

1 an entry of 7/21/06.

2 A Number 32. Exhibit 32? Okay. My bill --
3 the entry is what?

4 Q 7/21/06. Do you see that?

5 A Yes. .4.

6 Q Call from Linda re: wall and fence issues?

7 A Yes.

8 Q Do you have any recollection of what that
9 conversation was about?

10 A Linda must have called me to talk about
11 the wall and the fence. What she said in the
12 conversation, I have no idea.

13 Q Okay.

14 (Carney Deposition Exhibit 33 was marked
15 for purposes of identification.)

16 Q Number 33 is your billing showing services
17 October of '06. First entry indicates that you called
18 Mr. Myers a second time.

19 A No. First entry?

20 Q Yes.

21 A First entry is a call from Neil Lanzi re:

1 deposition in South Carolina. Called Mr. Myers a
2 second time.

3 Q That's what I'm referring to.

4 A Okay. I called him a second time. I
5 thought I talked to him twice.

6 Q And refresh my recollection on that.

7 Do you recall the first time you called
8 him?

9 A No. It had to be in relative close
10 proximity to this call.

11 Q Do you recall the second time?

12 A No.

13 Q You don't recall anything about either of
14 those conversations?

15 A No. I already testified --

16 MS. LIPPINCOTT: Objection. Already asked
17 and answered.

18 A -- as to my recollection.

19 Q I understand.

20 Do you recall -- no. Strike that. Okay.
21 We can go to the next one.

1 Did you go to South Carolina just to
2 depose Mr. Myers, or did you combine that with any
3 other business or pleasure?

4 A I was there on vacation in Hilton Head.

5 Q Uh huh.

6 A Took a day of my vacation, rented a car
7 and drove to I think it was Myrtle Beach.

8 Q Okay.

9 A Otherwise, I would have charged Linda for
10 air fare round trip plus the rental car.

11 Q So, you were already in Hilton Head?

12 A Yes, I was already in the state.

13 Q The -- go back to Number 33, if you would.
14 I just want to ask you a question about that.

15 The entry of 10/25/06 shows a charge of
16 eight hours for the deposition of Mr. Myers, round
17 trip travel; correct?

18 A Yes.

19 Q And --

20 A It wasn't in Hilton Head. I was in Ellis
21 Island staying with the Campbell family.

1 Q The deposition actually lasted -- and I'm
2 showing you Number 34.

3 (Carney Deposition Exhibit 34 was marked
4 for purposes of identification.)

5 Q Actually shows it started at 1:30 and it
6 was concluded at 3:40.

7 A Okay.

8 Q So, the deposition as actually two hours
9 and ten minutes, which at your billing rate would be
10 about 600 bucks.

11 So, the difference between -- well, it was
12 actually 595.83. The difference between that figure
13 and the \$2,200 you billed was for travel time.

14 Am I correct on that?

15 A Part of it was travel time. It was also
16 time built in there for preparing to take his
17 deposition.

18 It was a long drive. I was in Ellis
19 Island -- not Ellis Island. It was not Ellis Island.
20 Edisto, Island. That's a misprint. Edisto Island,
21 South Carolina. It took me over two hours each way to

1 get there.

2 Q Does it say anywhere on the bill in
3 Exhibit Number 33, 10/25/06, does it say anywhere in
4 the bill there that any of that eight-hour time is for
5 preparing for the deposition?

6 A No. I generally don't do that. It's all
7 part of taking the deposition. I've got to prepare
8 for it in order to take it.

9 Q Did you prepare for it just before you
10 drove to Mr. Myers' house to take it? Is that what
11 you're saying?

12 A I prepared for it in part in Baltimore and
13 in part in Edisto Island.

14 Q Well, that was my question.

15 There's no -- there doesn't seem to be any
16 time billed for preparation prior to October of '06
17 for Mr. Myers' deposition.

18 So, are you confident that you prepared
19 well in advance for that?

20 A Well in advance, I mean, how far in
21 advance do you have to prepare for a deposition. I

1 can do 15 minutes and I'm ready to go in many
2 instances.

3 Q Okay.

4 A In the Myers' case, I'm not saying it was
5 15 minutes. But I'm saying I don't need a whole lot
6 of preparation time. I need some.

7 Q Well, how much preparation time do you
8 recall doing?

9 A I have no idea. It was years ago.

10 (Carney Deposition Exhibit 35 was marked
11 for purposes of identification.)

12 Q Number 35 is a billing showing time in
13 December of '06.

14 I'm going to ask you about your entry of
15 12/7/06, the one that's four and a half hours.

16 Do you see that?

17 A Yes.

18 Q Meet with Linda to prepare for trial.

19 Do you recall what time of day that
20 started and ended, by any chance?

21 A I have no clue.

1 Q Do you recall what was discussed during
2 that visit to prepare for trial?

3 A Everything about the case. We spent -- it
4 was four and a half hours. We spent four and a half
5 hours in the conference room, I believe the conference
6 room on the fifth floor downstairs, preparing for
7 trial.

8 Q Do you recall if anybody else was present
9 during that trial preparation?

10 A If anybody was present, they were in and
11 out. That would have been Jim Quinn.

12 Q So, I take it you don't recall -- I'm
13 sorry -- on -- now I'm referring to the billing of
14 12/5/06, the first entry.

15 .5 I guess would be a half an hour;
16 correct?

17 A That's correct.

18 Q Conference with Linda to review/discuss
19 trial exhibits, conference with Jim Quinn about power
20 point presentation.

21 Do you recall that Ms. Senez on that day

1 simply dropped off some documents to you and you
2 didn't review or discuss anything with her that day?

