care to play.

8 MR. ELLROD: If -- if -- if we -- we can
9 remove the designation if it's -- if it's
10 appropriate. Or you can make a motion to remove
11 it.

12 MR. TASHROUDIAN: Yeah, I'd rather not do
13 that.

14 MR. ELLROD: I'd rather you not have to if --
15 if it's reasonable. I'm just not going to -- I'm
16 not going to take that position now. Play it. If
17 it needs to be un-designated I'll un-designate it.

18 BY MR. TASHROUDIAN:

19 Q. No. We've already played the portion, that
20 15:30 where you talked about obtaining a CRT from
21 Craig's List for 20 bucks, did you -- did you hear
22 that?

23 A. No, but I believe you.

24 MR. TASHROUDIAN: Let's play it again. Play
25 it again, please.

1 (Video playing:)

2 MALE VOICE: So when they said look, they look
3 different, oh my gosh --

4 THE WITNESS: Can you back it up, please?

5 MALE VOICE: They can't be a video game.

6 (Video stopped.)

7 BY MR. TASHROUDIAN:

8 Q. Sure. Where would you like it?

9 A. Thirty seconds.

10 (Audio playing:)

11 MR. MITCHELL: The converter doesn't pull the
12 signal from there. The converter pulls the signal
13 or the capture directly from the board. I learned
14 that by calling the company. And so what you're
15 looking at when you see somebody else's recording
16 and you see it directly next to mine and you say,
17 why does that look different, it looks different
18 because one is being recorded with a camera pointed
19 at the monitor, the other one is being recorded
20 different because the signal is being captured from
21 the board into the capture device, say a VCR, and
22 then at a later time played on a TV or CRT. So
23 when they said, Look, they look different, oh my
24 gosh, it can't be a video game, it must be MAME.

25 Well, when the gentleman came to the arcade

1 and played them side by side and, first of all, we
2 had trouble finding a CRT. We went to the TV shop
3 and the guy didn't have one, and we went and bought
4 one online for 20 bucks off, like, Craig's List or
5 something. And then we put the Donkey Kong play on
6 the screen, on the Donkey Kong screen, and we had
7 the other one run through the converter onto the
8 TV, it looked exactly like they said. And what I
9 mean by that is they said it looked different.
10 They said it couldn't be a video game monitor.
11 They are correct, it's not. It never goes to the
12 monitor. It goes from the board through the
13 converter to the capture device.

14 And what was kind of funny was as you saw them
15 play side by side, and you slowed it down real slow
16 the TV, the CRT signal, was actually ahead of the
17 RGB. It was kind of wild. And so, that was it.

18 That's what they said. That was their claim
19 and never was there a, Oh, gee, oh wow, is that how
20 it works, oh is that what a converter does. Oh,
21 now we understand. There was nothing.

22 We simply moved the goal post and when we
23 moved the goal post they said this is drawing a
24 horizontal and it should be drawing in the other
25 direction.

1 MR. TASHROUDIAN: Let me stop for just a
2 second.

3 (Audio stopped.)

4 BY MR. TASHROUDIAN:

5 Q. So my question was, who's the we when you were
6 referring to we purchased the CRT TV for 20 bucks from
7 Craig's List?

8 A. Well, it was somebody, myself or somebody at
9 Arcade Game Sales.

10 Q. It was Carlos Pineiro, though, wasn't it?

11 A. No, I don't know if it was. If it was and I
12 owe him 20 bucks, let me know.

13 Q. I think he -- well, we'll find out tomorrow.

14 Did you -- let's try it this way. What about
15 the Hello Kitty TV, did you provide that to Carlos?

16 A. I brought it into the shop.

17 Q. Let's go back to Exhibit S. 2946.

18 THE WITNESS: You're getting good at this.

19 MR. ELLROD: Exhibit S?

20 MR. TASHROUDIAN: S, like Sam.

21 MR. ELLROD: Do you have the Bates Number?

22 MR. TASHROUDIAN: Bates Number 2946.

23 THE WITNESS: Okay. Hello Kitty TV. Is this
24 what we're doing?

25 MR. ELLROD: I don't know. He hasn't --

1 there's no question pending.

2 BY MR. TASHROUDIAN:

3 Q. Yeah. Do you see that there?

4 A. Yeah, Hello Kitty, I do.

5 Q. Did you obtain that for Carlos?

6 A. No. I took it out of my daughter's room and
7 brought it to the shop.

8 Q. For what?

9 A. So that we can try to see if the signal comes.

10 Q. So you needed that for testing; is that
11 correct?

12 A. Yeah. We needed a tube TV.

13 Q. Why did you send it to Carlos, a picture of
14 the CRT TV?

15 A. Because I was bringing it in the shop, in
16 other words, nobody had to go buy one.

17 Q. Did you understand what Carlos needed it for?

18 A. We all needed it for the same purpose.

19 Q. And which was?

20 A. To try to gain the signal off the Donkey Kong
21 machine to go on a TV instead of the Donkey Kong
22 monitor.

23 Q. Was that part of the testing equipment that
24 you needed?

25 A. A TV was definitely part of the equipment and

1 I brought it in as opposed to somebody else going to
2 get it, because Rob -- Rob was going to bring one in.

3 Q. Did you ever see Carlos perform tests with
4 that TV?

5 A. I think -- I think the first time I saw the TV
6 used it was used by Rob and Neil, and then after that I
7 saw it with Carlos.

8 Q. So you saw Carlos using that to do his
9 testing?

10 A. Yes. I made it available to whoever would use
11 it.

12 Q. Let's go back to Exhibit X, I think it is,
13 paragraph 27.

14 MR. ELLROD: Of S?

15 MR. TASHROUDIAN: Yes. X. X --

16 MR. ELLROD: X.

17 MR. TASHROUDIAN: -- like xylophone.

18 Paragraph 27, page 11.

19 MR. ELLROD: Yeah. Give me a second.

20 THE WITNESS: Where do I start?

21 MR. ELLROD: Twenty-seven.

22 THE WITNESS: Twenty-seven only?

23 BY MR. TASHROUDIAN:

24 Q. Yes.

25 A. Okay. Very good.

1 Q. You say in this paragraph, I did not provide
2 Pineiro and Kleisath equipment for their work?

3 A. Correct.

4 Q. Is that correct?

5 A. Correct.

6 Q. But you did provide them with this Hello Kitty
7 television, right?

8 A. No. What I provided was this Hello Kitty
9 television to Arcade Game Sales, okay, and they were
10 permitted to use that which was in Arcade Game Sales.

11 Q. Including the Hello Kitty TV that you
12 provided, the same one you took a picture of and sent
13 to Carlos, that one?

14 A. Shall I answer the question again?

15 Q. Yes.

16 A. You didn't understand it the first time?

17 Q. No.

18 MR. ELLROD: Just answer the question. Did
19 you provide that Hello Kitty television to Arcade
20 Sales?

21 THE WITNESS: Yes, to Arcade Sales.

22 BY MR. TASHROUDIAN:

23 Q. Okay. Why did you send it to Carlos in his
24 text message?

25 MR. ELLROD: Objection, asked and answered,

1 but you can answer again if you -- if you want to
2 note.

3 BY MR. TASHROUDIAN:

4 Q. Is there a reason why you sent the text
5 message to Carlos?

6 A. It'd be silly for people to bring double
7 equipment.

8 Q. Well, he says here, Carlos does, on Exhibit S,
9 2946 --

10 MR. ELLROD: Hang on.

11 MR. TASHROUDIAN: Yeah.

12 MR. ELLROD: Exhibit S?

13 MR. TASHROUDIAN: Yes, 2946.

14 MR. ELLROD: Okay.

15 THE WITNESS: Which one?

16 MR. ELLROD: I don't know, he's going to read
17 from it, I think.

18 BY MR. TASHROUDIAN:

19 Q. Where it says, Looks funny but it's perfect
20 for our testing. Thank you.

21 What did you understand Mr. Pineiro to mean?

22 A. Now he doesn't have to go get one.

23 Q. For his testing, right?

24 A. Yes. It'll be at Arcade Game Sales whenever
25 he needs it.

1 Q. Did you ever tell him that this is going to be
2 at Arcade Game Sales, and it's not for you?

3 A. That's why I was acquiring the TV.

4 Q. Did you --

5 A. I knew it was in my daughter's room.

6 MR. ELLROD: Just answer the question. Did
7 you ever tell him?

8 THE WITNESS: (No oral response.)

9 BY MR. TASHROUDIAN:

10 Q. Have you ever appeared on stage with Carlos
11 Pineiro?

12 A. We were at --

13 MR. ELLROD: Yes or no question.

14 THE WITNESS: Yes. Not a stage, but yeah, I
15 did a -- I was somewhere with him.

16 BY MR. TASHROUDIAN:

17 Q. Okay. Where were you guys?

18 A. At the Museum of Pinball, Banning, California.

19 Q. Okay. What was the purpose of you being there
20 with him?

21 A. I was there in case anybody had any questions.

22 Q. About?

23 A. About the dispute.

24 Q. So was Mr. Pineiro there talking to a group
25 about the dispute?

1 A. He -- there was.

2 Q. Okay. And were you there as well?

3 A. Yes.

4 Q. And did you talk about your dispute at all?

5 A. No, I asked if anybody had any questions.

6 Q. Did you talk about the dispute at all?

7 MR. ELLROD: Other than the question -- by
8 that question?

9 MR. TASHROUDIAN: Yes.

10 THE WITNESS: I don't recall exactly what I
11 said.

12 BY MR. TASHROUDIAN:

13 Q. Have you seen the video of you at that
14 convention?

15 A. Yes.

16 Q. Okay. How long -- and who prepared that
17 video, do you know?

18 A. No.

19 Q. Was it Isaiah Triforce Johnson?

20 A. Probably. He's a camera nut.

21 Q. Did you stay the night in Banning with Mr.
22 Johnson?

23 A. I was in Banning four nights, three nights,
24 three or four.

25 Q. Did you stay at a hotel there?

1 A. Yes.

2 Q. With who?

3 MR. ELLROD: Do you mean who shared a room
4 with him?

5 MR. TASHROUDIAN: Who were you there with
6 generally than who he shared a room with.

7 MR. ELLROD: Okay.

8 THE WITNESS: Walter Day was there.

9 BY MR. TASHROUDIAN:

10 Q. Who else?

11 A. Joel West.

12 Q. Anyone else?

13 A. Myself.

14 Q. Yeah. Anyone else?

15 A. Triforce.

16 Q. Yeah.

17 A. Carlos, Rickey Knuklez, Eric Tessler. A lot
18 of video game players.

19 Q. Aside from them, anyone else, the gentlemen
20 that you just mentioned, anyone else in -- in
21 particular?

22 A. No. I mean, none that come to mind.

23 Q. Did all you guys stay in the same hotel?

24 A. I don't know. I know some of us did.

25 Q. Did you guys share a hotel room together?

1 A. Some of us did.

2 Q. Did you share a hotel room with Carlos?

3 A. No.

4 Q. Not at all?

5 A. Not at all.

6 Q. Did you see him in the hotel at that -- any of
7 these evenings, the four days you were there?

8 A. Oh yeah, I did.

9 Q. So he was there at the hotel, right, he was
10 staying at the hotel as well?

11 A. Yeah.

12 Q. Same hotel as you guys?

13 A. I don't know if it was in the same hotel,
14 but --

15 Q. You guys had adjoining rooms, didn't you?

16 A. No.

17 Q. Rooms on the same floor?

18 A. No, not at all.

19 Q. Let's go back to Exhibit S, page 2-9 -- 2939.

20 MR. ELLROD: 2939?

21 MR. TASHROUDIAN: Yes.

22 MR. ELLROD: Okay.

23 MR. TASHROUDIAN: Message sent 3-13-2018.

24 MR. ELLROD: Starting, Do you happen --

25 MR TASHROUDIAN: To be a member.

1 MR. ELLROD: Yep, okay.

2 BY MR. TASHROUDIAN:

3 Q. Do you see that there?

4 A. Yes.

5 Q. Why did you ask him that?

6 A. I don't rightly know.

7 Q. Is this -- did this occur -- did this text
8 message occur around the same time you guys were flying
9 out to Banning?

10 A. Yes.

11 Q. All right.

12 A. Judging by the date it did.

13 Q. Yeah. Did you pay for his flight?

14 A. I did not.

15 Q. At all?

16 A. No.

17 Q. Did you -- did you arrange for his flight?

18 A. No.

19 Q. Do you know who paid for his flight?

20 A. No.

21 Q. You didn't pay half of it?

22 A. No.

23 Q. Certain.

24 Let's go to Exhibit V, like Victor. This is a
25 declaration by Billy Mitchell, page 21, paragraph 72.

1 (Exhibit V to be marked for Identification.)

2 MR. ELLROD: It starts here and there's a
3 quote.

4 THE WITNESS: Is it just that?

5 MR. ELLROD: It's this whole paragraph, I
6 think.

7 THE WITNESS: Okay. Okay. I'm with you.

8 BY MR. TASHROUDIAN:

9 Q. You say here on line 18, I explicitly told
10 Pineiro that he did not act --

11 MR. ELLROD: Let me stop you. You said he
12 said? Is this his declaration?

13 MR. TASHROUDIAN: This is Mr. Mitchell's
14 declaration, yes.

15 MR. ELLROD: Oh, I thought this was his son's
16 declaration.

17 MR. TASHROUDIAN: No.

18 MR. ELLROD: Okay. I gotcha. Okay.

19 THE WITNESS: Line 18?

20 MR. ELLROD: Line 18, gotcha.

21 BY MR. TASHROUDIAN:

22 Q. Yes.

23 A. Okay. You were going to read it.

24 Q. I explicitly told Pineiro that he did not act
25 on my behalf. Do you see that there?

1 A. Yes, I do.

2 Q. When did you tell him that?

3 A. I said that from the beginning all the way
4 through, nobody speaks for me but me.

5 Q. No, you told -- my question is different.

6 You told Mr. Pineiro that?

7 A. Yes.

8 Q. When did you tell him that?

9 A. I'm sure I said that in the very beginning and
10 I said it all the way through.

11 Q. You say here his involvement with me did not
12 extend beyond cordial communication. Do you see that
13 there?

14 A. Yes.

15 Q. Is that true?

16 A. Yes. I appreciated what he did.

17 Q. But you did talk to him about the dispute
18 thread, right?

19 A. Correct.

20 Q. And you did ask him to seek an extension from
21 Mr. Hall, didn't you?

22 A. Did I ask him?

23 Q. Yeah.

24 A. I -- I don't recall. I mean, if I said we
25 need an extension, this could be good news, that

1 doesn't necessarily mean anything.

2 Q. Did that happen?

3 A. Did I ask for an extension --

4 Q. Yes.

5 A. -- because he had good news?

6 Q. Yes.

7 A. Yes, I don't know if the contact was from Joel
8 or from somebody who was in that room.

9 Q. Well, you told me there was a telephone
10 conference with Carlos, you, Steve Kleisath, Rob Childs
11 and Neil Hernandez, right?

12 A. And Joel West.

13 Q. And Joel West.

14 A. Yes.

15 Q. And Joel West was in the room as well?

16 A. No, he wasn't. He was on my phone.

17 Q. Okay. And Carlos made the request of Jace for
18 more time, right?

19 A. I don't know. Again --

20 Q. If -- if he did, would that be communications
21 extending beyond cordial?

22 A. No.

23 Q. That'd still be cordial?

24 MR. ELLROD: You mean his con -- you mean
25 Carlos' conversation with Jace Hall?

1 MR. TASHROUDIAN: Yes.

2 BY MR. TASHROUDIAN:

3 Q. Would that be a communication that's more than
4 just cordial communications with you and him?

5 A. No.

6 Q. No?

7 A. Nobody speaks on my behalf.

8 Q. I did not provide Pineiro equipment or
9 compensation of any form. Is that still true?

10 A. That is true.

11 MR. TASHROUDIAN: Let's mark now as Exhibit KK
12 a video of Mr. Mitchell playing Donkey Kong in
13 2018.

14 (Exhibit KK to be marked for Identification.)

15 MR. TASHROUDIAN: Start from the very
16 beginning. That's where we're going to pause.
17 2018.

18 MR. ELLROD: David, just so you know, I'm
19 looking at an email where you said you were
20 available for the Wednesday deposition.