3 A No, I don't recall that at all.

4 Q You don't recall that?

5 A If she did come in to just drop off
6 documents, then I would have met with her. I would
7 have taken receipt of those documents. I would have
8 had a discussion with her. Maybe it would have been a
9 brief discussion, but I would have had a discussion.

10 That would have constituted a conference,
11 albeit a short one.

12 Q Well, how do you define a conference in
13 your building?

14 A Whenever I meet with anybody, it's a
15 conference. If I go into another lawyer's office and
16 ask his opinion about something or her opinion, I'm
17 having a conference with that lawyer.

18 If a client walks in off the street and
19 walks in here with an appointment, I'm having a
20 conference with that client.

21 Q Suppose --

1 A It might last a minute, it might last an
2 hour.

3 Q Suppose when you're walking from the
4 courthouse to get something to eat and you're walking
5 on the sidewalk talking to the client, is that a
6 conference?

7 MS. LIPPINCOTT: Objection. Calls for
8 speculation.

9 A It's all going to be part of the billing.
10 If I'm walking back from the courthouse with the
11 client to my office, that's all part of the time I'm
12 spending on that matter, whatever that matter may be.

13 Q So, would you say that, to use my
14 question, walking back from the courthouse to go to
15 lunch while you're talking to the client, would you
16 constitute that as a conference that you would bill
17 for?

18 MS. LIPPINCOTT: Objection. Lacks
19 foundation. Calls for speculation.

20 You may answer.

21 A If I'm talking to the client about issues

1 pertinent to the matter that I'm before the court on
2 and I'm having a continuous dialog about testimony,
3 exhibits, strategy, you're darn right I'm going to
4 bill for it. That's a working lunch.

5 Q I'm not talking about the lunch. I'm
6 talking about walking to the lunch.

7 A If I'm just walking by myself, no. If I'm
8 walking with a client and we're talking about
9 baseball, of course not. I'm never going to bill
10 that.

11 If I'm walking and we're talking about the
12 trial and strategizing and talking about the
13 testimony, I'm going to bill for it, sure.

14 Q Did you -- do you recall informing your
15 client how the case was going to be presented before
16 trial, what you were actually going to do, what you
17 were going to try to prove, that sort of thing?

18 A Linda and I were in constant
19 communication. Linda and Jim Quinn were in constant
20 communication.

21 Q What do you mean by constant?

1 A On the telephone or in person. Linda was
2 on the phone a lot. She was in here frequently. She
3 was kept abreast of exactly what was going on.

4 Linda wanted to orchestrate and sort of
5 dictate how the trial was going to be run, and that
6 wasn't going to be the case with me at the helm.

7 And she knew exactly what we were going to
8 be doing. She was kept abreast of all developments.

9 Q When you say that wasn't going to be the
10 case with you --

11 A Did I do a dress rehearsal in front of
12 her? Absolutely not. I wouldn't do that for any
13 client.

14 Q When you say that wasn't going to happen
15 with you at the helm, do you mean by that that she was
16 trying to run the show and -- but you're the lawyer,
17 and you want to run the show?

18 A The tail is not going to wag the dog in my
19 world. It's called client management. And when you
20 have significant litigation matters and you have lots
21 of them, you have got to call the shots. You're the

1 lawyer. The client is the client.

2 You certainly get input from the client.
3 You certainly respect their opinion. But at the end
4 of the day and somebody has got to make a call, that's
5 me. That's what I'm getting paid for.

6 Q Who was the tail and who was the dog in
7 this case?

8 MS. LIPPINCOTT: Objection.

9 A I'm not going to even answer that.

10 Q Did you go over her testimony before the
11 trial?

12 A Absolutely. That's part of the four and a
13 half hours I spent with the woman.

14 Q Did you have any of that testimony written
15 out, questions you were going to ask?

16 A Never. I don't think I've ever done that
17 in 34 years.

18 Q How much time do you suppose you spent
19 going over what her testimony was going to be?

20 A The bill says I had a four and a half hour
21 conference with her. I don't know whether there were

1 other meetings or other conferences or not. I don't
2 know.

3 Q Did you tell her in advance of the trial
4 what witnesses you were going to call?

5 A I don't recall.

6 Q Your billing -- this is Number 34, the
7 billing of December of '06.

8 Your entry of 12/7/06 for one and a half
9 hours about midway down the page where it says read
10 Myers' deposition and law of nuisance, trespass and
11 adverse possession.

12 Do you see that?

13 A I see it.

14 Q Since you did not bill any time between
15 10/25/06 when that deposition was taken and 12/7/06 --

16 A 12/7, I did too bill time.

17 Q No. Listen to my question, sir.

18 Since the bill did not bill any time
19 between 10/5/26 -- 10/25/06 when you took the
20 deposition, let's say, and 12/6/06 for reading the
21 transcript of Myers' deposition, would it be correct

1 to say that based on your billing records that the
2 first time you read Myers' deposition would have been
3 on 12/6 -- 12/7/06?

4 MS. LIPPINCOTT: Objection.

5 A Not necessarily.

6 MS. LIPPINCOTT: Lacks foundation.

7 You may answer.

8 A Not necessarily.

9 Q And why is that?

10 A Because I may have skimmed his deposition
11 when I first got it. That's -- part of my custom and
12 habit, I tend to do that to make sure I - it's
13 complete, that all the exhibits, if there are
14 exhibits, are with the deposition transcript, to get
15 the general feel for it and make sure it didn't leave
16 off a -- you know, a redirect portion of it to the
17 transcriber, the court reporter, and then I speed read
18 it just to make sure it's right.

19 And I may take a very short period of time
20 to do that. I might take a half an hour.

21 Many times I don't bill for that. I bill

1 for the time I sit down and I really read it and think
2 about it and study it. I do bill that.

3 Q So, you're saying you would have billed a
4 client to talk about the case as you're walking down
5 the street to go to lunch, but you would not have
6 billed necessarily for skimming a deposition
7 transcript for a half an hour?

8 MS. LIPPINCOTT: Objection.

9 A One has nothing to do with the other. I
10 told you why I would bill a client walking back from
11 the courthouse under very limited circumstances.

12 Q Uh huh.

13 A What I bill for in terms of the deposition
14 transcript, she's the one who got the break. If I did
15 something and I didn't bill for it, then Linda was the
16 recipient of that.

17 Q But you don't know whether you skimmed
18 that deposition?

19 A I think I did because it's my custom and
20 habit. I'm sure I did.

21 Q You're sure you did?

1 A I always do it.

2 Q But you didn't bill for it?

3 A If it's not on the bill, then I guess I
4 didn't bill for it, or it's built into one of the
5 entries about Mr. Myers' deposition.

6 Q On 12/7/06 entry, you also said you read
7 the law of nuisance, trespass and adverse possession;
8 correct?

9 A That's what it says.

10 Q What did you mean by that?

11 A That means I probably reviewed a case
12 having to do with nuisance, trespass and adverse
13 possession, and I probably, because it is my custom
14 and habit, reviewed the Maryland pattern jury
15 instructions on those three causes of action to make
16 sure that I understood and knew what the elements were
17 and how I needed to either prove or rebut those
18 elements since they were being asserted against Linda.

19 Q Would it be correct to say that since
20 there isn't any billing prior to 12/7/06 for reading
21 this law, particularly the law of adverse possession,

1 that it would be safe to say that you did not review
2 or read any law with respect to adverse possession
3 before 12/7/06?

4 MS. LIPPINCOTT: Objection.

5 Q With respect to this case.

6 A I don't know the answer to that. I may or
7 may not have. I can only tell you I taught real
8 estate law for 22 years. I know the elements of
9 adverse possession. I don't need to read a treatise
10 and I don't need to read a case to know what the
11 elements are.

12 Q Why did you have to read it on the day
13 before trial?

14 A Because I was preparing for trial and you
15 do everything when you prepare for trial. You make
16 sure that the law -- it's one last thing. You just go
17 over it just to make sure.

18 Any competent trial lawyer does just the
19 same thing.

20 Q The entry of 12/11/06 for seven hours,
21 prepare for and attend day two of trial, conference

1 with Linda and Graham afterwards.

2 Do you see that entry?

3 A 12/11 did you say?

4 Q Yes, sir.

5 A I do see the entry, yes.

6 Q How much time do you suppose, if you can
7 answer, did you spend preparing for trial on 12/11/06?

8 A I don't know. It's subsumed into that
9 seven-hour figure.

10 Q Well, that would have been the second day
11 of trial; correct?

12 A Yes.

13 Q And second day of trial I assume would
14 have started at about 9:30 in the morning; correct?

15 A Not necessarily, not with her.

16 Q Well, do you know what time it started
17 that day?

18 A I don't put it down. I'm in that
19 courtroom by 9:20 generally speaking because they are
20 supposed to start at 9:30. You know if you've ever
21 tried cases before the Circuit Court for Baltimore

1 County that is meaningless.

2 It could start at 10:00, 10:20, 11:00,
3 12:00.

4 Q Well, my point, though, is you have to be
5 there by --

6 A You've got to be there by 9:30, that's
7 correct.

8 Q So, if that, in fact, was the case on
9 12/11/06 --

10 A Yes.

11 Q -- do you have any idea when you would
12 have had time to spend seven hours on 12/11/06 to
13 prepare for trial that day?

14 MS. LIPPINCOTT: Objection. Misstates the
15 testimony. Mischaracterizes this document. This
16 document speaks for itself.

17 You may answer.

18 A First of all, when I'm in trial, I'm
19 probably in here at 7:00 o'clock.

20 Q Okay.

21 A Always. If I've got major documents, if

1 I've got a civil trial that requires the kind of
2 things that Linda's trial required.

3 So, that's a couple of hours right there.
4 I may have prepared the night before at home and I
5 bill it the day -- the next day.

6 Q Well, the point is do you recall doing any
7 of that?

8 A Of course I do. I recall preparing for
9 Linda's trial, absolutely.

10 Q No. On 12/11/06, do you recall?

11 A Can I specifically tell you that 12/11/06
12 I went to the bathroom or I had -- what I had for
13 lunch? Of course not.

14 Q I'm asking you --

15 A I can't tell you what I did. I can tell
16 you I did it.

17 Q I'm asking you if you recall preparing for
18 trial on 12/11/06?

19 A Do I have an independent recollection of
20 that, the answer, of course, is no. But if I say I
21 did it, I did it.

1 You're asking me where I had lunch on
2 September the 4th, 2001. How would I know?

3 Q I don't want to ask you that, sir.

4 The conference you had with Linda and
5 Graham afterwards, after the second day of trial, do
6 you recall that?

7 A I remember Graham Castendike being here.
8 I remember him being in the courtroom.

9 Q That's not what I asked you.

10 A Well, what did you ask me?

11 Q I asked you do remember the conference you
12 had with your client and Graham after the trial?

13 A I remember Graham Castendike being in the
14 courtroom. At the conclusion of the second day, I
15 remember him walking back to the office here with
16 Linda and I remember the three of us sitting down in
17 a -- I believe the little round conference room table
18 that we used to have downstairs on the fifth floor and
19 talking generally about the case.

20 Graham is a non-lawyer. Graham is an
21 insurance broker or agent who I knew very casually

1 through a mutual friend.

2 And, frankly, I had no understanding as to
3 why he was even there. That was explained to me that
4 he was there for some sort of moral support.