21 MR. TASHROUDIAN: Yeah, that was before.

22 MR. ELLROD: If you're not, I'm okay, I
23 understand.

24 MR. TASHROUDIAN: Yeah. We're flying out
25 Tuesday night. Can Joel make it tomorrow morning?

1 MR. ELLROD: I've got some things I've got to
2 do in the morning now that that's open, but we'll
3 figure it out.

4 MR. HALL: So play? What do you want me to
5 play?

6 MR. TASHROUDIAN: Just -- just start playing.

7 MR. ELLROD: Can you tell me the date on it,
8 please?

9 MR. TASHROUDIAN: We'll find out right now.
10 It's 2018. You'll know better than me. Let's
11 pause this. Can we go off the record, actually,
12 take five minutes?

13 MR. ELLROD: Yes.

14 THE VIDEOGRAPHER: One second. We're off the
15 record.

16 (Discussion off the record.)

17 (Recess was had at 4:03 p.m., resuming at 4:14
18 p.m.)

19 THE VIDEOGRAPHER: All right. It's 4:14,
20 we're back on the record.

21 MR. HALL: So play it from the beginning here?

22 MR. TASHROUDIAN: Yeah.

23 MR. HALL: Okay.

24 MR. TASHROUDIAN: Kristina, maybe we can talk
25 about that at the end of the deposition?

1 MS. ROSS: Okay.

2 MR. TASHROUDIAN: All right. One other thing.
3 You had marked the deposition confidential going
4 forward after, on the --

5 MR. ELLROD: Yeah, I'll take that -- withdraw
6 that now.

7 MR. TASHROUDIAN: Okay. Thank you.

8 All right. Let's play the first 30 seconds or
9 minute of this.

10 MR. HALL: Okay.

11 (Video playing:)

12 MALE VOICE: Hello and welcome from
13 Retropalooza. We are watching Billy Mitchell go
14 for a kill screen on Pac-Man. I believe, I'm not
15 sure if he has officially started yet, but we're
16 going to go ahead and introduce ourselves. I am
17 Dylan Smith. Joining me here today is --

18 MALE VOICE: Ben Gold.

19 MALE VOICE: Welcome, welcome.

20 So, Billy Mitchell, running Pac-Man, how do
21 you feel about that?

22 MR. TASHROUDIAN: Pause it.

23 MALE VOICE: Well, I'm --

24 (End of Video playing.

25 BY MR. TASHROUDIAN:

1 Q. Do you recognize this, Mr. Mitchell?

2 A. I do.

3 Q. What is this?

4 A. Retropalooza was in Dallas 2018 or '19.

5 Q. Okay.

6 A. That's all.

7 Q. Is that you in the reflection there?

8 A. That is.

9 Q. All right.

10 Let's go to 4:54.

11 THE WITNESS: This will be fun.

12 MR. HALL: All right. This is tough, this is
13 tricky. All right. I'm going to have to look at
14 it on my screen here to get that to that specific
15 marker. The text's too small.

16 BY MR. TASHROUDIAN:

17 Q. While -- while we're doing that, Mr. Mitchell,
18 what were you doing at the Retropalooza in 2018 or '19?

19 A. I was doing a guest appearance.

20 Q. Were you paid for that?

21 A. Yes.

22 Q. Okay.

23 MR. HALL: Play it?

24 MR. TASHROUDIAN: What is this, is this 4:53?

25 MR. HALL: 4:53.

1 MR. TASHROUDIAN: Okay.

2 (Video playing:)

3 MALE VOICE: That works for you guys, I'd love
4 to do that. Yeah? If your calendar permits.

5 MALE VOICE: Be careful, Ben never shows.

6 MALE VOICE: We have enough events that --
7 have been, we have quite a few, we have quite a few
8 who like to no-show. Beltran, I'm talking to you.
9 But we -- we have enough events to cover it if that
10 happens to be the case.

11 MR. TASHROUDIAN: Pause it.

12 (Video stopped.)

13 BY MR. TASHROUDIAN:

14 Q. That's still your reflection there, right?

15 A. Yeah.

16 Q. Do you speak in this video?

17 A. I think I can. I don't think I spoke much.

18 Q. But you did speak, right?

19 A. There's commentators, yeah.

20 Q. Okay. You talk back and forth with the
21 commentators?

22 A. Yeah. They didn't talk a lot. They mostly
23 talked with Ben, but yeah.

24 Q. Okay.

25 You can go.

1 (Video playing:)

2 MALE VOICE: I figure you're very busy and
3 you've got lots of people and I mean I'm.

4 MALE VOICE: That's sort of the natural
5 defense mechanism, because everybody has their own
6 lives. There's very few people that are actually
7 like doing this as a full-time living, I am a video
8 game player exclusively.

9 MALE VOICE: Right.

10 MALE VOICE: You know, even Billy, you're
11 selling your -- your -- your hot sauce, so you have
12 a -- you have a day job.

13 MALE VOICE: Well, I think that he's got, you
14 know, the thing is that I think part of being
15 famous is you kind of almost have to sell something
16 else in addition. He has his hot sauce and his --

17 MALE VOICE: You should, you should sell
18 something else in addition.

19 MR. MITCHELL: I don't sell one case of hot
20 sauce because of video games, though.

21 MR. TASHROUDIAN: Can you pause it?

22 (Video stopped:)

23 BY MR. TASHROUDIAN:

24 Q. Did you hear that?

25 A. I did.

1 Q. What'd you say?

2 A. I said, I don't sell one case of hot sauce
3 because of video games.

4 Q. Is that true?

5 A. Would you like me to explain it?

6 Q. I'm just asking, is that true?

7 MR. ELLROD: Yes or no.

8 THE WITNESS: Not one video game person buys a
9 case of hot sauce.

10 MR. TASHROUDIAN: You can play it.

11 (Video playing:)

12 MALE VOICE: Nobody does.

13 MALE VOICE: That's true. That's true. I'm
14 thinking about the one that I bought just now. I
15 did pay \$10 for it but I wouldn't say you -- I
16 don't know, you probably sold it on -- due to
17 you're a celebrity. I want Billy Mitchell hot
18 sauce.

19 MALE VOICE: Yeah, yeah, exactly.

20 MR. MITCHELL: No, the truth is --

21 MALE VOICE: But it's not true. It's not your
22 Pac-Man ability.

23 MR. MITCHELL: When I did the perfect game,
24 there was a guy who called from northern California
25 who had like, he owned about a dozen grocery stores

1 --

2 MALE VOICE: Yeah.

3 MR MITCHELL: -- and he read this and read
4 that, it's so cool, and this and that and he said
5 he wanted to put the sauce in all his grocery
6 stores but he never did. But that's the closest I
7 came.

8 MALE VOICE: Well, let's see. Let's see what
9 my messages say.

10 MR. TASHROUDIAN: Pause it.

11 (Video stopped)

12 MR. TASHROUDIAN: Do we have some 2014, 2004--

13 MR. HALL: 2004.

14 BY MR. TASHROUDIAN:

15 Q. That was 2018 or 2019 when you made that?

16 A. I think it was '18.

17 I've never seen this.

18 MR. HALL: You want to go to a marker?

19 MR. TASHROUDIAN: Start one minute and then
20 mark it.

21 MR. HALL: One minute and a marker.

22 MR. TASHROUDIAN: Thirty seconds and then a
23 marker.

24 MR. HALL: Thirty seconds and then a marker.

25 (Video playing:)

1 MALE VOICE: All right. (Indecipherable)
2 Classic Expo 2004. I'm here with the man, the
3 myth, the legend, Billy Mitchell and soon to be
4 man, myth and legend, Steve Wiebe. Welcome,
5 gentlemen. Billy, you've been on the show before.

6 MR. MITCHELL: My first question is, is it
7 Steve Wiebe or Wiebe?

8 MALE VOICE: Wiebe.

9 MR. MITCHELL: I keep saying Wiebe and people
10 are saying Wiebe.

11 MALE VOICE: No, it's Wiebe.

12 MR. MITCHELL: How about just Steve?

13 MALE VOICE: Steve works for me. I'll be
14 known on a first name basis.

15 MALE VOICE: That's right. That's right.

16 (Video stopped:)

17 BY MR. TASHROUDIAN:

18 Q. Do you recall this interview, sir?

19 A. Yes, I think it's -- I think it's here.

20 MR. TASHROUDIAN: You want to mark it?

21 MR. HALL: Okay. Let me bring it back over
22 here for a second.

23 THE WITNESS: 2004.

24 MR. HALL: Thirty-two minutes in.

25 MR. TASHROUDIAN: Let's play this.

1 MR. HALL: Okay.

2 (Video playing:)

3 MALE VOICE:....sell hot sauce.

4 MR. MITCHELL: Get on there and sell hot
5 sauce. If you go out there and bought a bottle of
6 hot sauce from me, the total number of hot sauces I
7 would have sold related to video games, if you
8 bought one, would be one. I can -- I get a lot
9 of...

10 MR. TASHROUDIAN: Pause that.

11 (Video stopped)

12 BY MR. TASHROUDIAN:

13 Q. Is that true? Is that true as of 2004?

14 A. Is that true, 2004?

15 Q. Yeah.

16 MR. ELLROD: To the best of your knowledge.

17 THE WITNESS: Okay.

18 MR. ELLROD: In 2004.

19 THE WITNESS: Yeah, it's a very vague
20 question. Do you want to narrow it?

21 MR. TASHROUDIAN: No.

22 MR. ELLROD: Was your statement accurate to
23 the best of your knowledge as you understood it in
24 2004?

25 THE WITNESS: 2004.

1 By MR. TASHROUDIAN:

2 Q. That you never sold one bottle of hot sauce
3 due to video games.

4 A. Yes.

5 Q. Let's try -- what else do we have over here?
6 2013.

7 MR. HALL: All right. You want me to play the
8 first minute?

9 MR. TASHROUDIAN: First 30 seconds.

10 MR. ELLROD: These are exhibits?

11 MR. TASHROUDIAN: Yes.

12 MR. ELLROD: What numbers are these?

13 MR. TASHROUDIAN: I'm sorry. The last one was
14 LL, this new one is MM. MM is going to be 2013.

15 (Exhibits LL and MM to be marked for
16 Identification.)

17 MR. HALL: All right.

18 THE WITNESS: GameWarp, what the hell is that?

19 (Video playing:)

20 THE VIDEOGRAPHER: Richie Knuklez is what they
21 call me, my nickname. This is my daughter, Faith.
22 That's Faith Knuklez. And down the table, I don't
23 think we've ever met.

24 (Video stopped)

25 BY MR. TASHROUDIAN:

1 Q. Do you recall being at this convention in
2 2013?

3 A. I think that's Orlando.

4 Q. Was that you on the left there?

5 A. Yes.

6 Q. Okay.

7 MR. TASHROUDIAN: You can go to the marker
8 there.

9 MR. HALL: Give me a second. Okay, 19 minutes
10 30 seconds in.

11 MR. TASHROUDIAN: All right, let's play.

12 (Video playing:)

13 MR. MITCHELL: I told him that without lying
14 I've never made any, I haven't made 50 bucks off
15 hot sauce because of video games. Ever. I have
16 private labels I give to people, I sign them. Kind
17 of stupid for me to sign a napkin and hand it to
18 somebody. I'll sign a bottle and I said to them, I
19 have everybody tell me, Oh we're going to --

20 (Video stopped)

21 BY MR. TASHROUDIAN:

22 Q. So is -- was that true as of 2013 that you
23 hadn't made fifty bucks because of video games in hot
24 sauce?

25 A. Yes.

1 Q. And that didn't change in 2019 when we -- when
2 we were at the Free Play -- is that Free Play, what was
3 that 2019 or '18? Let's strike the question.

4 MR. HALL: That was the 2019 clip -- '18.

5 MR. TASHROUDIAN: All right. Let's try -- do
6 you have anything from 2019?

7 Let's ask some questions then.

8 BY MR. TASHROUDIAN:

9 Q. You're claiming damage to your hot sauce
10 business, right, Mr. Mitchell?

11 A. I am, yes.

12 Q. And you're claiming that your hot sauce
13 business has notoriety because of your video game
14 accolades; is that correct?

15 A. No, I didn't say it was because of my video
16 accolades.

17 Q. Then what is it?

18 A. The hot sauce has notoriety because of me. I
19 worked very hard at it.

20 Q. Because you're a video game player or --

21 A. No, because I'm a hard worker.

22 Q. Let's go to Exhibit A again, page 41. Go to
23 special interrogatory number 65.

24 MR. ELLROD: I'm having a hard time getting
25 out of this again.

1 THE WITNESS: Use a hammer.

2 MR. ELLROD: What do you do when all you have
3 is three dots on the top of it?

4 MR. TASHROUDIAN: I think you've got to scroll
5 down a little bit on the center. You want to pass
6 it over?

7 There you go.

8 MR. ELLROD: And what paragraph?

9 MR. TASHROUDIAN: Paragraph --

10 MR. ELLROD: Or --

11 MR. TASHROUDIAN: Interrogatory number 65.

12 MR. ELLROD: Sixty-five.

13 THE WITNESS: Okay. Question?

14 BY MR. TASHROUDIAN:

15 Q. All right. Identify -- the -- the question
16 posed was, Identify all natural persons with knowledge
17 of the fact that support your claim for economic
18 damages. You say here in response, William James
19 Mitchell, IV, Lisa Solito and Shawn Jones.

20 A. Yes.

21 Q. What does William J. Mitchell, IV know about
22 your claim to -- to economic damages?

23 A. He has his hands in everything that I do.
24 He's my son.

25 Q. What does that mean he has his hands in

1 everything you do?

2 A. He's aware of bank accounts; he's aware of
3 business dealings; he's aware of anything that's video
4 game or related, and as far as hot sauce related I
5 certainly keep him up to date.

6 Q. Is he -- Well, let's start with this: Is
7 Rickey's World Famous Hot Sauce a corporation?

8 A. Yes.

9 Q. All right. Is he a shareholder?

10 A. No.

11 Q. Is anyone other than you a shareholder?

12 A. Me.

13 MR. ELLROD: Anyone other than you.

14 THE WITNESS: Me.

15 BY MR. TASHROUDIAN:

16 Q. What does he know about the business of -- of
17 Rickey's World Famous Hot Sauce?

18 A. Well, he knows the numbers it does; he knows
19 the bookwork; he knows the ups and downs financially.
20 As he's grown up he's been with me, he's learned the
21 business.

22 Q. Does he work in the business?

23 A. Does he actually work and draw a paycheck, no.

24 Q. Does he do the books for the business at all?

25 A. He looks at them.

1 Q. How does he look at them?

2 A. He looks at them, he says we're up, we're
3 down.

4 Q. How does he know if you're up or down?

5 A. Because we talk, communicate.

6 Q. How do you know if you're up or down in the
7 business?

8 A. By the numbers. By the girl who works with me
9 since '90 something, named Lisa, by the accountant.

10 Q. Lisa Solito?

11 A. Yes.

12 Q. What kind of accounting methods do you use --
13 what kind of -- Strike that.

14 What kind of accounting software do you use at
15 Rickey's World Famous?

16 A. She uses a very old version of QuickBooks.

17 Q. Okay. Have you ever seen a profit and loss
18 statement?

19 A. No.

20 Q. Do you know what that is?

21 A. Yeah.

22 Q. And you've never run a profit/loss statement?

23 A. No. Basically we run gross sales, we know
24 what the, what we call the prime, which is the cost of
25 preparing the product, what it is, and we base it upon

1 the -- the gross sales.

2 Q. Do you have a -- do you keep an accounting of
3 your expenses?

4 A. Yes.

5 Q. Where?

6 A. But the expenses don't change. The accountant
7 does them each year when he does the taxes. They don't
8 change very much.