5 Q So, you do remember sitting around that
6 table on the fifth floor; right?

7 A Sure. Yeah, I do.

8 Q And how long do you think you sat around
9 the table on the fifth floor on 12/11/06 after the
10 second day of trial?

11 A I really couldn't tell you. It could have
12 been 20 minutes or it could have been an hour. It may
13 even have been an hour and a half. I don't know.

14 Q Do you recall what you talked about?

15 A The trial generally.

16 Q And both your client and Mr. Castendike
17 were there; correct?

18 A I would have never talked to
19 Mr. Castendike about the trial without her being there
20 and without her express authority.

21 Q Why did Mr. Quinn have to attend the

1 trial?

2 A Because the trial was document intensive.
3 The client was a difficult client. I wanted him there
4 to both manage the documents, manage the exhibits as
5 they went in, to record them in the order in which
6 they went in, to make sure that they were properly
7 marked and to make sure that Linda did not go off the
8 reservation by gesticulating or by doing anything that
9 would otherwise be inappropriate at trial.

10 I have Jim Quinn do that in many cases.
11 The other side had two lawyers there. I had a lawyer
12 and a paralegal.

13 Q And is it your habit to have your
14 assistant mark all the exhibits and make sure they're
15 all in order and all that?

16 A That's part of the job of my paralegal is
17 to do just that. That falls to them.

18 Q Uh huh.

19 A I don't think that a client wants to be
20 paying my hourly rate to put stickers on documents.

21 Q And what he did at the trial, Mr. Quinn,

1 is precisely what, just marked the exhibits or what
2 else did he do?

3 A Marked the exhibits, transport the
4 exhibits to and from the courthouse.

5 Q Uh huh.

6 A Keep a list of the exhibits as they went
7 in, both from the plaintiff's perspective and the
8 defendant/counter-plaintiff's perspective as well.

9 To do whatever I needed him to do. If I
10 needed him to run back to the office and pick up a
11 case on something, if that were to be the case, he was
12 there to be able to do that.

13 Q Do you recall if he did that?

14 A I don't recall. I don't recall. Hundreds
15 of things happen, half of which are unexpected in
16 trials.

17 And so, you can't be more than just one
18 person. And many times you need somebody to go back
19 to the office. You need some last minute research.
20 You need something.

21 And so, Jim was with me. He was there for

1 me in many trials.

2 Q You mentioned a moment ago that Linda
3 Senez was a difficult client.

4 What did you mean by that?

5 A Only in the sense that Linda was very
6 needy. She was the type of client who called a lot.
7 The type of client who wanted to manage her case in
8 the sense that she wanted to say how the case should
9 be set up and how her case should run, what exhibits
10 should be introduced, what witnesses should go on the
11 witness stand, as opposed to the kind of client who
12 simply gives you information, and then you -- from
13 that information you can make your own decisions and
14 run the case as you please.

15 Linda is a smart woman. Linda was
16 involved in conduct that was unfortunate that got her
17 sued. I had to play with the cards that I was dealt
18 with.

19 When I first went down to the property, I
20 saw certain things that formed in part the basis of
21 the Collinses' suit against her and some of the

1 counts.

2 It's not the average client that paints
3 Mick Jagger's tongue in hot pink and nails it to the
4 side of the boathouse toward the neighbor's property.

5 Q Do you know how long that sign was up for?

6 A No idea.

7 Q If it was just out there for a day or two,
8 would that make any difference to you?

9 A I don't have any idea how long it was up.

10 Q Did you ever ask her?

11 A I don't recall whether I did or I didn't.

12 Q Okay.

13 A That was not the only thing, of course,
14 that presented a problem for Linda.

15 Q Well, what were the other things?

16 A There were a multitude of things. When I
17 first went to the property to meet with her, I think
18 with Rusty Bergen, the very first time I met her,
19 there was a sign in the back yard, a large sign on
20 poles in the ground.

21 Q Uh huh.

1 A And I think it had the words nosy neighbor
2 zone on it facing the Collinses' property.

3 There was a picture in the window of the
4 side of her house that face the Collinses' property,
5 facing I believe it's north, a picture of a -- what
6 would -- a caricature of a burglar who had on a mask
7 and his arms crossed, I think there was a gun in his
8 hand, that says we don't call 911 facing the
9 Collinses' property.

10 Q Are you aware that she had some problems
11 with vandalism to a boat and some serious damage at
12 her property? Are you aware of that?

13 A Linda and I never, that I recall, ever had
14 such a discussion.

15 Q So, you didn't know about --

16 A Also the video tapes. There were also
17 spotlights all down the northern side of her house,
18 which were alleged by the Collinses to be turned on at
19 nighttime, that light up their back lawn like Camden
20 Yards.

21 Video tapes which Linda indicated that

1 were there for her own personal security. Linda had
2 every right to put those cameras up there, and I
3 defeated those claims.

4 Q Did you ever verify that the lighting that
5 she had on her house lit up the Collinses' yard like
6 Camden Yards? Did you ever verify that?

7 A Did I ever go down there at night and see
8 them on? No. It was the Collinses' allegations that
9 when the lights were turned on, they were pointed
10 toward their property, and that I believe it was Rob
11 Thompson or Nip Jenkins who indicated to me that it
12 would light it up like Camden Yards.

13 Q And what did your client have to say about
14 that?

15 A She said she had her spotlights on just
16 for personal protection and security to light up her
17 property. So, she's a woman, a single woman living
18 alone. Well, she wasn't alone. She was living with
19 her father. But nevertheless, her father was an
20 elderly gentleman and certainly wouldn't be able to
21 provide her with a whole lot of protection given his

1 advanced age.

2 Q Well, did you regard the lighting, for
3 example, to be -- you used the phrase conduct that got
4 her sued. You --

5 A Sure.

6 Q It was?

7 A If believed, if she had these spotlights
8 and if she turned them on at nighttime and pointed
9 them toward the Collinses' property, sure. That's
10 conduct that got her sued.