9 Q. They don't change very much or they don't
10 change at all?

11 A. Of course they change. They don't change very
12 much.

13 Q. How are the expenses tracked?

14 A. They're tracked on that older version of
15 QuickBooks.

16 Q. So the --

17 A. Lisa keeps track of them.

18 Q. So she keeps track of -- track of the sales as
19 well as the expenses, right?

20 A. Correct.

21 Q. The income and the expenses --

22 A. That's correct.

23 Q. -- in QuickBooks.

24 So is she able to run a profit and loss
25 statement off of that?

1 A. No, I would say the accountant does.

2 Q. All right. And who's your accountant?

3 A. His name is Arnold Nazur.

4 Q. Has he ever run a profit and loss statement
5 for you?

6 A. Has he ever handed me one, no.

7 Q. Has he ever run a profit and loss statement
8 for you?

9 A. I don't -- I don't know.

10 Q. Have you asked?

11 A. I mean, I don't know. I've never asked him
12 for one.

13 Q. Do you know what the net profit for Rickey's
14 World Famous Hot Sauce was in 2018?

15 A. No.

16 Q. What about the net profit in 2019?

17 A. No.

18 Q. Who would know that?

19 A. It would have to be put together.

20 Q. Has anyone put that together yet?

21 A. I haven't.

22 Q. Has anyone put that together yet?

23 A. I can only speak for me, no.

24 Q. Have you asked anyone to put that together
25 yet?

1 A. I've told Lisa and my son that we have to
2 tally things together because of the proceedings.

3 Q. Yeah. Have they done that yet?

4 A. Yes, I know they've done that. They're having
5 difficulty with the older version of QuickBooks.

6 Q. Are they still in the process of putting that
7 information together?

8 A. They're struggling on how to draw it off of
9 the older version of QuickBooks.

10 Q. Do you have any sense of what the profit was
11 in 2018?

12 A. No. Again, I don't judge it by profit, I
13 judge it by gross sales.

14 Q. Why is that?

15 A. Because we make a certain amount of money per
16 case, per pallet, per truck, so when I base it upon
17 volume I know exactly how we're doing. We have less
18 cases, less pallets, less trucks, I know exactly how
19 well we're not doing.

20 Q. What's the percentage revenue -- what's the
21 percentage profit on gross revenue?

22 A. Every item, every item has a different
23 percentage.

24 Q. What about in 2018, what was the total
25 percentage profit on gross revenue?

1 A. I don't know.

2 Q. What about 2019?

3 A. I don't know.

4 Q. You're suing for damages, right --

5 A. Yes.

6 Q. -- in this case?

7 How do you intend to prove your damages?

8 A. Well --

9 MR. ELLROD: Objection, calls for
10 attorney-client communications. I would instruct
11 him not to answer.

12 BY MR. TASHROUDIAN:

13 Q. Have you turned over the QuickBooks file for
14 production yet?

15 A. The QuickBooks file has everything in it.
16 It's an older version. They were unable to draw off
17 the years you want from the years that are on there.
18 You get up until -- you get beginning at a certain
19 point and ending at a certain point. We don't know how
20 to eliminate what's on each side.

21 Q. Have you attempted to produce at least a
22 general ledger for those two years, 2018 and '19?

23 A. Yes, we have what I call analog of paper. We
24 have it on paper.

25 Q. Are you seeking damages to your business for

1 any years other than 2018 and '19?

2 A. I'll let the record speak for itself.

3 MR. ELLROD: I'll -- I'll object. It calls
4 for attorney-client privilege, attorney-client work
5 product. Yeah.

6 BY MR. TASHROUDIAN:

7 Q. Let's go ahead to Exhibit A. Special
8 interrogatory number 25, I believe.

9 THE WITNESS: Twenty-five?

10 MR. ELLROD: Yeah.

11 THE WITNESS: Very good.

12 MR. ELLROD: Okay.

13 BY MR. TASHROUDIAN:

14 Q. So in special interrogatory number 25 you were
15 asked to state all facts that support your claim for
16 economic damages, right?

17 A. Uh-huh.

18 Q. And then -- is that correct?

19 A. Yes, I believe that's correct.

20 Q. And did you state all facts to support your
21 claim for economic damages there?

22 A. To the best of my knowledge, yes.

23 Q. All right. Is it true that you're claiming
24 \$796,000, roughly, as damage to your business, Rickey's
25 World Famous -- I'm sorry. Yeah.

1 Is it still correct that you're claiming
2 \$750,000 as damages to your business, Rickey's World
3 Famous Hot Sauce?

4 A. Yes.

5 Q. And that's comprised of lost gross revenue
6 from 2018 and 2019?

7 A. It's 2018 and '19. What have we got here?
8 Yeah. You're -- you're using the word gross revenue.
9 I'm not saying that. I don't know that that's how it
10 was calculated.

11 Q. Well, you say here the company revenue dropped
12 from \$796,000 in 2017 to \$410,000 in 2018. Do you see
13 that there?

14 A. Yes.

15 Q. Is that gross revenue we're talking about or
16 net?

17 A. I don't know.

18 Q. Who prepared that?

19 A. We prepared this, but it -- how long ago was
20 it prepared?

21 Q. You -- you tell me.

22 A. Me, my son, my assistant, Lisa.

23 Q. How did you come up with these numbers?

24 A. We came up with these numbers based on the
25 bank accounts, based upon purchase orders, based upon

1 checks that came in, the payables/receivables.

2 Q. What about expenses, did you guys base that
3 upon expenses?

4 A. Yes, but expenses are basically manufacturing
5 expenses. There's very little expenses elsewhere.

6 Q. So are those -- are the expenses part of this
7 \$750,000?

8 A. No. That's -- that's revenue lost.

9 Q. Gross revenue, correct?

10 A. Yes. I believe.

11 Q. So the profit is different from that, right,
12 the profit that you actually lost?

13 A. I'm sorry. You're saying gross revenue, okay,
14 and I --

15 Q. Do you understand what the term gross revenue
16 means?

17 A. Yes, I do, but perhaps you should ask your
18 question again so I can answer it before.

19 Q. Okay. My question is in this paragraph 25
20 where you said you lost \$750,000, is that \$750,000 in
21 gross revenue that you lost?

22 A. I don't know.

23 Q. Do you receive a K-1 from --

24 A. Yes.

25 Q. -- Rickey's World Famous?

1 A. I do.

2 Q. Do you know what the K-1 was in 2018?

3 A. I do not.

4 Q. Can you give me an estimate?

5 A. No.

6 Q. Was it more or less than a hundred thousand
7 dollars?

8 A. I don't estimate.

9 Q. Well, I'm asking you.

10 A. I'll get you the paperwork.

11 Q. You'll provide the paperwork?

12 MR. ELLROD: If you can, provide the best
13 estimate as you're sitting here.

14 THE WITNESS: Forty thousand.

15 BY MR. TASHROUDIAN:

16 Q. Forty thousand dollars?

17 A. For 2018, I'm guessing. You want me to guess.

18 MR ELLROD: No, no, your best estimate. I
19 don't want you to guess.

20 BY MR. TASHROUDIAN:

21 Q. What about 2019, do you know what the K-1 was
22 then?

23 A. 2019 would be similar.

24 Q. What about 2017?

25 A. Similar.

1 Q. About \$40,000 K-1?

2 A. Yes.

3 Q. Do you understand what a K-1 is?

4 A. Yeah. The restaurant is the K-1.

5 Q. It's a distribution on profits, right?

6 A. Correct.

7 Q. The K-1 will show what your net revenue is; do
8 you understand that?

9 A. I do.

10 Q. And you had a 40,000 K-1 in 2017 from
11 Rickey's?

12 A. You're asking me to give an estimate?

13 Q. Yeah, estimate for Rickey's World Famous Hot
14 Sauce, from the hot sauce.

15 A. You didn't say that, not at all.

16 Q. Let's start with the hot sauce.

17 A. This is very misleading. Maybe you should
18 repeat the question.

19 Q. We'll only be talking about the hot sauce from
20 now on then, how's that? Can you estimate for me what
21 your K-1 was from the hot sauce company --

22 A. No.

23 Q. -- in 2017?

24 A. No.

25 Q. Can't give me any estimate?

1 A. No.

2 Q. Do you know how much money you made from the
3 company in 2017?

4 A. No.

5 Q. Profit.

6 A. Profit?

7 Q. Yeah.

8 A. No.

9 Q. What about in 2018, do you know how much
10 profit you made from the company?

11 A. About half, about half of '17.

12 Q. How do you know that if you don't know what
13 the profit in '17 was?

14 A. Because the numbers are in half.

15 Q. And what about '19?

16 A. And the overall sales as well.

17 Q. So does your percentage profit correspond
18 directly one to one with revenue?

19 A. I'm sorry, I don't understand the question.

20 Q. So when your profit -- when your gross revenue
21 falls in half, does your profit automatically fall in
22 half as well?

23 A. It would more than fall in half.

24 Q. So how can I determine how much profit you
25 made in the hot sauce company in 2017?

1 A. I -- I would imagine that the accountant can
2 put together a list along with the expenses and from
3 there you could make your best guesstimate.

4 Q. Has she done that?

5 A. She's a he, and I'm sure he could do that.

6 Q. Oh, not Lisa Solito. I understand.

7 A. No. Lisa's just my assistant.

8 Q. Have you asked the -- the accountant to
9 provide you with net profit numbers for 2017?

10 A. No.

11 Q. Have you asked him to provide you with net
12 profit numbers for 2018?

13 A. No.

14 Q. What about for 2019, have you asked him to
15 provide you net profit numbers then?

16 A. No.

17 Q. Are you willing to ask him for that?

18 A. I'll speak to counsel on that.

19 Q. Who's Shawn Jones?

20 A. Shawn Jones is my manager that books me on
21 appearances.

22 Q. Is he still your manager?

23 A. He is.

24 Q. Where does he live?

25 A. He lives like over towards Ft. Myers.

1 Q. Has he provided you -- provided you with any
2 documents in connection with this litigation?

3 A. Some, yes.

4 Q. What kind of documents?

5 A. People who canceled.

6 Q. Like emails?

7 A. Yeah, some.

8 Q. Have you produced those in this litigation?

9 A. I believe so.

10 Q. How many emails do you think he provided to
11 you?

12 A. No guessing.

13 Q. Did he provide you with any emails from the
14 Long Island Retro Gaming Festival?

15 A. That one in particular.

16 Q. He did?

17 A. That one came in on April 13th, said cancel.

18 Q. Did it say why it was canceled?

19 A. Yes.

20 Q. Why?

21 A. Because of Twin Galaxies, Mr. Hall.

22 Q. It says because -- I just want to be clear
23 here. The email canceling the Long Island Retro Game
24 Festival says that your appearance was canceled due to
25 Mr. Hall --

1 A. Controversy, yes. He is the --

2 MR. ELLROD: No question pending.

3 THE WITNESS: Okay.

4 BY MR. TASHROUDIAN:

5 Q. What about ZapCom?

6 A. I don't know.

7 Q. Did you receive -- did you receive any emails
8 from Shawn regarding ZapCom?

9 A. No.

10 Q. What about Christians Show in Texas?

11 A. No.

12 Q. How many times have you -- how many times have
13 you appeared at the Long Island Retro Gaming Festival?

14 A. Zero.

15 Q. What about ZapCom, how many times did you
16 appear there?

17 A. Oh, I don't know. Quite a few. It's changed
18 its name.

19 Q. What about Christians Show in Texas, how many
20 times?

21 A. I don't know. It's affiliated with the one
22 you had on the screen.

23 Q. What about the Classic Game Fest, did you
24 receive any emails from them saying they're canceling
25 you because of Mr. Hall's statement or Twin Galaxies'

1 statement?

2 A. I don't know. Shawn handles that.

3 Q. Did you ask him if they've sent you any emails
4 saying that they canceled you because of Twin Galaxies'
5 statements?

6 A. Did I say, Shawn, did they send any emails
7 canceling because of Twin Galaxies?

8 Q. Yes.

9 A. No, I didn't.

10 Q. Okay. So you're just assuming they canceled
11 you because of the statement, right?

12 A. No. Some flat out said so.

13 Q. And who -- so who flat out said so?

14 A. Some sent emails.

15 Q. Who flat out said so?

16 A. I think Classic Gaming Fest is one.

17 Q. Okay. And who'd they tell?

18 A. Shawn. I don't speak to those people.

19 Q. All right. They -- they told Shawn?

20 A. Yes.

21 Q. By telephone?

22 A. I don't know.

23 Q. All right. Who else?

24 A. I don't know.

25 Q. Who else told you they're canceling your

1 appearance because of the accusations against you?

2 A. John Weeks in California.

3 Q. John Weeks?

4 A. Yeah.

5 Q. Where? What's that for?

6 A. Museum of Pinball.

7 Q. Who did he tell that to?

8 A. Well, he told that to my son, actually.

9 Q. What about -- what about the Midwest Gaming
10 Classic Expo?

11 A. That's correct.

12 Q. Did anyone over there tell you that they're
13 canceling you because of the --

14 A. Nobody told me anything. They talk to Shawn
15 or they don't talk to Shawn or they email Shawn or they
16 don't return Shawn's email.

17 Q. Do you know if Midwest Gaming Classic Expo
18 told Shawn by email or otherwise that they're canceling
19 you because of these accusations?

20 A. I already said I don't know.

21 Q. What about the Louisville Gaming Expo, did
22 anyone over there --

23 A. Same thing.

24 MR. ELLROD: Let him finish the question,
25 okay?

1 BY MR. TASHROUDIAN:

2 Q. Yeah.

3 Did anyone over there tell you that -- tell
4 you or Shawn they're canceling you because of
5 accusations against you?

6 A. Don't know.

7 Q. What about the Chicago Pinball Expo, did
8 anyone over there tell you they're canceling your
9 appearance because of the accusations --

10 A. Don't know.

11 Q. -- against you?

12 A. Don't know.

13 Q. They certainly never told you that, right?

14 A. I never speak to those people.

15 Q. But has Shawn told you that they told you
16 that?

17 MR. ELLROD: May I assume that when you say
18 has the people at your place told you, are you
19 referring to just him individually or are you
20 referring to him or Shawn?

21 MR. TASHROUDIAN: Him or Shawn.

22 MR. ELLROD: Yeah, because that's how I
23 understood he's answering the question, but now you
24 split it up.

25 BY MR. TASHROUDIAN:

1 Q. You and Shawn. I can ask 20 questions on all
2 these people, but I'd rather do it --

3 A. It all applies the same. I don't talk to
4 anyone. Period.

5 MR. ELLROD: No question pending.

6 BY MR. TASHROUDIAN:

7 Q. So let me ask you this: What evidence is
8 there that any of these people or these conventions
9 canceled you because of the accusations by Twin
10 Galaxies?

11 MR. ELLROD: I'll object to the extent it
12 calls for attorney-work product and attorney-client
13 privilege. I'll instruct him to not answer except
14 to the extent that he has opinions that are not
15 related to his conversations with counsel and
16 strategy with counsel.

17 BY MR. TASHROUDIAN:

18 Q. So the question is what evidence is there
19 aside from what you've spoken about with your
20 attorney --

21 A. Besides common sense?

22 Q. Yeah, besides common sense because common
23 sense doesn't fly in a court of law.

24 A. There's some emails.

25 Q. Some emails.

1 A. Yeah.

2 Q. Have you produced those?

3 A. And some verbal, some verbal conversations.

4 Q. Those verbal conversations weren't to you,
5 though, were they?

6 A. They were to Shawn.

7 Q. To Shawn.

8 A. Again, they were to Shawn.

9 Q. What about the Southern Fried Gaming Expo, did
10 they cancel you?

11 A. Yes.

12 Q. They invited you back in 2020, though, didn't
13 they?

14 A. No.

15 Q. No?

16 A. They didn't have a show in 2020.

17 Q. What about 2021?

18 A. They didn't have -- oh, I don't know if they
19 had one in 2021.

20 Q. Were you invited back?

21 A. No. I haven't been there since 2018.

22 Q. Now, these people that said that they canceled
23 you because of your rep -- because of the accusations
24 against you, did they tell you whether it was because
25 of accusations by Twin Galaxies or by Guinness?

1 A. Okay, could I clarify?

2 MR. ELLROD: No. Let me -- let's go off the
3 record for a second. Well --

4 THE VIDEOGRAPHER: Hold it. One second.

5 MR. ELLROD: You want him to answer the
6 question or?

7 THE VIDEOGRAPHER: Hold it, hold it.

8 MR. TASHROUDIAN: You can --

9 THE VIDEOGRAPHER: We're off the record.

10 (Recess was had at 3:46 p.m., resuming at 3:51
11 p.m.)

12 BY MR. TASHROUDIAN:

13 Q. Are you claiming any other economic damages
14 aside from the lost revenue from Rickey's World Famous
15 Hot Sauce and your appearances?

16 A. Well, I believe the appearances are -- with
17 movies and opportunities like that, as well.

18 Q. Yeah, let's talk about that.

19 What about Chasing Games, six episodes?

20 A. Correct.

21 Q. What was that about?

22 A. We produced the first episode and we thought
23 it would go a lot further.

24 THE ELLROD: The question was what is that
25 about?

1 THE WITNESS: Oh, I'm sorry. Chasing Games?

2 BY MR. TASHROUDIAN:

3 Q. Yes. Chasing Games, what -- what's that
4 about?

5 A. The games that were in the original Life
6 magazine photo, chasing and tracking them down. There
7 was one -- there was one of six pilots done and then it
8 hit the brakes.

9 MR. ELLROD: He just asked you what it's
10 about. So you said it was about --

11 THE WITNESS: Yeah.

12 BY MR. TASHROUDIAN:

13 Q. So you guys got through one pilot episode and
14 no -- nobody picked it up?

15 A. No, the venom hit so it -- there was no
16 interest, not enough.

17 MR. ELLROD: Yes or no question.

18 THE WITNESS: No.

19 BY MR. TASHROUDIAN:

20 Q. Did anyone tell you that they weren't
21 interested in it because of Twin Galaxies' accusations
22 against you?

23 A. People don't talk to me.

24 MR. ELLROD: It's a yes or no question, Bill.

25 THE WITNESS: No.

1 BY MR. TASHROUDIAN:

2 Q. Are you filming for a movie right now?

3 A. We're filming.

4 Q. For what?

5 A. Filming.

6 Q. I'm asking you for what?

7 A. Yeah, I don't know what it's called, I don't
8 know what it's eventually going to be.

9 Q. Do you know what it's about?

10 A. I'd say it's more about Walter.

11 Q. Is it about this lawsuit at all?

12 A. No.

13 Q. Is this lawsuit involved at all?

14 A. Zip, none.

15 Q. Zero?

16 A. Zero.

17 Q. What about the Chicago Pinball Expo, did
18 anyone from there ever tell you they were canceling you
19 because of --

20 A. No.

21 Q. -- statements made by Twin Galaxies?

22 MR. ELLROD: Let him -- let him finish the
23 question before you answer. She'll get mad if we
24 don't.

25 THE WITNESS: No.

1 BY MR. TASHROUDIAN:

2 Q. Did anyone tell Shawn --

3 A. I don't know.

4 Q. -- that they were canceling you --

5 A. I don't know.

6 Q. -- because of that?

7 MR. ELLROD: I thought -- are we including
8 both Shawn and him when you say that, when you ask
9 these questions?

10 MR. TASHROUDIAN: Well, I split them up
11 between Shawn and Billy, so.

12 THE WITNESS: Just to clarify, Billy doesn't
13 talk to anybody.

14 MR. ELLROD: There's not a question there,
15 Bill.

16 THE WITNESS: Yeah.

17 BY MR. TASHROUDIAN:

18 Q. What about the Supermarketers' Christmas
19 party, did anyone tell you they're canceling your
20 appearance because of the accusations against you?

21 A. Nope.

22 Q. What about Shawn, do you know if anyone told
23 Shawn that?

24 A. I don't know.

25 Q. What about Kansas City Comic Com, did they

1 tell you that they're canceling your appearance because
2 of the accusations against you?

3 A. No.

4 Q. Liberty Mutual Christmas party, what about
5 them?

6 A. No.

7 Q. Super -- sorry. Houston Arcade and Pinball
8 Expo, what about them?

9 A. Me?

10 Q. Yeah.

11 A. No.

12 Q. Are you making a claim for -- for non-economic
13 damages in this case?

14 A. I'm sure, yes.

15 Q. Emotional distress?

16 A. Absolutely.

17 Q. Tell me about it.

18 MR. ELLROD: Objection, it's vague and
19 ambiguous.

20 THE WITNESS: Yeah.

21 MR. ELLROD: What do you -- what do you want
22 him to -- you can ask him questions, but.

23 BY MR. TASHROUDIAN:

24 Q. When did the emotional distress start?

25 A. It started around February 2, 2018.

1 Q. Had Twin Galaxies made a statement at that
2 point?

3 A. They were already making statements, yes.

4 Q. Were any of them defamatory?

5 MR. ELLROD: Objection, calls for legal
6 conclusion.

7 You can answer.

8 THE WITNESS: No, I won't answer.

9 BY MR. TASHROUDIAN:

10 Q. Are you refusing to answer?

11 MR. ELLROD: What was the question?

12 BY MR. TASHROUDIAN:

13 Q. Yeah. Were any of the statements defamatory
14 in -- in February 2018?

15 MR. ELLROD: You can answer if you know --

16 THE WITNESS: Yes.

17 MR. ELLROD: -- although it calls for a legal
18 conclusion.

19 BY MR. TASHROUDIAN:

20 Q. Which statements were defamatory?

21 A. There were countless statements that I was
22 reading online, okay.

23 Q. But Twin Galaxies hadn't made its defamatory
24 -- or its allegedly defamatory statements as of
25 February 2018, had it?

1 A. You'll have to ask Twin Galaxies.

2 Q. The defamatory statement was made April 12,
3 2018, right?

4 A. That was very defamatory, I agree.

5 Q. That's the one you're suing on, right?

6 A. Yes.

7 Q. So are you claiming eco -- non-economic
8 damages for things that occurred prior to Twin Galaxies
9 making its statement?

10 MR. ELLROD: I'll object, vague and ambiguous,
11 calls for speculation --

12 THE WITNESS: Yeah.

13 MR. ELLROD: -- and legal opinion, but you can
14 answer to the extent --

15 THE WITNESS: No.

16 MR. ELLROD: Okay.

17 THE WITNESS: It's a trick question. I'm not
18 answering.

19 MR. ELLROD: No. You -- you can answer the
20 question if you --

21 THE WITNESS: Twin Galaxies began defamation
22 prior to April 12th.

23 BY MR. TASHROUDIAN:

24 Q. When did they began -- when did Twin Galaxies
25 begin to defame you?

1 A. In February.

2 Q. How did they begin to defame you in February?

3 A. With that which they were speaking to in the
4 media and on their website.

5 Q. Do you have any specific statements that were
6 made before April 12, 2018?

7 A. None that I can share with you now.

8 Q. So do you know of statements?

9 A. Twin Galaxies' statements?

10 Q. Yeah.

11 A. No.

12 Q. Were there any statements made by Twin
13 Galaxies that caused you emotional distress prior to
14 April 12, 2018?

15 A. What kind of statements?

16 Q. Any defamatory --

17 MR. ELLROD: Were there any statements made by
18 Twin Galaxies --

19 THE WITNESS: Official statements, no.

20 MR. ELLROD: -- prior to that time?

21 BY MR. TASHROUDIAN:

22 Q. Tell me about the emotional distress that you
23 started feeling in 2000 -- in February 2018.

24 MR. ELLROD: Well, I will represent --

25 THE WITNESS: Yeah.

1 MR. ELLROD: -- that we're not seeking damages
2 that pre-exist the date of this de -- the
3 defamation which is the subject matter of this
4 case. So why don't you ask him what he experienced
5 after that?

6 MR. TASHROUDIAN: Yeah, we can do that then.
7 That makes it easier.

8 BY MR. TASHROUDIAN:

9 Q. What about the emotional distress that you
10 endured after April 12, 2018, can you tell me about
11 that?

12 A. Against the advice of counsel, that's a dumb
13 question, but I'll answer it.

14 When it's April 12th and a reporter from the
15 local newspaper shows up at my mom and dad's house
16 knocking on the door trying to write a story about me
17 because of what de -- defamatory statements somebody
18 made, that's definitely emotional distress. Okay?
19 When my mother is trying to call me and my father, and
20 locate me, okay? So really, it was on every place,
21 everywhere. It went to somebody's benefit, not mine,
22 okay? Anywhere and everywhere that I went it affected
23 me. Affected me verbally, people speaking to me about
24 it; it affected me in business, people not speaking to
25 me; okay, and affected me in appearances.

1 Q. Who didn't speak to you anymore?

2 A. A number of the places that you spoke of here,
3 who I would normally do appearances with.

4 Q. That -- that caused you emotional distress?

5 A. Shit, yeah.

6 Q. What kind of emotional distress?

7 MR. ELLROD: Objection, vague. What do you
8 mean what kind?

9 THE WITNESS: Yeah, what is this, man? You're
10 like a screwball.

11 MR. ELLROD: Wait, wait, wait, wait, wait.

12 BY MR. TASHROUDIAN:

13 Q. I'm asking you, what kind of emotional
14 distress. Did you have depression?

15 MR. ELLROD: That's a fair question.

16 THE WITNESS: I had depression; I had anxiety,
17 okay, without a doubt, okay; I had embarrassment; I
18 had anger; I had confusion, okay?

19 BY MR. TASHROUDIAN:

20 Q. All right. Let's talk about the depression.
21 How long did that last for?

22 A. Who said it's over?

23 Q. So are you currently depressed?

24 A. Well, I'm certainly not happy about it.

25 Q. No, I'm asking you.

1 A. You're not a psychiatrist.

2 Q. I'm not. I'm asking you.

3 MR. ELLROD: Answer the question, just yes or
4 no.

5 THE WITNESS: Yes, of course I am.

6 BY MR. TASHROUDIAN:

7 Q. How long have you been depressed?

8 A. Since about February 2, 2018.

9 Q. Can you express to me -- can you tell me how
10 that depression has manifested itself?

11 A. Because this has affected every part of my
12 life and the trajectory that I had on it for me and my
13 family and the goodwill that I wanted for my family and
14 how much more difficult it's made it, all for the
15 stupidity that went on.

16 Q. Yeah. Tell me about the depression.

17 MR. ELLROD: I think he just did.

18 THE WITNESS: I just did.

19 BY MR. TASHROUDIAN:

20 Q. What symptoms --

21 A. You want me to break out a violin?

22 Q. What symptoms of depression are you feeling?
23 You're currently feeling them, right; what symptoms?

24 MR. ELLROD: I'll object. It's vague.

25 THE WITNESS: Really.

1 MR. ELLROD: Depression is a -- is a state of
2 mind. It's -- you can ask him if he has any
3 physical effect from the depression.

4 BY MR. TASHROUDIAN:

5 Q. Are there any physical manifestations of your
6 depression?

7 A. Yes. I would say that I'm -- that I have less
8 motivation than I did. I'd say that because of all of
9 these negative influences I actually have less energy.
10 I have trouble staying on focus, and I'm regaining that
11 as time goes by.

12 Q. So you're getting better?

13 A. I hope so.

14 Q. Yeah. It's been, what, four years now?

15 A. Yeah.

16 Q. Going on five years?

17 A. Yeah, and it's still going on, you're right.

18 Q. What about anxiety, tell me about the anxiety
19 that you're feeling.

20 A. Well, anxiety when you worry about your kids,
21 the way they're approached; your family, the way
22 they're approached; your business, the way it's
23 affected; financially, the way it's affected, that's a
24 lot of anxiety.

25 Q. Well, your -- your business is doing great

1 now, isn't it?

2 A. No, it's not.

3 Q. Are there still lingering effects from the
4 defamatory statements?

5 A. It is. It's doing much better since 2020, but
6 it's not better.

7 Q. Well, how -- how old are your kids?

8 A. Well, never mind. You get nothing with my
9 family.

10 Q. You're telling me that part of the anxiety is
11 how it's affected your kids, right?

12 A. Correct.

13 Q. Has it affected them or your feelings about
14 them?

15 A. No, it's affected them.

16 Q. What about embarrassment, tell me about the
17 embarrassment you've been feeling.

18 A. What about it? People accuse you of something
19 that's not true. People read a headline, and they read
20 a headline because somebody want hits.

21 Q. Is that what you're alleging?

22 A. And when they read that headline, okay, and
23 then they share it with you, all they read is that
24 headline. Nobody does any research, they just assume
25 it's true.

1 Q. Let's look at your response to special
2 interrogatory number 24.

3 MR. ELLROD: What exhibit is that?

4 MR. TASHROUDIAN: Exhibit A.

5 THE WITNESS: What number?

6 MR. ELLROD: Twenty-four, so it starts here.

7 THE WITNESS: Are --

8 MR. ELLROD: No, don't talk, just read it and
9 then wait for a question.

10 THE WITNESS: Okay.

11 MR. ELLROD: Okay.

12 BY MR. TASHROUDIAN:

13 Q. Let's talk about Dr. Skopit. So Dr. Skopit
14 stopped seeing you because of a defamatory statement?

15 A. Correct.

16 Q. Who told you that?

17 A. His manager.

18 Q. What'd she say?

19 A. She said he read something, he's
20 uncomfortable. Took me awhile to get it out of her,
21 and that's what she told me.

22 Q. What was the manager's name?

23 A. I don't know.

24 Q. How did she look?

25 A. She looks like a manager. She's a Hispanic

1 woman. She was there on that day. I mean, it wouldn't
2 be difficult to track her down. He wouldn't be
3 difficult to track down.

4 Q. Do you have his contact information?

5 A. Well, I could get it or I could simply look
6 online where it was posted.

7 Q. It also says here that you developed a hernia
8 diagnosis and atrial fib -- fibrillation due to Twin
9 Galaxies' defamatory statement.

10 A. Okay. Well, the atrial fibrillation they said
11 was directly related to stress. No other reason.

12 Q. Let's talk about any alternative stressors you
13 have in your life. How's your relationship with your
14 wife?

15 A. Couldn't be better.

16 Q. Has it always been that way?

17 A. It's always been that way.

18 Q. What about your -- the relationship with your
19 sister?

20 A. What about my sister, which one, I've got four
21 of them?

22 Q. Let's try Christina.

23 A. Christina, yes.

24 Q. How's your relationship with her?

25 A. Very well. She's a nurse.

1 Q. What about the -- what about the sister that
2 runs Rickey's Restaurant, how's your relationship --
3 how's your relationship?

4 A. I don't see her, so it's fine.

5 Q. Why don't you see her?

6 A. I don't see her because her and my wife don't
7 coincide so well, so it's easier to be separate.

8 Q. Has that caused you any stress?

9 A. No.

10 Q. None at all?

11 A. Not at all.

12 Q. Are there any alternative stressors you had in
13 your life that are affecting you now?

14 A. Just this and what is the result of this.

15 Q. And the other lawsuits, though, right?

16 A. Oh, you mean like things that resulted from
17 this, like Karl Jobst and David Race, yes, very much.

18 Q. They're also causing you emotional stress?

19 A. Well, they're -- they're not making me happy.

20 Q. No, I'm asking you, though, are -- are -- did
21 the actions that Carl Jobst and David Race and Jeremy
22 Young and Jeff Harrist state also cause you emotional
23 distress?

24 A. That is minimal compared to this.

25 Q. Why?

1 A. Because this is where it all began.

2 Q. What about Guinness World of Records, did they
3 defame you as well?

4 A. No.

5 Q. They didn't?

6 A. No.

7 Q. Did they publish any defamatory statements in
8 their books?

9 A. Nope.

10 Q. Nothing was defamatory in their books?

11 A. Oh yeah, there was one statement in the book
12 that they corrected. I apologize.

13 Q. Did that cause you any emotional distress?

14 A. I thought you meant out in the media. No, it
15 was here.

16 Q. Did you settle with -- with Guinness World
17 Records?

18 A. Uh-huh, yes.

19 Q. What were the terms of the settlement
20 agreement?

21 A. He can tell you.

22 Q. I'm asking you.

23 A. No.

24 MR. ELLROD: I am going to object that I
25 believe the terms of the settlement agreement are

1 privileged -- or confidential, and instruct him not
2 to answer.

3 BY MR. TASHROUDIAN:

4 Q. Did you receive any money?

5 A. Not a nickel.

6 Q. Do you know if Guinness World Records
7 performed any sort of further analysis of your tapes to
8 determine if they were real?

9 A. They wouldn't share any information with me in
10 regards to their invest -- investigation.

11 MR. ELLROD: Listen to the question, answer
12 the question. Do you know whether they did any
13 investigation of the tapes?

14 THE WITNESS: No.

15 BY MR. TASHROUDIAN:

16 Q. And they wouldn't share any of that
17 information with you, right?

18 A. Nothing.

19 Q. Did they settle with you because you sued
20 them?

21 MR. ELLROD: Objection, calls for speculation,
22 lacks foundation. If you know what they were
23 thinking when they settled, then you can respond on
24 their behalf.

25 THE WITNESS: I can't respond on their behalf.

1 BY MR. TASHROUDIAN:

2 Q. It says here you developed a hernia. Did
3 anyone tell you you developed a hernia because of what
4 Twin Galaxies did?