11 Whether or not the suit should have
12 prevailed, whether or not they should have sued her is
13 another story.

14 I was able to defeat those claims.

15 Q Did you ever check with her about the
16 wattage of the lights or the distance from the
17 Collins' house that the lights were?

18 A I defeated these claims. What in the
19 world does this have to do with this case? I won.
20 Now, are you going to talk to me about how I won, why
21 I won?

1 Q I'm going to talk about that in a minute.

2 A Well, maybe I'm not going to answer it.

3 Q You made a comment a few minutes ago that
4 one of the purposes for Mr. Quinn to be at the trial
5 was to keep Ms. Senez on the reservation I think was
6 your phrase.

7 A I believe it was.

8 Q What do you mean by that?

9 A It's called client management. It's not
10 just Ms. Senez. It's all clients. I had a client put
11 in jail last week because of the way that she was
12 gesticulating and rolling her eyes and making faces
13 toward the judge when her husband was testifying.

14 Linda is a very demonstrative person. And
15 I did not want her rolling her eyes. As part of the
16 trial preparation, I'm sure I told her these things.
17 I didn't want her gesturing. I didn't want her
18 huffing and puffing. I didn't want her doing anything
19 other than -- I'm sure I gave her a legal pad and she
20 had a pen. She could write me notes if she cared to.

21 But I wanted to make sure if she started

1 to engage in that kind of conduct, because I can't see
2 it most of the time because my back is to the client
3 or the side because I'm looking forward either
4 examining somebody or cross examining someone or
5 addressing the court.

6 And so, my focus is forward. And I have
7 had Jim Quinn tell me all the time did you see her or
8 him, not meaning Linda, but other clients, they're all
9 over the lot. They're gesturing. The judge is
10 looking at them.

11 That's why I have him. So, if, if she
12 would have engaged in that conduct that he could bring
13 it to an end.

14 Q So, Jim Quinn was -- part of his duty was
15 meant to basically watch and observe Linda during the
16 trial to make sure she wasn't doing anything that
17 would offend the judge basically?

18 A In essence, courtroom etiquette.

19 Q Uh huh.

20 A She's a non-lawyer. I don't expect her to
21 know the rules.

1 Q And did Jim Quinn --

2 MS. LIPPINCOTT: Why don't you let him
3 finish his response before you begin the next
4 question.

5 Are you finished?

6 Q You done?

7 A I said she was a non-lawyer. She doesn't
8 know the rules. I don't know what she does know. I
9 know how I want my clients to conduct themselves.

10 And I tell my clients how I want them to
11 conduct themselves. That doesn't necessarily mean
12 that they follow my advice.

13 Q Did Jim Quinn indicate to you during the
14 trial that Ms. Senez was, to use your phrase, off the
15 reservation?

16 A I think there were times when Jim told me
17 that he thought that Linda was acting inappropriate.
18 And I think he said something to her. I don't know
19 whether it was day one. I don't know whether it was
20 day two. I don't know when it was said. I think he
21 said something to her. I can't be positive.

1 Q What was it she was doing that was
2 inappropriate?

3 A I don't recall. If it was inappropriate,
4 it was something having to do with gesturing or
5 rolling your eyes or something along those lines.

6 It wasn't verbal. She didn't say
7 something to the judge or shout out when somebody was
8 on the witness stand you're a liar. She didn't do
9 anything like that.

10 Q You have consistently taken the position
11 that Ms. Senez discharged you as her lawyer; isn't
12 that correct?

13 MS. LIPPINCOTT: Objection.

14 You may answer.

15 A Ms. Senez wanted me to prosecute -- I
16 think she wanted me to prosecute. I know she wanted
17 me to prosecute -- file a motion to amend or alter,
18 which I did.

19 Linda owed me a fairly significant amount
20 of money certainly at the end of the trial. I told
21 Linda that I was not going to continue on unless my

1 bill was paid in full.

2 Linda was critical of how I conducted the
3 trial. She was very upset with the outcome of the
4 trial because the trial judge, as the Court of Special
5 Appeals said, messed it up.

6 And she, therefore, didn't get the verdict
7 that she hoped to get.

8 And I was not about to continue on with a
9 client who was dissatisfied, critical and owed me
10 money.

11 Because a motion to amend or alter has got
12 to be filed in such a short period of time, I agreed
13 to prepare and file it as well as a memorandum in
14 support of a motion to amend or alter, I may add a
15 great expense to her that she's never paid me for and
16 great time consuming to me and to Jim Quinn.

17 That's the same memorandum in support of
18 motion to amend or alter that was listed in part by
19 her appellate counsel and used in the appellate brief
20 word for word over several pages at least, the mirror
21 image.

1 Compare the memo to the brief and you'll
2 see what I mean.

3 (Carney Deposition Exhibit 36 was marked
4 for purposes of identification.)

5 Q Showing you Number 36 and ask if you can
6 identify that?

7 A I can. It's a letter from me dated
8 April 28th to Ms. Senez.

9 Q The first paragraph toward the end of the
10 paragraph, you indicate, quote, you originally engaged
11 my services until you saw fit to discharge me as your
12 lawyer.

13 Now --

14 A I'm sorry. Where are you reading from?

15 Q The end of the first paragraph.

16 A End of the first paragraph. I'm sorry.
17 All legal services performed on your behalf?

18 Q No. The paragraph starting as you know.

19 A Yes. I see that paragraph.

20 Q That's the first paragraph?

21 A Yes.

1 Q At the end of the first paragraph you said
2 that she saw fit to discharge you as her lawyer;
3 correct?

4 A That's what the letter says.

5 Q Is that your recollection of what
6 happened, that she discharged you as her lawyer?

7 A I made certain demands on Linda regarding
8 the payment of her fees. She indicated that she
9 wasn't going to pay them.