5 A. Actually, I'm not sure of that. I don't know.

6 Q. Who told you that you had atrial fibrillation?

7 A. Boy, what's her name?

8 Q. Ava Rosenberg?

9 A. No, she sent me there to get an examination.

10 Q. What about Caroline Rocha?

11 A. Yeah, that's her.

12 Q. She's a P.A.?

13 A. And she was there with a doctor and they said
14 it is completely stress related.

15 MR. ELLROD: That was not the question.

16 THE WITNESS: Oh.

17 MR. ELLROD: Listen to the question.

18 THE WITNESS: She's a P.A. I don't know.

19 BY MR. TASHROUDIAN:

20 Q. Are you taking any medication because of your
21 stress?

22 A. No.

23 Q. What about because of your depression?

24 A. No.

25 Q. What about because of your anxiety?

1 A. No.

2 Q. What about because of your embarrassment?

3 A. No.

4 Q. Have you treated with a psychologist?

5 A. No.

6 Q. How about psychiatrist?

7 A. No. Seen a priest.

8 Q. How often do you see the priest?

9 A. No more. Done. Couple times.

10 MR. TASHROUDIAN: All right. Is it about time
11 for five? Let's take five.

12 MR. ELLROD: Okay.

13 MR. TASHROUDIAN: Off the record.

14 THE VIDEOGRAPHER: One second. Hold it. Hold
15 it one second. Okay, we're off the record.

16 (Recess was had at 5:08 p.m., resuming at 5:18
17 p.m.)

18 THE VIDEOGRAPHER: It's 5:18 and we're back on
19 record.

20 BY MR. TASHROUDIAN:

21 Q. What was your role in the sale of Twin
22 Galaxies to HD Films?

23 A. I spoke to Jace a few times. I spoke to
24 Jordan a few times. Some verbally, some by email.
25 Jordan, I was able to speak to Jordan, because I was

1 kind of removed from the situation that he had, so I
2 was able to say, Hey Jordan, there's somebody here
3 interested, and Jace Hall was happy to have me go there
4 and open the door for communications with Jordan. Once
5 those communications opened, I did nothing.

6 Q. All right. Did you provide Jace Hall with a
7 draft agreement for the purchase of --

8 A. Not a chance, no.

9 Q. Are you sure of that?

10 A. I'm very sure of that.

11 Q. Did you provide him with a copy of the
12 original Pete Bubea (phonetic) contract?

13 A. No, Walter had that.

14 Q. Did you provide Jace Hall a copy of that?

15 A. I don't think so. I can't see why --

16 MR. ELLROD: Yes or no.

17 BY MR. TASHROUDIAN:

18 Q. Were you -- did you receive -- did you receive
19 any portion of the funds that HD Films paid for Twin
20 Galaxies?

21 A. Actually, no.

22 Q. Not at all?

23 A. Not at all.

24 Q. Did you ask Walter why not?

25 A. No, because he offered them.

1 Q. And you refused?

2 A. No. I gave the money, a small amount of
3 money, and I gave it to Joel West and he bought a bunch
4 of material that we began using at shows.

5 Q. How much money was it?

6 A. About 6,000.

7 Q. And it came to you?

8 A. It was offered to me, yes.

9 Q. And then you gave it to -- to Joel West?

10 A. Joel opened up a Twin Galaxies account with
11 it.

12 Q. All right. You a shareholder of Twin
13 Galaxies, LLC?

14 A. Not at all.

15 Q. Never?

16 A. Nope. He knows that.

17 MR. ELLROD: Just answer the questions yes or
18 no if it's a yes or no question, okay?

19 BY MR. TASHROUDIAN:

20 Q. Were you ever involved in the operations of
21 Twin Galaxies, LLC?

22 A. No.

23 Q. Who's Wayne Shirk?

24 A. Wayne Shirk was the chief engineer at
25 Nintendo. He worked there from 1982, I think, until

1 2011, if I'm guessing correctly.

2 Q. Have you ever met Mr. Shirk?

3 A. No.

4 Q. How do you -- how do you --

5 A. I don't think so.

6 Q. Did you talk to him on the phone ever?

7 A. Yes, I did talk to him on the phone.

8 Q. How many times?

9 A. Three.

10 Q. Where was he located?

11 A. He was -- he worked for Nintendo.

12 Q. Where?

13 A. In -- in the Seattle area of Washington.

14 Q. Tell me about shipping the PCB to Mr. Shirk;
15 did you do that?

16 A. Yes.

17 Q. All right. Tell me about the box that you
18 shipped the PCB in.

19 A. The box that was made out corrugation.

20 Q. You still have that the box, right?

21 A. The box I shipped it to him in?

22 Q. Yeah.

23 A. No.

24 MR. ELLROD: It's in my office, my possession,
25 actually. In my office's possession.

1 MR. TASHROUDIAN: I think I know that.

2 BY MR. TASHROUDIAN:

3 Q. Tell me about this box; did you purchase it?

4 A. (No oral response.)

5 Q. Did you purchase it?

6 A. I'm sure not.

7 Q. Who do you think purchased it?

8 A. It's a plain box.

9 Q. You -- did you use it to ship -- ship the PCB
10 to Wayne Shirk?

11 MR. ELLROD: I guess my --

12 THE WITNESS: I don't know --

13 MR. ELLROD: Objection, vague. Are you asking
14 if the box -- what box are we talking about?

15 MR. TASHROUDIAN: All right. Let's talk about
16 this. Let's try it this way.

17 BY MR. TASHROUDIAN:

18 Q. In connection with the Mortgage Brokers score
19 you sent the PCB to Wayne Shirk to authenticate, right?

20 A. That is correct.

21 Q. And you sent it to him in a box, right?

22 A. From Arcade Game Sales.

23 Q. From -- from Arcade Game Sales?

24 Do you still have that box?

25 A. I don't know if it's that box. What I do know

1 is the box we have is the one where it came back, so
2 yes, I believe it was the same box.

3 Q. So you --

4 A. With a different label.

5 Q. So you have the box that came back from Wayne
6 to you?

7 A. Correct.

8 Q. So he shipped the re-verified board directly
9 to you?

10 A. Back to me, yes.

11 Q. Was there any sort of packing slip with --
12 with the box?

13 A. There was a label, UPS stuff.

14 Q. Was there any written report that he provided
15 saying that the box -- that the PCB was original and
16 unmodified?

17 A. No. I didn't request one. And I didn't
18 request anything, Walter did.

19 Q. Did Wayne call you and tell you the board was
20 unmodified?

21 A. Called Walter.

22 Q. And he told Walter that. Were you there?

23 A. No.

24 Q. Have you performed a perfect Pac-Man score
25 recently?

1 A. I've done it a number of times.

2 Q. When was the most recent time?

3 A. Hold on. September.

4 Q. Where did that happen?

5 A. London.

6 MR. ELLROD: Is that September of 2022?

7 THE WITNESS: September 2022.

8 BY MR. TASHROUDIAN:

9 Q. Anything before that?

10 A. A number of times. Glitch Bar, Fun Spot.

11 Q. What about the Music City Multi Con?

12 A. No.

13 Q. You didn't perform a perfect Pac-Man game
14 there?

15 A. No.

16 Q. Do you remember that performance?

17 A. Oh, I -- I remember it well.

18 Q. What do you remember about it?

19 A. I remember being there; I remember being a
20 special guest; I remember playing and interacting with
21 people; I remember filming; I remember talking. It's
22 what I do.

23 Q. And you played Pac-Man?

24 A. And other games, yes.

25 Q. All right. But the Pac-Man performance wasn't

1 a perfect Pac-Man performance?

2 A. It was not.

3 Q. Why wasn't it?

4 A. Because, number one, the game was set for five
5 men and a bonus, and the score was 5,000 points short
6 of what it should have been.

7 Q. Did you tell the crowd that that was a perfect
8 Pac-Man score?

9 A. No, I told them ahead of time that it would
10 not be a perfect score. I said that on Saturday, and
11 on Sunday. Is that what you're getting to?

12 Q. No. I'm asking you, did you tell the crowd
13 that that was a perfect Pac-Man game?

14 A. I told the crowd that it was not more than
15 once, and I told the camera it was once.

16 Q. So you did tell the camera it was --

17 A. Yes.

18 Q. -- a perfect Pac-Man game, okay.

19 A. We were filming, that's correct.

20 Q. All right. Was that untrue?

21 A. What?

22 Q. You telling the -- the camera that it was a
23 perfect Pac-Man game, was that untrue?

24 A. That was filmed. It was entertainment.

25 Q. Well, I'm asking you, is it untrue?

1 A. Is it untrue that it was perfect? It was not
2 perfect.

3 Q. It was not perfect but you --

4 A. It was not.

5 Q. But you represented --

6 A. It was not. It was one man short and it was
7 one key short.

8 Q. But you represented to the camera that it was
9 a perfect --

10 A. What camera?

11 MR. TASHROUDIAN: Can you play the clip?

12 Let's mark now as Exhibit NN --

13 MR. HALL: MM?

14 MR. TASHROUDIAN: NN. Music City Multi Con.

15 (Exhibit NN to be marked for Identification.)

16 THE WITNESS: Oh, this.

17 MR. HALL: Let me make sure the audio is set.

18 It is. All right. Let's take a look.

19 (Video playing:)

20 MALE VOICE: That is a perfect game.

21 VOICES: Yeah.

22 (Video stopped)

23 BY MR. TASHROUDIAN:

24 Q. Did you say that was a perfect game before you
25 got it?

1 A. I did.

2 Q. Was it a perfect game, though?

3 A. No.

4 Q. Were you deceiving the audience when you said
5 that?

6 A. No.

7 Q. How wasn't it deceptive?

8 A. Because I spoke to the audience on Saturday
9 and I spoke to them on Sunday, told them that it would
10 not be, that we were filming. That's all.

11 Q. So you were just pretending that that was --
12 that that was a perfect Pac-Man game for a film that
13 you were producing; is that right?

14 A. We were filming.

15 Q. Filming for what?

16 A. Filming.

17 Q. What were you filming for?

18 A. We were filming.

19 MR. ELLROD: What was the purpose of you
20 filming?

21 THE WITNESS: Filming. We put film together
22 for YouTube, and for movies and clips, and such
23 like that.

24 BY MR. TASHROUDIAN:

25 Q. What specific media were you filming for?

1 A. No, it's our own media.

2 Q. All right.

3 A. That's exactly what we were doing.

4 Q. Were you -- were you filming for a specific
5 YouTube channel?

6 A. No.

7 Q. Were you specific -- were you filming for a
8 specific YouTube video?

9 A. No.

10 Q. Were you filming for a specific film?

11 A. I mean, we were filming.

12 Q. What was the purpose of --

13 MR. ELLROD: Were you filming for anything
14 specific?

15 BY MR. TASHROUDIAN:

16 Q. Yeah.

17 A. No.

18 Q. But you told the crowd that you were going to
19 lie at the end about this being an actual perfect
20 Pac-Man game?

21 MR. ELLROD: Objection to the characterization
22 of lying. In fact, it would have been more of a
23 joke if the crowd knew that it wasn't perfect.

24 BY MR. TASHROUDIAN:

25 Q. Do you -- do you have any film of you telling

1 the crowd that it wasn't going to be a perfect game?

2 A. Probably.

3 Q. You do?

4 A. I don't know. I don't film myself.

5 Q. Who -- who does the filming?

6 A. Various places, various people.

7 Q. Who filmed it here? Who was doing the filming
8 here?

9 A. It could have been, I don't know who filmed
10 it. I don't know who was filming that right there.

11 Q. Not this right here.

12 A. Right.

13 Q. You made that misrepresentation about this
14 being a perfect Pac-Man game because you were filming,
15 correct?

16 A. Correct.

17 Q. Okay. Who was doing that filming?

18 A. Yeah. Who was doing that particular filming,
19 no. I don't know who actually had the camera at that
20 point.

21 Q. Who's Joe Hill?

22 A. Joe Hill is the name of the guy that has that
23 channel. Yes, he was there when I said that -- oh, I'm
24 sorry, the TV station was there and all that. So yes,
25 that belongs to Joe Hill.

1 Q. So --

2 A. It's social media.

3 Q. So a TV station --

4 A. It's not real.

5 MR. ELLROD: Don't -- There's no question
6 pending, okay?

7 THE WITNESS: Okay.

8 MR. ELLROD: Listen to the question, answer
9 the question.

10 THE WITNESS: Okay.

11 BY MR. TASHROUDIAN:

12 Q. So this performance wasn't real?

13 A. Correct.

14 Q. Just like the ten forty-seven performance
15 wasn't real?

16 A. Do you have a question for me?

17 Q. That's the question.

18 A. The ten forty-seven was very real.

19 Q. And the ten-fifty, was that real as well?

20 A. Yes. This could not be perfect.

21 Q. But you still represented to the crowd that it
22 was.

23 MR. ELLROD: Objection, argumentative.

24 Misstates the testimony. We've gone through this.

25 THE WITNESS: Yeah, it does.

1 MR. ELLROD: That's the fourth time you've
2 done so.

3 BY MR. TASHROUDIAN:

4 Q. When did you tell the crowd that it wasn't a
5 perfect Pac-Man game?

6 A. A few times the night before and then when we
7 started again in the morning.

8 Q. Was it the same crowd?

9 A. It was the same game, same crowd.

10 Q. So when you started this game you told them
11 that this -- I'm going to say at the end this is a
12 perfect Pac-Man game, but it's really not?

13 A. I didn't start. That game was held overnight
14 which means it's not qualified to be a perfect Pac-Man.
15 He should know that.

16 Q. So it was paused?

17 A. It was in a hiding spot overnight.

18 Q. Pac-Man was in a hiding spot?

19 A. It was.

20 Q. Was this on an original machine or was this on
21 a MAME?

22 A. There is no MAME issue. It was original.

23 Q. Have you ever played on a MAME machine?

24 A. Nope.

25 Q. Never?

1 A. Never.

2 Q. Do you know what MAME is?

3 A. No. Don't have it in my house.

4 Q. Do you know what MAME is, though?

5 A. Yeah.

6 Q. So back to my question about who you were
7 filming that entertainment piece for, can you tell me
8 who that was?

9 A. No.

10 Q. Why not, you don't know who it was for?

11 MR. ELLROD: He testified it was not for
12 anything specific.

13 BY MR. TASHROUDIAN:

14 Q. Do you have control of the -- of the film
15 itself?

16 A. I don't have control of the film itself. It's
17 on my son's laptop. Okay? That's where it was, and I
18 don't know if we have it beyond that.

19 Q. Did your son film it?

20 A. No. He wasn't there.

21 Q. Was there somebody other than -- do you know
22 who took this film?

23 A. This?

24 Q. Yeah.

25 A. You said it was Joe Hill.

1 Q. I'm just trying to -- I'm kind of confused
2 here. Was there anybody else filming aside from
3 whoever did this?

4 A. Yeah, we were filming.

5 Q. Okay. Who? I'm asking you who. We were
6 filming; who's we?

7 A. Yeah. Who actually had the camera at the
8 moment, I don't know.

9 Q. Who could it have been?

10 A. Or it could have been on a -- on a tripod.

11 Q. Okay.

12 A. I don't think so. I think it was just filmed.

13 Q. All right. Who could it have been? Who were
14 you there with? Who was part of your delegation that
15 you were there with?

16 A. I was there with my wife.

17 Q. Did she do the filming?

18 A. She can.

19 Q. Did she do the filming?

20 A. I was playing. I don't know if she was doing
21 the filming or she had passed it off.

22 Q. Who would she have passed it off to?

23 A. I don't know.

24 Q. Who else was there with your delegation, sir?

25 A. Me, my wife and that's it.

1 Q. So it's either you or her that was doing the
2 filming?

3 A. I wasn't doing the filming. I played the
4 game.

5 Q. I see that, so it must have been her, correct?

6 A. No. I don't know if it was her or she had
7 somebody else helping her.

8 Q. How did the film get to your son's laptop?

9 A. Oh, it was -- everything we do goes on the
10 laptop. He makes decisions as to where we send it.

11 Q. All right. How does it get to the laptop?

12 A. If it comes off -- what is that thing you
13 stick in there?

14 MR. ELLROD: USB?

15 THE WITNESS: Yeah. If it's there, he puts --
16 he puts it up on -- he's got a Google drive with
17 all kinds of stuff.