10 And I said if that's the case, I can't
11 continue on as your lawyer. And she said, fine,
12 you're not going to be my lawyer.

13 Q So, that was an oral discharge?

14 A Sure. I don't think I ever got anything
15 in writing from her.

16 Q When did that happen?

17 A Contemporaneously with the writing of this
18 letter.

19 Q So, April of 2008 you say that happened?

20 A No. No. No. It was right after the
21 trial. Excuse me. It was right after the trial.

1 Q So, you're saying --

2 A I mean, it was within -- it might have
3 been the day of trial. I agreed to file the motion to
4 amend or alter. Because of the rules, as you know, I
5 only have ten days. It would have been very unfair to
6 Linda to say to her I'm no longer going to work for
7 you and you've got to go find another lawyer and
8 you're got to get a complicated motion and memorandum
9 filed within ten days.

10 It really wouldn't have happened. So, I
11 did it. And then I filed my motion to withdraw after
12 I argued the motion to amend or alter.

13 Q So, I take it some time -- you're saying
14 some time in 2007, she fired you.

15 Is that your position?

16 A It was right after the trial or right
17 after the motion to amend or alter. Or -- I cant tell
18 you exactly when it was. But it was right -- it was
19 close to the end of the trial because I know I agreed
20 and I told her I would prepare the motion, the memo
21 and I would argue it and then I'm out.

1 Q And that would have been when?

2 A It would have been within days of the
3 conclusion of the trial.

4 Q And you told her that orally or in
5 writing?

6 A Probably both. I know I sent her --
7 ultimately sent her a five-day letter.

8 Q Okay.

9 A And I filed a motion to withdraw my
10 appearance.

11 (Carney Deposition Exhibit 38 was marked
12 for purposes of identification.)

13 Q That would be Number 38, your letter of
14 February the 26th of '07.

15 Is that what you're referring to, the
16 third paragraph down in the first sentence?

17 A Third paragraph -- that's what I said,
18 yes.

19 Q So, just to make sure I'm clear on this.

20 On February 26th, 2007 you sent her a
21 letter saying you wouldn't represent her on the appeal

1 for what you called a myriad of reasons; correct?

2 A That's what I said.

3 Q Is there anything else, to your
4 recollection, that you sent to her in writing telling
5 her that or addressing the issue of whether she's
6 firing you or you're firing her?

7 A I don't recall. It's either in the file
8 or it's not. I have no idea.

9 Q Is there any proof that you have other
10 than what your own testimony that she discharged you
11 rather than you discharging her?

12 A As I sit here today, I can't recall any,
13 no.

14 Q I want to talk a little bit about the fact
15 that the -- why the block wall fell down.

16 You recall Mr. Collins testifying that he
17 plugged the weep holes in that wall and subsequently
18 it fell down; correct?

19 A I do recall that.

20 Q Pardon?

21 A I do recall that.

1 Q You do recall that.

2 Is it your position that Ms. Senez cannot
3 recover for your failing to introduce evidence in the
4 underlying case that Mr. Collins plugged those weep
5 holes and for your failure to introduce evidence of
6 what it would cost to rebuild the wall?

7 MS. LIPPINCOTT: Objection. Lacks
8 foundation. Calls for a legal conclusion.

9 You may answer.

10 A The cost of repairing it or rebuilding the
11 wall and my failure to introduce evidence as to what
12 those costs would have been?

13 Q And the fact that Mr. Collins plugged the
14 weep holes.

15 A Well, the fact that Mr. Collins plugged
16 the weep holes was elicited at trial.

17 Q Right.

18 A So, we all knew that. And that probably
19 caused the wall to fall down. There was no expert
20 testimony to say that that caused the wall to fall
21 down.

1 Q Okay.

2 A But, frankly, nobody cared. And why
3 didn't we care? Because the wall was on Mr. Collins'
4 property.

5 Q What --

6 A He could do whatever he pleases to his own
7 wall.

8 Q Can you answer my question, though?

9 A What was the question?

10 Q Was it your position that she can't
11 recover or is it your position that she can't recover
12 for your addressing that issue at trial Collinses
13 plugging the weep holes, not introducing evidence as
14 to the cost of rebuilding the wall.

15 Is it your position that she can't recover
16 for that?

17 MS. LIPPINCOTT: I'm sorry. Are you
18 talking about in regards to this litigation or --

19 MR. DOWELL: Yes. In regard to this case.

20 MS. LIPPINCOTT: Same objection.

21 THE WITNESS: I'll answer your compound

1 question.

2 First of all, no, she cannot recover for
3 my failure to introduce testimony regarding the cost
4 of repairing the wall. That's absurd on its face.

5 Two, I did through the examination of
6 Mr. Collins elicit at trial that he was the one who
7 plugged the weep holes. He was the one -- that was
8 probably the cause of the wall falling down, although
9 we're not experts as to why walls fall down.

10 But the fact of the matter is the wall was
11 on his property, and if he wanted to stand on the wall
12 and knock it down, he had every right to do so. It's
13 his wall.

14 Q Was that always your position throughout
15 the course of this -- the course of the underlying
16 litigation?

17 A What, that it was his wall?

18 Q That it was his wall and she could never
19 recover for the wall falling down and rebuilding it
20 and all that sort of thing.

21 A First of all, we never even had that

1 discussion because that's absurd on its face. There
2 was no reason to have that discussion.

3 The wall, she knew, I knew and the survey
4 revealed was clearly -- the area that was in dispute
5 was clearly on his side of the property line.