18 MR. ELLROD: The question is how does it get
19 onto his laptop? That's the only question that's
20 pending.

21 THE WITNESS: Oh. Well, no. You can --
22 what's this called?

23 BY MR. TASHROUDIAN:

24 Q. USB?

25 A. Yeah. So it runs to a camera, or you can film

1 it any other way with a phone or whatever and you
2 could --

3 Q. Do you know how your delegation filmed this
4 event?

5 A. No.

6 Q. You have no idea?

7 A. Yeah. She can do it off the laptop.

8 MR. ELLROD: The question is do you know?

9 THE WITNESS: Do I know which way that exactly
10 was filmed, no.

11 BY MR. TASHROUDIAN:

12 Q. Do you know if there are any news stories
13 about you performing a perfect Pac-Man score at this
14 event?

15 A. Yeah, there was a TV station there.

16 Q. What TV station was that?

17 A. Something, something, something Channel 5.

18 Q. All right. Did you tell Channel 5 that this
19 wasn't, in fact, a perfect Pac-Man game?

20 A. I did.

21 Q. And what did they say?

22 A. Oh well.

23 Q. Who did you tell?

24 A. I -- there was a person there who was a
25 contact with Channel 5. I made sure that he knew.

1 Q. Are there any other live performances that
2 you've done where you represented that your score was
3 something that it actually wasn't?

4 A. Filming?

5 Q. Any. Any live performance.

6 A. When you're filming for entertainment --

7 MR. ELLROD: The question is are there any
8 live performances where you inaccurately described
9 a perfect game?

10 THE WITNESS: Never.

11 BY MR. TASHROUDIAN:

12 Q. Except for this one?

13 A. (No oral response.)

14 Q. Right?

15 A. No. I don't feel this was inaccurate. I was
16 very honest with everybody.

17 Q. That guy right there holding the phone, did
18 you tell him that this wasn't an actual perfect game?

19 A. When I spoke to the crowd, I'm sure he was
20 there.

21 Q. What about the guy in -- the blond guy there?

22 A. Yes.

23 Q. Did you tell him?

24 A. Yes.

25 Q. Do you remember telling him personally?

1 A. Yes, I do.

2 Q. What's his name?

3 A. David.

4 Q. David who?

5 A. David.

6 Q. David who?

7 A. David. That's all you get.

8 MR. ELLROD: Do you know his last name?

9 THE WITNESS: No.

10 MR. ELLROD: Okay.

11 BY MR. TASHROUDIAN:

12 Q. So you told David before the -- before you
13 started --

14 A. I told him the score would not be right.

15 MR. ELLROD: Wait for the question to end and
16 then answer just the question, okay, or it's going
17 to take longer than you need to take.

18 THE WITNESS: Sorry.

19 BY MR. TASHROUDIAN:

20 Q. And you made that statement at the beginning
21 of the performance?

22 A. Yes.

23 Q. So you already knew at the very beginning of
24 the performance that you were going to lose --

25 A. No.

1 Q. No? Tell me.

2 MR. ELLROD: First allow him to finish the
3 question, then answer just the question, okay?

4 BY MR. TASHROUDIAN:

5 Q. Let's try it this way: Did you know at the
6 very beginning of this performance that you were going
7 to miss a key and lose a life?

8 A. No.

9 Q. Did you do that on purpose?

10 A. No.

11 Q. But you knew that you weren't going to perform
12 a perfect game, right?

13 A. Correct.

14 Q. How did you know that?

15 A. Because when you cover a machine overnight and
16 you leave it in a hiding spot, it's not verifiable. I
17 would not have proclaimed or uploaded this as a perfect
18 game.

19 Q. But you did proclaim it was a perfect game,
20 right?

21 MR. ELLROD: Objection, argumentative; asked
22 and answered. Don't answer the question.

23 THE WITNESS: Stupid.

24 MR. ELLROD: No comment either.

25 BY MR. TASHROUDIAN:

1 Q. Did you ever correct the news broadcast or did
2 you ever correct the news station after they published
3 your -- published the tale of your perfect score?

4 A. I didn't know they published it.

5 Q. You met Rob Childs last week, right, with his
6 priest?

7 A. Oh yeah.

8 Q. Yeah, is that the same priest that you
9 consulted with?

10 A. No, never went to him before.

11 Q. Is that -- is your priest named Steve?

12 A. No.

13 Q. Steve Sanders?

14 A. No.

15 Q. Was that the priest that you met with, that
16 you saw with Rob Childs?

17 A. No.

18 Q. Prior to last week, did you ever -- did you
19 speak -- well, let's try it this way: When was the
20 last time you spoke with Rob Childs prior to last week?

21 A. Oh, I speak to him all the time.

22 Q. Are you guys on good terms?

23 A. We are.

24 Q. Are you guys best friends?

25 A. No, we're good friends.

1 Q. Did he put up the \$82,000 for your bond?

2 A. Nope. I wrote a check.

3 MR. ELLROD: No is the answer.

4 THE WITNESS: No. What a question.

5 BY MR. TASHROUDIAN:

6 Q. When was the last time you spoke with Rich
7 Mallion?

8 A. Wow, more than a year.

9 Q. What'd you talk to him a year ago about?

10 A. Maybe two years.

11 Q. What'd you talk to him two years ago about -- ago
12 about?

13 A. He called to let me know he was getting
14 harassing calls from David Race.

15 Q. You really trusted David Race at one point,
16 didn't you?

17 A. I didn't have a reason to trust or not trust
18 him.

19 MR. ELLROD: The answer is yes or no. Did you
20 really trust him or no?

21 THE WITNESS: I don't have an opinion on that.

22 BY MR. TASHROUDIAN:

23 Q. Did you provide Carlos Pineiro with the
24 original PC board that you performed your ten
25 forty-seven score on?

1 A. Did I?

2 Q. Yes.

3 A. No.

4 Q. Who did?

5 A. Neil did.

6 Q. What about the original PC board that you
7 performed your ten fifty score on, did you provide that
8 to Carlos?

9 A. No.

10 Q. Who did?

11 A. Nobody did. It's gone. We don't know where
12 it is.

13 Q. So there was -- there were two different PC
14 boards?

15 A. I apologize. The cabinet is gone, the board
16 is there. It's the same board all the way through. My
17 apologies.

18 Q. So that cabinet that we saw earlier at the
19 Mortgage Brokers score, are you sure that didn't have
20 an eight-way joystick?

21 A. I don't think I could get a score with an
22 eight-way joystick, so I'm sure --

23 MR. ELLROD: The question is --

24 THE WITNESS: The answer is no, it did not.

25 BY MR. TASHROUDIAN:

1 Q. So you're sure of that, though, right?

2 A. I'm very sure of that.

3 Q. But you told me earlier that you would never
4 play on a -- on a Donkey Kong arcade machine that had a
5 black -- had anything other than a black joystick,
6 right?

7 A. Yeah. That's news to me that that was red,
8 that's correct.

9 Q. Eight-way joysticks are typically red, right?

10 A. Nope.

11 Q. Have you ever seen a red one?

12 A. Nope.

13 Q. Let's go to Exhibit BB. These are going to be
14 text messages between Billy Mitchell and Jace Hall.

15 (Exhibit BB to be marked for Identification.)

16 MR. ELLROD: Is there anywhere in particular
17 or do you want him to read the whole 28 pages?

18 MR. TASHROUDIAN: Nothing in particular yet.

19 Let's just have that handy.

20 BY MR. TASHROUDIAN:

21 Q. Can you scroll through that document, sir, and
22 let me know if that accurately depicts the text
23 messages you had with Mr. Jace Hall?

24 MR. ELLROD: These are not Bates stamped.

25 THE WITNESS: Yeah.

1 MS. ROSS: What's the exhibit number, David?

2 MR. TASHROUDIAN: BB, like boy boy.

3 MR. ELLROD: The question is, is, can he
4 confirm this is all texts between him and Jace
5 Hall?

6 BY MR. TASHROUDIAN:

7 Q. Jace Hall.

8 A. I don't really know if it's all of them.

9 Q. Have you produced the text messages between
10 you and Jace Hall?

11 A. Yeah. Yeah, we did produce what was
12 available.

13 Q. Yeah, I didn't see that in the production, but
14 I'll represent to you that these were produced by Mr.
15 Hall. I think they were actually attached to the
16 anti-SLAPP motion.

17 Can you tell me where in here you tell Mr.
18 Hall to go interview a witness?

19 A. No, that was done verbally.

20 Q. When?

21 A. Many times.

22 Q. How many times?

23 A. More times than I can count.

24 Q. Well, we looked at your discovery response and
25 you stated that you called Mr. Hall only four times,

1 right?

2 A. I spoke to him a lot more than four times.

3 Q. How'd you speak to him more than four times?

4 A. Well, first of all, I believe my phone shows
5 more than four, but second of all, there were a lot of
6 times with Triforce and a lot of times when I was on a
7 landline.

8 Q. So you called Mr. Hall from a number other
9 than your cell phone?

10 A. Well, if I was at a landline, then I would
11 have called him from wherever that landline was or
12 somebody else's phone.

13 Q. Let's see what you say in your discovery
14 responses about that.

15 MR. ELLROD: What exhibit?

16 MR. TASHROUDIAN: Yeah, let's go to Exhibit A,
17 number 16.

18 MR. ELLROD: Okay. This is the question.
19 Telephone number you called him from, and this is
20 his substantive answer which is -- again, I'm going
21 to move that this be covered under the protective
22 order for -- based upon the phone numbers that are
23 there.

24 THE WITNESS: Okay.

25 BY MR. TASHROUDIAN:

1 Q. It says here you engaged Mr. Hall in phone
2 calls directly from your personal phone number,
3 954-829-9464?

4 A. Uh-huh.

5 Q. Is that your cell phone?

6 A. It is.

7 Q. Where in here does it say that you called Mr.
8 Hall from a landline?

9 A. Oh, I said I could have called him from a
10 landline as well. I know I talked to him a lot more
11 than four times.

12 Q. Let's go to number 17.

13 Identify and state the name of the telephone
14 service provider for every number you called Jace Hall
15 from during the period August 17th to the present date.
16 Do you see a landline there, number 17?

17 A. Verizon.

18 Q. Verizon Wireless, is that a landline?

19 A. No.

20 Q. You -- you called him from -- you say Verizon
21 Wireless is the service provider here, right?

22 A. Uh-huh.

23 Q. Do you have --

24 A. Yes.

25 Q. Do you have Verizon telephone service on any

1 of your landlines?

2 A. No.

3 Q. In any of your discovery responses have you
4 identified any landline that you called Mr. Hall from?

5 A. Landline, no.

6 Q. All right. Let's look at these telephone
7 conversations here in special interrogatory number 16.
8 So page 15, lines six through nine. On any of those
9 four occasions did you ask Mr. Hall to contact any
10 witnesses?

11 A. Yes.

12 Q. Okay, which occasion?

13 A. I spoke of the witnesses. He wouldn't hear of
14 it.

15 MR. ELLROD: The question is on which
16 occasion?

17 THE WITNESS. Oh, repeat the question, please.
18 I'm sorry.

19 MR. TASHROUDIAN: Madam Reporter, would you
20 please.

21 (Portion of the record read.)

22 MR. ELLROD: Then I think there was an answer
23 and another question.

24 (Portion of the record read.)

25 BY MR. TASHROUDIAN:

1 Q. So on which occasion, sir, did you tell him
2 about the witnesses?

3 A. Most every phone call.

4 Q. So on all four of these?

5 A. Much more than those four.

6 Q. Okay. But you haven't identified those other
7 telephone calls?

8 MR. ELLROD: The question right now is related
9 to these four and you've testified that all four of
10 these you talked to him about witnesses?

11 THE WITNESS: I would feel comfortable saying
12 I -- I mentioned the witnesses on all four of those
13 calls.

14 By MR. TASHROUDIAN:

15 Q. Okay. Which witness did you tell him to
16 contact?

17 A. I spoke about Wayne Shirk, okay. I spoke
18 about --

19 Q. Well, let's start -- let's start with Wayne.
20 Was he dead at this point?

21 A. Yes, but I didn't know it.

22 Q. Okay. Who else?

23 A. I spoke with his referees.

24 Q. Who?

25 A. Todd and Kimberly.

1 Q. All right.

2 A. Okay. I spoke with Pete Bubea. Actually,
3 Pete Bubea had passed.

4 Q. Yeah. He was already well dead, right?

5 A. Yeah. I spoke of Walter Day. Okay. I spoke
6 of Sheila, I didn't know her last name at the time, but
7 Sheila, who I had to track down.

8 Q. Did you tell him Sheila was her name?

9 A. The lady from the Mortgage Brokers Convention.
10 I don't know. I did not mention Valerie by name. I
11 got her name later. I spoke of Rob. I spoke with a
12 guy at Boomers. It didn't matter what name I gave him,
13 he wasn't --

14 MR. ELLROD: That's not the question.

15 THE WITNESS: Oh.

16 MR. ELLROD: Is that everybody that you can
17 recall that you spoke of to Mr. Hall about with
18 respect to being witnesses?

19 THE WITNESS: Boomers' manager.

20 BY MR. TASHROUDIAN:

21 Q. George Rotella?

22 A. Yes. Enzo. That -- that's what comes to
23 mind.

24 Q. Yeah. What did you tell Mr. Hall that Enzo
25 Saleany (phonetic) could say?

1 A. That it was his machine.

2 Q. For which performance?

3 A. For the Boomers.

4 Q. Okay.

5 A. He loaned it to me and that it was a licensed
6 Nintendo machine and he's a licensed distributor since
7 1983. He didn't care.

8 Q. Did he tell you he didn't care?

9 A. Yes.

10 Q. What did he say exactly?

11 A. I don't care.

12 Q. Those were his exact words?

13 A. Quote, I don't care.

14 Q. How many times did he say, I don't care?

15 A. It's a nonfactor.

16 Q. How many times did he say that?

17 A. It doesn't matter.

18 MR ELLROD: It's -- the question is how many
19 times, if you know?

20 THE WITNESS: And I know more about this than
21 anyone.

22 MR. ELLROD: The question is how many times
23 did he say --

24 THE WITNESS: He said one of those statements
25 each time I mentioned the witnesses.

1 MR. ELLROD: Okay.

2 BY MR. TASHROUDIAN:

3 Q. He said he doesn't care about them?

4 A. Correct.

5 Q. Or did he tell you that the witnesses don't
6 matter because of what the technical analysis is?

7 A. He mentioned one of those statements most
8 every time.

9 Q. Is there any reason that there's not one
10 mention of any of your witnesses in this text message
11 thread that we've marked as Exhibit BB, like boy boy?

12 A. No.

13 Q. There isn't a reason for that?

14 A. No, there isn't. I felt much more
15 comfortably --

16 MR. ELLROD: There's no question pending.

17 THE WITNESS: Okay.

18 BY MR. TASHROUDIAN:

19 Q. Did you feel more comfortable telling him on
20 the phone?

21 A. I'm more of a talker than I am a texter, yes.

22 Q. You texted him quite a bit, though, here,
23 didn't you?

24 A. Uh-huh.

25 Q. Is that a yes?

1 A. Yes.

2 Q. But you didn't think once to mention any
3 witnesses to him in these text messages?

4 MR. ELLROD: Objection, asked and answered.
5 He said no.

6 BY MR. TASHROUDIAN:

7 Q. Did Mr. Hall ask you for -- for an inverter
8 board?

9 A. He did.

10 Q. Yeah. And what'd you say?

11 A. I said when I got back I would send it to him.

12 Q. Did you ever?

13 A. Or I would check into it.

14 Q. Did you ever check into it for him?

15 A. Yes.

16 Q. And what happened?

17 A. He told -- he informed me that he had already
18 purchased two.

19 Q. Did you reach out to Rob Childs and to Carlos
20 Pineiro to see if you should send that board to Mr.
21 Hall?

22 A. No.

23 Q. You didn't check in with them?

24 A. No, I didn't. I don't check in with anybody.
25 Sorry.

1 Q. Did Mr. Hall ever explain to you the substance
2 of the allegations against you?

3 A. Yes.

4 Q. When did he do that?

5 A. He did it a couple times throughout the
6 investigations.

7 Q. What about in January 2018, did he tell you
8 what was going on?

9 A. January?

10 Q. Yeah.

11 A. Not a chance.

12 Q. Did you come to Los Angeles in January?

13 A. I did.

14 Q. Did you meet with Mr. Hall in January?

15 A. You bet.

16 Q. And with Rick Fox, too?

17 A. Yep.

18 Q. At their office?

19 A. No, I didn't meet with Rick. I said hello.

20 MR. ELLROD: Let the -- let him finish his
21 question and then answer it specifically in case I
22 need to object and --

23 THE WITNESS: Okay.

24 MR. ELLROD: -- I need to have a moment.

25 THE WITNESS: Question again, please.

1 BY MR. TASHROUDIAN:

2 Q. You met with Mr. Hall in Los Angeles, right?

3 A. I did.

4 Q. At his office in Beverly Hills?

5 A. I did.

6 Q. Who else was there?

7 A. I said hello to Rick Fox. I don't know,
8 only -- I don't know -- I don't know any other names.

9 Q. Did Mr. Hall tell you about the dispute, the
10 dispute concerning your scores?

11 A. No, there was none.

12 Q. He didn't mention that to you?

13 A. Nope.

14 Q. If he did, would you remember that?

15 A. Yep.

16 Q. I want you to look at page 14 here of Exhibit

17 BB.

18 MR. ELLROD: What exhibit?

19 MR. TASHROUDIAN: BB.

20 MR. ELLROD: Any particular part?

21 MR. TASHROUDIAN: Yes, March 22, 2018.

22 BY MR. TASHROUDIAN:

23 Q. Do you have a moment to speak, is where the
24 text message starts.

25 MR. ELLROD: March 22?

1 MR. TASHROUDIAN: Yes.

2 THE WITNESS: Went too far. March.

3 MR. ELLROD: Here's March 2022. I don't see
4 do you have a moment to speak. It's on page --
5 starts on page 19, right?