6 Therefore, the falling down of the wall
7 was on his nickel. If he wanted to rebuild it, he'd
8 have to rebuild it and pay for it.

9 Why would she rebuild her neighbor's wall.
10 Why would she incur any expense to rebuilt her
11 neighbor's wall.

12 Therefore, why would I ever introduce
13 testimony from a contractor as to what it would cost
14 to do something that she was not obligated ever to do.

15 Q So, you don't recall ever taking a
16 position that she should be entitled to the cost of
17 rebuilding the wall and the fact that Mr. Collins
18 caused it to fall down, that sort of thing?

19 MS. LIPPINCOTT: Objection. Asked and
20 answered.

21 Q Is that correct?

1 A I never took a position at trial that
2 Linda should be reimbursed or Linda should be -- if
3 Linda paid to have the wall rebuilt that she should be
4 reimbursed for that. No, I never took that position.

5 Q Did you ever take that position prior to
6 the trial?

7 MS. LIPPINCOTT: Objection. Asked and
8 answered.

9 A Never.

10 (Carney Deposition Exhibit 40 was marked
11 for purposes of identification.)

12 Q Showing you Number 40 and direct your
13 attention to paragraph two of that.

14 A Paragraph two. Yes, I see the paragraph.

15 Q Well, actually paragraph one and two.

16 A Let me read one, please.

17 Q Uh huh.

18 MS. LIPPINCOTT: I'm sorry. Counsel, this
19 is the same document that was previously marked as
20 Deposition Exhibit Number 7.

21 MR. DOWELL: It could be.

1 Q A letter of August 30th, 2006, Mr. Carney
2 to Mr. Thompson.

3 A And to Mr. Lanzi.

4 Q Right. Okay.

5 So, my question is the first paragraph
6 implies that one or the other or perhaps both
7 Collinses plugged the weep holes in the wall; isn't
8 that correct?

9 MS. LIPPINCOTT: Objection. The letter
10 speaks for itself.

11 You may answer.

12 A It says we all know who was responsible
13 for the destruction of the wall.

14 Q What did you mean by that?

15 A That we all knew that it was the Collinses
16 who plugged those weep holes.

17 Q And the second paragraph asks whether
18 Mr. Thompson and Mr. Lanzi would talk -- I guess talk
19 to the Collinses to see if they would repair or
20 replace the wall; doesn't it?

21 A I was asking Thompson and Lanzi whether or

1 not Mr. and Mrs. -- excuse me -- whether or not --
2 yes, whether or not Mr. and Mrs. Collins planned to
3 repair or replace the wall.

4 Q And if your client had the wall
5 reconstructed, it also asked whether the Collinses
6 would contribute half the costs; correct?

7 A Absolutely. Settlement negotiations.
8 These are all part of settlement negotiations.

9 Q Okay.

10 A You may know that they're inadmissible.

11 Q So, your statement earlier that you never
12 took the position that the Collinses would be
13 responsible for any of that, is that still the
14 position you take, that you never implied that or said
15 that?

16 A I don't understand your question.

17 Q Okay. Let me try it again.

18 A You said I implied earlier.

19 Q Did you ever -- you said a little while
20 ago that you never took the position prior to the
21 trial that the Collinses were in any way responsible

1 for the repair of the wall since it was their own
2 wall.

3 Did you not say that?

4 A I did not say that. I said the complete
5 obverse of that. I said that the Collinses -- that
6 the wall was the Collinses, one.

7 Two, if the wall fell down, it was because
8 of their own conduct.

9 Q Right.

10 A And, three, the cost of repair or
11 replacement of that wall was on the Collinses' dime,
12 not on Linda's dime, because it was the Collinses'
13 wall.

14 I never said what you just said.

15 Q Okay. So --

16 A Why would Linda pay for somebody else's
17 wall to be replaced unless it was part of a settlement
18 negotiation and a compromise.

19 Q You indicated here that she at least
20 apparently was contemplating reconstructing the wall.

21 A I do not indicate that at all.

1 Q You say if Ms. Senez has the wall
2 reconstructed --

3 MS. LIPPINCOTT: Let him answer the
4 question first before you move on to the next one.

5 A I simply asked the question if Ms. Senez
6 has the wall reconstructed, will your clients
7 contribute 50 percent of the cost. This was all part
8 of our settlement discussions.

9 Q All right. Do you agree that the position
10 you now take that Ms. Senez is not entitled to recover
11 for lack of introducing evidence as to the cost of
12 rebuilding the wall is different than the position you
13 took in this letter of August 30, 2006?

14 MS. LIPPINCOTT: Objection. Lacks
15 foundation. Objection to form. And misstates his
16 previous testimony as well as asked and answered.

17 You may answer again.

18 A You're going to have to read me back the
19 question, please.

20 Q The position you now take that Ms. Senez
21 is not entitled to recover for the cost of rebuilding

1 the wall is different than the position you took in
2 this letter of August 30, 2006 when you asked
3 Mr. Thompson and Mr. Lanzi whether the Collinses would
4 contribute to pay for the rebuilding of the wall.

5 MS. LIPPINCOTT: Same objection.

6 Q Is that correct?

7 A I don't know what letter you're reading,
8 but I'm telling you I never took the position that
9 Ms. Senez was responsible for repairing or replacing
10 the wall in whole or in part.

11 This letter, if you weren't listening
12 earlier, was part of a settlement negotiation.
13 Although Linda had no legal obligation to contribute
14 to the cost of repairs or replacement, this was thrown
15 out as a discussion point that was part and parcel of
16 our settlement discussions.

17 Linda, as a matter of law, could never
18 have been compelled to pay for the repair of a wall
19 that she didn't own.

20 Therefore, I never called any construction
21 people, put on any estimates as to what it would cost

1 to repair the wall. It wasn't her wall. Why would I
2 ever do such a nonsensical thing.