6 MR. TASHROUDIAN: No. Page 14 there. Do you
7 see that there, 14. There should be a page number
8 at the bottom right.

9 MR. ELLROD: Yeah. That's, oh, that's also.
10 Got you. Yeah. Okay.

11 BY MR. TASHROUDIAN:

12 Q. Did you know whether or not Jace Hall was
13 going onto Facebook Live to do an analysis of your game
14 play on March 22, 2018?

15 A. He didn't tell me that, no.

16 Q. Did you know that, though?

17 A. No.

18 Q. You didn't know that?

19 A. No. I heard about it when it happened.

20 MR. ELLROD: The answer's no.

21 THE WITNESS: No.

22 BY MR. TASHROUDIAN:

23 Q. You say here, Carlos had sent me something to
24 send to you and that's what I was contacting you for.

25 What did Carlos send you?

1 A. I don't recall at that time. March 22nd.

2 Q. Let's go back to Exhibit S.

3 MR. ELLROD: Any particular place?

4 MR. TASHROUDIAN: Yeah. Bates stamp number
5 2943.

6 BY MR. TASHROUDIAN:

7 Q. Do you see that there, 2943?

8 A. I do.

9 Q. Is this what you had sent Jace Hall, Carlos'
10 five points, all debunked, and then some?

11 A. I don't know if I sent this to him but
12 apparently -- is that from me? Yeah.

13 Q. It says here, That was sent to Jace shortly
14 before his broadcast?

15 A. Okay.

16 Q. Is that why you're calling Jace, to tell him
17 about Carlos' five points?

18 A. No. I was probably calling him just to call
19 him.

20 Q. You were calling him just to talk to him?

21 A. No, to try to talk to him.

22 Q. Let's go back to Exhibit BB.

23 MR. ELLROD: What page?

24 MR. TASHROUDIAN: Let's go to page 16.

25 MR. ELLROD: Okay.

1 BY MR. TASHROUDIAN:

2 Q. You see Carlos' five points on page 16?

3 A. Yes.

4 Q. Did you send that to -- to Mr. Hall?

5 A. I'd have to look at my text messages. Is it
6 there?

7 Q. Well, you haven't produced those to me so I'm
8 asking did you send those to Mr. Hall?

9 MR. ELLROD: It's not Bates stamped, so I
10 don't think it came from us, but if you know.

11 BY MR. TASHROUDIAN:

12 Q. Do you recall sending Mr. Hall any of Carlos'
13 work?

14 A. No. I recall sending him stuff.

15 Q. But none of Carlos' work?

16 A. Maybe it was Carlos, maybe it was others.

17 Q. Do you recall sending this to him?

18 A. I don't know if it's in the --

19 MR. ELLROD: If you -- if you know whether you
20 sent it or if you don't remember, whatever the case
21 is, just answer. I don't --

22 THE WITNESS: Yeah.

23 MR. ELLROD: -- I don't know or I don't recall
24 is an appropriate answer if that's the case.

25 THE WITNESS: Yeah.

1 BY MR. TASHROUDIAN:

2 Q. You don't recall?

3 A. I don't recall clearly, no.

4 Q. Well, let's go back to what was produced by
5 you here, Exhibit S, 2943, message sent 3-22-2018, at
6 3:36.

7 MR. ELLROD: What's the Bates?

8 MR. TASHROUDIAN: 2943.

9 THE WITNESS: This is the one we just looked
10 at.

11 MR. ELLROD: Yeah.

12 BY MR. TASHROUDIAN:

13 Q. You say here -- this was sent to Jace shortly
14 before the broadcast. Does that refresh your
15 recollection on whether or not you sent that text
16 message on page 16 of Exhibit BB?

17 A. Well --

18 MR. ELLROD: Are -- are these the same -- are
19 these the same text messages?

20 MR. TASHROUDIAN: Yes, it is.

21 MR. ELLROD: Okay.

22 BY MR. TASHROUDIAN:

23 Q. But between different people. So I'm asking
24 you, does that refresh your recollection whether you
25 sent the text message on page 16 of BB?

1 A. I mean, I don't know. Is this a copy paste?
2 I don't know.

3 MR. ELLROD: The question is does it refresh
4 your recollection? If it does, it does; if it
5 doesn't, it doesn't.

6 THE WITNESS: These points, I recollect these
7 points.

8 MR. TASHROUDIAN: All right.

9 MR. ELLROD: The question is whether you
10 recall sending them in a text message to Jace?

11 THE WITNESS: I don't remember.

12 MR. ELLROD: Okay.

13 BY MR. TASHROUDIAN:

14 Q. Is it your position that Carlos Pineiro --
15 Well, let's strike that.

16 Were you aware that Carlos Pineiro posted in
17 the TG dispute thread his and Steve Kleisath's final
18 findings based -- based upon their investigation?

19 A. Yes.

20 Q. All right. Did you respond to that post?

21 A. No.

22 Q. Do you agree with it?

23 A. No.

24 Q. Did you ever tell Jace Hall that neither
25 Carlos nor Steve had authority to post on your behalf?

1 A. More times than I can count.

2 Q. Tell me about those times.

3 MR. ELLROD: Yes or no is the answer. Go
4 ahead and tell him.

5 THE WITNESS: Nobody speaks for me.

6 BY MR. TASHROUDIAN:

7 Q. All right. Let's -- why don't we take a break
8 and see what we have left. We're going to be done
9 soon. Thank you.

10 THE VIDEOGRAPHER: Hold it. One second.

11 Okay, we're off the record.

12 (Recess had at 5:58 p.m., resuming at 6:10
13 p.m.)

14 THE VIDEOGRAPHER: Okay, it's 6:10. We're
15 back on the record.

16 BY MR. TASHROUDIAN:

17 Q. Mr. Mitchell, were you surprised Mr. Hall
18 waited for you guys to make your -- file discrimination
19 before Twin Galaxies issued its statement on the
20 controversy?

21 A. I don't agree with the question.

22 Q. You don't think that he waited long enough?

23 A. No.

24 Q. He granted your extension request, though,
25 right?

1 MR. ELLROD: I believe it misstates the
2 testimony. He said once he did, once he didn't.

3 BY MR. TASHROUDIAN:

4 Q. Right. He granted at least one?

5 A. He did.

6 Q. And the second one he said it's been too long?

7 A. Not to me, but to others he did, yeah.

8 Q. Did he ever tell you that -- did you -- well,
9 rather, let's try it this way: Did you ever ask for an
10 extension that wasn't granted by Mr. Hall?

11 A. Me, myself, I don't recall if I asked for the
12 extension or not. I was just there when they did.

13 Q. When others asked on your behalf?

14 A. No, when I was in the room.

15 Q. When they asked on your behalf?

16 A. No, when we spoke collectively.

17 Q. Yeah. Were they asking on your behalf for the
18 extension?

19 A. Well, they were trying to help me so I guess
20 they were.

21 Q. So people were speaking on your behalf at
22 least that time, right?

23 A. They spoke on their own behalf with their own
24 findings. I appreciated what they did.

25 MR. TASHROUDIAN: Can you pull up the -- the

1 news article?

2 MR. HALL: Sure.

3 We'll mark now as Exhibit 00 the Channel 5
4 news piece on Billy Mitchell.

5 (Exhibit 00 to be marked for Identification.)

6 MR. HALL: Make sure the sound is working
7 here.

8 Play?

9 MR. TASHROUDIAN: Yes.

10 (Video playing:)

11 FEMALE VOICE: Man dubbed to be video game
12 player of the Century was in Lebanon this weekend
13 at Music City Multi Con. Billy Mitchell set out to
14 beat every level of Pac-Man and also walk away with
15 a perfect score. News Channel 5's Hannah McDonald
16 was there for Mitchell's first appearance since the
17 pandemic started.

18 VOICE: Around the room we have classic arcade
19 games from the '70s up.

20 MS. MCDONALD: More than 2000 people were at
21 the controls of more than 150 games at Lebanon's
22 Expo Center for Music City Multi Con.

23 VOICE: I think it's been like a walk through
24 childhood because just coming through here and
25 seeing all the games is really cool.

1 MS. MCDONALD: Some games you don't have to be
2 a gamer to know about, like Pac-Man. Not many of
3 us are masters at the game, few in the world are,
4 but when they show up, so do crowds.

5 MR. MITCHELL: Okay, so chaos.

6 Voice: Started playing several hours, still
7 got a perfect game going, going to pick it up again
8 this morning. Come check it out.

9 FEMALE VOICE: Professional gamer Billy
10 Mitchell in a league of his own.

11 MR. MITCHELL: So about every 53 seconds we
12 finish a board.

13 VOICE: That's awesome. Oh, he just won.
14 Making history. Yeah, he just like finished a
15 round.

16 MS. MCDONALD: Mitchell scored the title of
17 Video Player of the Century for being the first to
18 make it to the end of Pac-Man with a perfect score.

19 MR. MITCHELL: It was awesome because it was
20 kind of like Neil Armstrong going to the moon, I
21 was first and I thought, Gee, I don't have to do
22 that again. No one else be first.

23 MS. MCDONALD: Mitchell once again is going
24 for a perfect game here.

25 MR. MITCHELL: So we want to go all the way to

1 the end, to the split screen without missing any
2 points and so far we haven't.

3 VOICE: He can talk to people, he can interact
4 with people, and he can keep Pac-Man just a hair
5 away, a pixel away from the ghost just as if it's
6 nothing.

7 MR. MITCHELL: And this will be close here.

8 VOICE: And he can continue just to carry on
9 conversations and life as normal.

10 MR. MITCHELL: And that is a perfect board.

11 MS. MCDONALD: Mitchell will need 3.3 million
12 points to make it to the end of the game that's
13 remained a favorite for 40 years.

14 VOICE: For every one hundred that none of us
15 here today could ever recall, there's -- there's
16 Pac-Man and -- and it sticks.

17 MS. MCDONALD: Playing Pac-Man with an
18 audience Mitchell says you can't beat.

19 MR. MITCHELL: I don't want to lie to you,
20 it's flattering, it is. It's fun. It's awesome.
21 It's great to interact with people that share a
22 passion with you, and this is the kind of place
23 where you share it.

24 MS. MCDONALD: And in the end, Mitchell did
25 win.

1 In Lebanon, Hannah McDonald, News Channel 5.

2 (Video stopped)

3 BY MR. TASHROUDIAN:

4 Q. Mr. Mitchell, did you tell Ms. McDonald that
5 even though you were going to pronounce that you made a
6 -- that you performed a perfect score Pac-Man game,
7 that that, in fact, wasn't the truth?

8 A. What I told her was because we paused the game
9 overnight, it would not go in as a perfect score,
10 perfect game, even if it was a perfect score.

11 Q. When -- when did you tell her that?

12 A. I told her that while we were filming.

13 Q. Did you tell her that you had previously been
14 anointed the video game player of the century?

15 A. No.

16 Q. How does she know that?

17 MR. ELLROD: Objection, calls for speculation,
18 lacks foundation.

19 If you know you can answer.

20 BY MR. TASHROUDIAN:

21 Q. Do you know?

22 A. (No oral response.)

23 MR. ELLROD: Do you know? You have to answer
24 verbally.

25 THE WITNESS: No.

1 BY MR. TASHROUDIAN:

2 A. Did anyone on your team tell her that?

3 MR. ELLROD: Same objection, calls for
4 speculation.

5 But if you know you can answer.

6 BY MR. TASHROUDIAN:

7 Q. Do you know, sir?

8 A. I don't know.

9 Q. All right. Let's mark as Exhibit CC the
10 notice of depo -- the notice of deposition of William
11 James Michelle.

12 MR. ELLROD: Yeah, I got it.

13 BY MR. TASHROUDIAN:

14 Q. All right. Can you pull Exhibit CC, please?

15 MR. ELLROD: Anything in particular?

16 MR. TASHROUDIAN: Yeah. Let's go to the
17 request for production of documents, page 4.

18 MR. ELLROD: Okay.

19 BY MR. TASHROUDIAN:

20 Q. Have -- have you -- request number one:
21 Produce all documents related to the settlement
22 agreement between you and Benjamin Smith. Did you do
23 that?

24 MR. ELLROD: I'm going to have to see the
25 response to request for production of document,

1 which was not prepared by Mr. Mitchell, but by my
2 office and the documents were produced by my office
3 so I don't know that he's going to have personal
4 knowledge of that. I don't even know if he -- or
5 certainly probably wouldn't remember what we
6 produced specifically with responses, unless you
7 want to walk him through that.

8 MR. TASHROUDIAN: I've got the responses here
9 but only the one copy you provided for me this
10 morning.

11 MR. ELLROD: Well, and the one we sent you on
12 the 6th.

13 MR. TASHROUDIAN: That as well; however, I
14 haven't seen those. Must have missed it.

15 BY MR. TASHROUDIAN:

16 Q. Let's go to number two: Produce for
17 inspection all documents related to the settlement
18 agreement between you and Guinness World Records. Do
19 you know if there was a settlement agreement? You told
20 me there was; is that still correct?

21 MR. ELLROD: You can answer whether one
22 exists.

23 THE WITNESS: One does exist.

24 BY MR. TASHROUDIAN:

25 Q. It does, right.

1 Now, what about -- what about documents
2 between your son, William Mitchell, concerning your --
3 the dispute about your Donkey Kong scores from
4 August 2017 through January 1, 2019?

5 A. I'm sorry, the question, please?

6 Q. Yeah. Were there any communications between
7 you and your son concerning the dispute around your
8 Donkey Kong scores between 2017 and January 1, 2019?

9 A. Communication between me and my son?

10 Q. Yeah, like emails. Did you guys talk or text?

11 A. We talked.

12 Q. What about texts?

13 A. I texted my son, about that issue in
14 particular, I don't know.

15 Q. Did you look to see if there were any text
16 messages between you and him --

17 A. No.

18 Q. -- about that issue, between 2017 and
19 January 1, 2019?

20 A. 2017 --

21 Q. Yeah.

22 A. -- where does that come into play?

23 Q. I'm just asking you. That's the date that we
24 have here, between 2017 and January 1, 2019, were there
25 any text message communications or email communications

1 between you and your son concerning the dispute about
2 your Donkey Kong scores?

3 MR. ELLROD: It's yes, no or I don't know.

4 THE WITNESS: I don't know.

5 BY MR. TASHROUDIAN:

6 Q. Did you look for those?

7 A. No.

8 Q. You say here in your response: Responding
9 party is unable to comply with this request as the
10 requested documents or thing has never existed. Is
11 that true?

12 A. Which thing?

13 Q. Communications between you and your son
14 between 2017 and January 1, 2019, concerning the
15 dispute about your Donkey Kong scores.

16 A. Yeah, I don't -- I don't recall seeing
17 anything.

18 Q. But you didn't look for those, did you?

19 A. No, I didn't.

20 Q. Did you guys talk about your Donkey Kong
21 scores via text during that time period?

22 A. No. I would say it was verbal.

23 Q. What about email?

24 A. It would be verbal.

25 Q. Did he send you any emails about people trying

1 to replicate your scores or anything like that?

2 A. I don't know. I don't want to tell you yes or
3 no. I don't --

4 MR. ELLROD: If you don't recall, that's an
5 appropriate response.

6 THE WITNESS: I don't recall.

7 BY MR. TASHROUDIAN:

8 Q. Could you look now on your phone to see if
9 there are any text messages? I'm not asking you to
10 produce them, I'm just asking you to look.

11 MR. ELLROD: No, he's not going to do that.

12 BY MR. TASHROUDIAN:

13 Q. Upon a diligent search and reasonable inquiry.
14 Did you conduct a diligent search and reasonable
15 inquiry, sir?

16 MR. ELLROD: I'm going to object on the
17 attorney-client privilege and instruct him not to
18 answer.

19 BY MR. TASHROUDIAN:

20 Q. When was the last email communication that you
21 had with James Gibbons and Walter Day together?

22 A. Walter Day, James Gibbons. Well, James
23 Gibbons is an attorney, so.

24 MR. ELLROD: The question is when was the last
25 communication between the three of you, if you

1 recall, or your best estimate?

2 THE WITNESS: No, I don't recall.

3 BY MR. TASHROUDIAN:

4 Q. Did you have any of those communications in
5 the last month?

6 A. No.

7 Q. What about the last year?

8 A. In the last year I would say perhaps.

9 Q. What about after Mr. Mitchell -- after Mr.
10 Gibbons left Manning Kass?

11 A. No.

12 Q. No communications with him afterward?

13 MR. ELLROD: Objection, it misstates the
14 question -- you asked about the three of them.

15 MR. TASHROUDIAN: I'm sorry?

16 MR. ELLROD: Didn't you ask about
17 communication between him and Walter Day and Mr.
18 Gibbons?

19 MR. TASHROUDIAN: Yeah, the three of them.

20 MR. ELLROD: Yeah.

21 THE WITNESS: No, I don't recall any.

22 BY MR. TASHROUDIAN:

23 Q. What about any text message communications
24 between you, Mr. Gibbons and Mr. Day from August 2017
25 through the present, are there any of those?

1 A. No.

2 Q. Did you have any email communications between
3 you, Mr. Gibbons and your son, William Mitchell?

4 A. When he was the attorney, likely.

5 Q. What years were those communications?

6 THE WITNESS: You're going to have to help me
7 with that, counselor.

8 MR. ELLROD: Well, the question now is were
9 there communications between our office, you and
10 your son?

11 THE WITNESS: Right.

12 MR. TASHROUDIAN: Not your office, Mr.
13 Gibbons'.

14 MR. ELLROD: Oh, you mean after he left our
15 office?

16 MR. TASHROUDIAN: Yeah, after he left.

17 MR. ELLROD: Oh.

18 THE WITNESS: When did he leave?

19 MR. ELLROD: I don't know. Look, do you
20 recall any after he left?

21 THE WITNESS: No.

22 MR. ELLROD: Okay.

23 BY MR. TASHROUDIAN:

24 Q. Are there any text messages -- messages
25 between you and Todd Rogers from January 1, 2022,

1 through the present about your Donkey Kong scores?

2 A. January 1, 2022. So a year ago?

3 Q. Yeah. So in the last year did you talk to

4 Todd --

5 A. No.

6 Q. -- about your Donkey Kong scores by text?

7 A. (No oral response.)

8 MR. ELLROD: Is that a no?

9 THE WITNESS: No.

10 BY MR. TASHROUDIAN:

11 Q. What about Robert Childs, last year?

12 A. Again, clarify the question.

13 Q. Yeah. Looking at request for production
14 number 11, it's probably in that -- it's in that
15 document there. Are there any email communications
16 between you and Robert Childs from January 1, 2022, to
17 the present about the dispute concerning your Donkey
18 Kong scores?

19 A. What number?

20 MR. ELLROD: Eleven, so January -- in the last
21 year.

22 THE WITNESS: No.

23 BY MR. TASHROUDIAN:

24 Q. What about text messages between you and him
25 in the last year about your Donkey Kong -- Donkey Kong

1 scores?

2 A. Again, you're being vague, but you mean the
3 controversial scores?

4 Q. Yes. About the dispute concerning your
5 scores.

6 A. No.

7 Q. Sorry.

8 A. No.

9 Q. What about text messages between you and
10 Walter Day in the last year about the dispute
11 concerning your Donkey Kong scores?

12 A. No.

13 Q. Email communications with him on the same
14 subject, any of those?

15 A. About the Donkey Kong scores, no.

16 Q. Yeah.

17 A. Excuse me --

18 MR. ELLROD: You've answered.

19 BY MR. TASHROUDIAN:

20 Q. About the dispute, not the scores themselves,
21 about the dispute.

22 A. For example, found the email from Josh Ryan.
23 I -- I don't know how in depth to go here.

24 MR. ELLROD: I don't know what you're talking
25 about, but if you recall any emails with him in the

1 last year, then, then it's yes.

2 THE WITNESS: No.

3 MR. ELLROD: If you don't then it's --

4 THE WITNESS: No, not in regards to the
5 dispute.

6 BY MR. TASHROUDIAN:

7 Q. So when you found the email from Josh Ryan did
8 you contact Robert Childs?

9 A. No, I think I told him verbally.

10 Q. What'd you tell him?

11 A. I told him I found the guy from Game Stop.

12 Q. What'd he say?

13 A. It won't make a difference.

14 Q. Why not?

15 A. Because nobody's listening.

16 Q. I'm sorry?

17 A. Because they have a narrative.

18 Q. Who has a narrative?

19 A. Twin Galaxies has a narrative. It won't make
20 a difference.

21 Q. What's the narrative?

22 A. It's a narrative to show the score's in
23 controversy.

24 Q. What about any email communications between
25 you and Triforce between -- from January 1, 2022, to

1 the present about your Donkey Kong score dispute?

2 A. None.

3 Q. Text messages between you and him --

4 A. No.

5 Q. -- on the issue?

6 A. He calls. I'm sorry.

7 Q. Are there any correspondences between you and
8 anyone else acting on your behalf and Benjamin Smith in
9 2018?

10 A. No.

11 Q. Same question for 2019, any correspondences
12 with you or anyone acting on your behalf with Benjamin
13 Smith?

14 A. Triforce and my son, that's it.

15 Q. I'm sorry, what was that again?

16 A. Triforce and my son, that's it.

17 Q. What about them?

18 A. They're the only ones that corresponded with
19 him.

20 Q. With --

21 A. Benjamin Smith.

22 Q. -- Benjamin Smith.

23 Do you have copies of those correspondences?

24 A. No.

25 Q. What about any correspondences between you or

1 anyone acting on your behalf and Jeremy Young in both
2 2018 and 2019?

3 A. Zero.

4 Q. Did you send him a demand letter at all?

5 A. No.

6 Q. What about any correspondences between anyone
7 acting on your behalf and Karl Jobst in 2020, 2021 or
8 2022?

9 A. The only one we communicated with is the
10 attorney in Australia.

11 MR. ELLROD: Answer yes or no. The question
12 is a yes or no question.

13 BY MR. TASHROUDIAN:

14 Q. Do you have an income statement for Rickey's
15 World Famous Hot Sauce for the period of January 1,
16 2021, through December 31, 2021?

17 A. No.

18 Q. Is that something that you could produce?

19 A. I don't have it.

20 Q. Is that something, though, that you could
21 produce?

22 A. If I had it I'd give it to you.

23 Q. By asking the accountant, right, he can
24 produce it?

25 A. I don't have it.

1 Q. What was his name again?

2 A. His name is Arnold.

3 Q. Arnold what?

4 A. Nazur.

5 Q. Arnold Nazur. What firm is he with?

6 A. I don't know.

7 Q. Where's his office located?

8 A. He's local.

9 Q. In Fort Lauderdale?

10 A. Yeah.

11 Q. What about an income statement for Rickey's
12 World Famous Hot Sauce from January 1, 2022, through
13 December 31, 2022?

14 A. I don't have it.

15 Q. All right.

16 So last question here. Do you understand that
17 it was Jeremy Young that raised the dispute and not
18 Twin Galaxies?

19 A. No.

20 Q. You don't understand that?

21 A. No, I don't. I don't agree -- I don't agree
22 with that.

23 Q. You don't agree -- why don't you agree with
24 that?

25 A. That's all, I don't agree with it.

1 Q. Why? What's the basis of your --- of your
2 statement?

3 MR. ELLROD: You can explain if --

4 THE WITNESS: The guy behind the stick is in
5 charge.

6 BY MR. TASHROUDIAN:

7 Q. Who, who's that?

8 A. Him, Jace Hall.

9 Q. Jace Hall. What's he in charge of?

10 A. He's in charge of the dispute thread.

11 Q. Do you think that Jace Hall somehow
12 maliciously manipulated the dispute thread against you?

13 A. I don't know.

14 Q. I'm asking, do you think that?

15 A. I'm telling you I don't know.

16 Q. Did Jace Hall personally do anything to you?

17 A. We're going to skip that question.

18 MR. ELLROD: Objection, vague and ambiguous.
19 You mean other than what's alleged in the
20 complaint?

21 BY MR. TASHROUDIAN:

22 Q. Other than what's alleged in the complaint,
23 other than what Twin Galaxies's done, has Mr. Hall,
24 personally, has he done anything to you, anything
25 offensive?

1 MR. ELLROD: Aside from what's alleged in this
2 lawsuit?

3 MR. TASHROUDIAN: Yeah, anything offensive.

4 THE WITNESS: I don't have an answer.

5 BY MR. TASHROUDIAN:

6 Q. I'm asking you, has he?

7 A. I don't have an answer.

8 Q. Yes or no?

9 A. I said I don't have an answer.

10 Q. Why don't you have an answer?

11 A. Because I --

12 MR. ELLROD: Yes, no, or I don't know.

13 THE WITNESS: Yeah. I don't know.

14 BY MR. TASHROUDIAN:

15 Q. Do you contend that Mr. Hall has defamed you?

16 MR. ELLROD: Objection, calls for legal
17 conclusion, lacks foundation. And to the extent it
18 calls for attorney-client communication I'm going
19 to instruct him not to answer.

20 If you have some independent understanding of
21 that separate from what you have discussed with
22 your counsel, then you can respond.

23 THE WITNESS: No response.

24 BY MR. TASHROUDIAN:

25 Q. When a Donkey Kong original PC board outputs

1 to a CRT monitor, what's the orientation?

2 A. I don't know.

3 Q. It's not straight up and down, though, is it?

4 A. I said I don't know.

5 Q. The monitor has to -- has to be flipped,
6 doesn't it?

7 A. I said I don't know.

8 Q. Have you ever seen a Donkey Kong direct feed
9 output out of a machine where the image was rotated?

10 A. Tell me what rotated is.

11 Q. Turned sideways.

12 A. Yes.

13 Q. You've seen that before, right?

14 A. Yes.

15 Q. Do you know which way the rotation is correct?

16 A. No.

17 Q. You've heard, though, that there could be
18 signs of -- well, strike that.

19 All right. I'm done. Thank you.

20 MR. ELLROD: All right. I have nothing.

21 THE VIDEOGRAPHER: Okay. Let me close this
22 out. Hold on.

23 MS. ROSS: We need to put the confidential
24 exhibits on the record.

25 MR. ELLROD: Yeah, please.

1 MR. TASHROUDIAN: Which ones are those?

2 MS. ROSS: It's going to be A.

3 MR. TASHROUDIAN: I don't think Exhibit A was
4 marked as confidential, Kristina.

5 MS. ROSS: We're marking it confidential for
6 this deposition.

7 MR. TASHROUDIAN: But the exhibit itself
8 wasn't marked confidential.

9 MS. ROSS: That's because it was before the
10 protective order. But pursuant to the protective
11 order we can mark things in deposition as
12 confidential.

13 MR. TASHROUDIAN: Okay. What else?

14 MS. ROSS: A, AA, S, Y, E and BB.

15 MR. TASHROUDIAN: DB?

16 MS. ROSS: BB.

17 MR. TASHROUDIAN: S.

18 MS. ROSS: Yeah.

19 MR. TASHROUDIAN: Y, S.

20 MS. ROSS: Y, E, S, AA, BB, A.

21 MR. TASHROUDIAN: Y, E, S, BB, A.

22 Why E, what's confidential?

23 MS. ROSS: It's all communications that we
24 want to mark confidential because things have been
25 being produced and still are being produced despite

1 the protective order online.

2 MR. TASHROUDIAN: What's the purpose of --

3 MR. ELLROD: Let's just mark them and we can
4 meet and confer.

5 MR. TASHROUDIAN: All right. Let's do that.
6 Do a motion.

7 THE VIDEOGRAPHER: Are we done?

8 MR. TASHROUDIAN: We're done.

9 THE VIDEOGRAPHER: Okay. We are ending, it is
10 6:32, we are ending this deposition. We are off
11 the record.

12 (Discussion off the record.)

13 THE REPORTER: Are you ordering the transcript
14 sir?

15 MR. TASHROUDIAN: Yes.

16 THE REPORTER: Did you want a copy, Mr.
17 Ellrod?

18 MR. ELLROD: What happens to the original?

19 THE REPORTER: It goes to Mr. Tashroudian.

20 MR. ELLROD: Yeah, we want a copy, and the
21 video as well.

22 THE REPORTER: Read or waive?

23 MR. ELLROD: Read.

24 (The deposition was concluded at 6:32 p.m.)

25 (Reading and signing of the deposition was not

1 waived by the witness and all parties.)

2 (Exhibits A, AA, BB, C, CC, DD, E, G, GG, H,
3 HH, I, II, JJ, K, KK, L, LL, MM, N, NN, O, OO, R,
4 S, V, W, X and Y were marked for Identification.)

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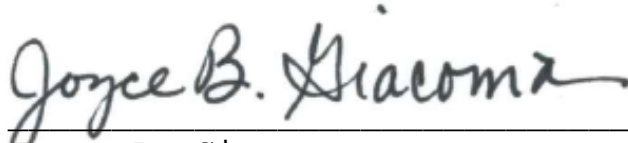
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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF BROWARD

I, Joyce B. Giacoma, Court Reporter, Notary
Public, State of Florida, certify that WILLIAM JAMES
MITCHELL personally appeared before me on
January 9, 2023, and was duly sworn.

Signed this 17th day of January, 2023.



Joyce B. Giacoma
Court Reporter
Notary Public, State of Florida
Commission No.: HH 048505
Expires: November 28, 2024

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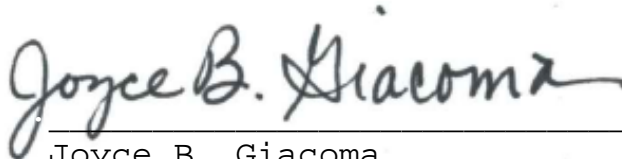
CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF BROWARD

I, Joyce B. Giacoma, Court Reporter, certify that I was authorized to and did stenographically report the deposition of WILLIAM JAMES MITCHELL, pages 5 through 371; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 17th day of January, 2023.



Joyce B. Giacoma
Court Reporter

1 WITNESS NOTIFICATION LETTER

2
3 January 17th, 2023

4
5 WILLIAM JAMES MITCHELL
6 c/o Anthony J. Ellrod, Esq.
7 Manning & Kass, Ellwood Ramirez Trester, LLP
8 801 S Figueroa Street
9 15th Floor
10 Los Angeles, CA 90017
11 aje@manningllp.com

12
13 In re: MITCHELL v. TWIN GALAXIES
14 Deposition taken on January 9, 2023
15 Job No. 629418

16
17 The transcript of the above-referenced proceeding has
18 been prepared and is being provided to your office for
19 review by the witness.

20
21 We respectfully request that the witness complete their
22 review within a reasonable amount of time and return
23 the errata sheet to our office.

24
25 Sincerely,

Joyce B. Giacoma
U.S. Legal Support
100 Northeast 3rd Avenue
Suite 1050
Fort Lauderdale, Florida 33301
954.463.2933

CC via transcript:

David Tashroudian, Esq.
Anthony Ellrod, Esq.

January 09, 2023

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ERRATA SHEET
DO NOT WRITE ON THE TRANSCRIPT
ENTER CHANGES ON THIS PAGE
IN RE: MITCHELL v. TWIN GALAXIES
WILLIAM JAMES MITCHELL
January 9, 2023
Job No. 629418

Page	Line	Change	Reason

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

_____ WILLIAM JAMES MITCHELL
Date

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