3 It's never been my position. It was never
4 her position. She never said to me, Brad, I've got to
5 go out and hire a contractor and have that wall
6 rebuilt. I want you to sue them in order to recapture
7 my cost.

8 We never had that discussion, because I
9 would have said to her what I'm saying to you right
10 now, Linda, what are you talking about? It's not your
11 wall. You don't have to pay for it.

12 (Carney Deposition Exhibit 41 was marked
13 for purposes of identification.)

14 Q Can you tell me what document Number 41
15 is?

16 A It looks like it must be an e-mail from me
17 to Linda and Rusty Bergen in July of 2006.

18 Q You say in that e-mail up here towards the
19 top, I'm pointing it out to you, I anticipate that the
20 witnesses at trial to be you, the surveyor to whose
21 work product both sides will stipulate, Mr. and

1 Mrs. Collins and a reader playing the part of
2 Mr. Myers; correct?

3 A That's what it says.

4 Q Why would you tell her that you wanted to
5 call the surveyor? What was your purpose in telling
6 her that?

7 A I think at the time we had not agreed,
8 that is to say, Nip Jenkins and Rob Thompson and I had
9 not agreed to stipulate to the authenticity and
10 accuracy of the survey prepared by Brian Deitz and
11 that it was possible that we're going to have
12 competing surveys to deal with.

13 This was months before the trial took
14 place. And I believe that we had not reached that
15 agreement, that stipulation.

16 Q Well, doesn't it say the surveyor to whose
17 work product both sides will stipulate?

18 A It does say that. And it would appear --

19 Q Why would you say that?

20 A I misspoke. Obviously we must have agreed
21 that we would stipulate. We had to be -- I had to be

1 referring to Brian Deitz's survey.

2 And I said I might put him on. I mean,
3 you have to understand six months before trial, I'm
4 just musing about who I might put up, who I might not
5 put up.

6 Q Well, what did -- in July of '06, what did
7 you think the surveyor would testify to aside from
8 both sides stipulating to his work product?

9 MS. LIPPINCOTT: Objection.

10 A The methodology that he employed, any
11 questions that the court would have, because the
12 survey frame is the central issue of the case
13 obviously. It's the sole issue of an adverse
14 possession case.

15 In case the court wanted to ask any
16 questions. It depends on the sophistication of the
17 trial judge. It depends on a lot of things as to
18 whether I put them up or not.

19 Q What about the definition of boundary
20 survey and location survey, would you have put him on
21 for that?

1 A No. Why should I have to do that?

2 Q I'm just asking you would you?

3 A No, I don't believe so.

4 Q You also said you would have a reader
5 playing the part of Mr. Myers.

6 What was the purpose of your thinking that
7 a reader would play Mr. Myers?

8 A There's two ways to get a de bene esse
9 deposition in. That is, you get a role player on the
10 witness stand who's going to read and I'll ask the
11 questions and the person will answer as though he were
12 Mr. Myers, or, which is boring as hell for a judge,
13 and in this case, the judge said I don't want you to
14 do that. I'll -- just give me the deposition, and I
15 believe she then took a recess and went back and read
16 Mr. Myers' deposition herself without the need to have
17 anybody playing the role of Mr. Myers.

18 Mr. Quinn was going to fulfill that.

19 Q So, the judge instructed you you were not
20 to put on a reader, is that what you're saying?

21 A I am quite certain that the judge said

1 just give me the transcript and I'll read it.

2 Q Did the Royston firm have any organized
3 office conferences in 2006 where partners and of
4 counsel lawyers would discuss cases and issues in
5 cases and things like that?

6 A You mean would there be meetings that were
7 attended by partners and of counsel to discuss cases
8 generally?

9 Q Yes. Issues that came up in cases they
10 wanted some feedback on from other lawyers?

11 A No. You might have talked to a lawyer --
12 if you want some advice on a particular issue, you may
13 go to a lawyer who you believe has got particular
14 expertise in the area that's in question.

15 There are no ground -- there are no grand
16 rounds in the law.

17 (Carney Deposition Exhibit 42 was marked
18 for purposes of identification.)

19 Q Showing you Number 42. This comes from
20 the hearing of May 13th, 2009, at line 19 through 23.

21 I'm going to ask you a question about

1 that.

2 MS. LIPPINCOTT: I'm sorry. Just for the
3 record, this is page 18 of that transcript?

4 MR. DOWELL: Yes. Uh huh.

5 THE WITNESS: Yeah, I read it.

6 Q What did you mean when you said that
7 Mr. Whitworth's law practice was a legal malpractice
8 puppy mill?

9 A That's puppy farm.

10 Q Well, it's also puppy mill.

11 A Based on Whitworth's resume, his CV, if my
12 memory serves me correctly, because I don't have the
13 CV in front of me, I think he said he had handled
14 approximately 800 legal malpractice cases.

15 I believe that Whitworth graduated from
16 law school in '79. That's a couple years after me,
17 which would mean if you do the math that he was doing
18 a couple of legal malpractice cases per month from the
19 day his feet hit the ground as a practicing lawyer
20 forward in order to get 800 in.

21 I know an awful lot of lawyers in this

1 town. I don't know anybody who's done a hundred legal
2 malpractice cases, much less 800.

3 The guy is a professional witness. That's
4 what I meant by this.

5 Q So, you don't back away from what you said
6 there?

7 A Not one iota.

8 Q Okay.

9 A I look forward to the time when we get to
10 cross examine him about what he earns and the fees he
11 generates. But I'll be good.

12 (Carney Deposition Exhibit 43 was marked
13 for purposes of identification.)

14 Q Page 16, which is document Number 43,
15 referring to lines eight to ten there.

16 A Can you please tell me what this is.

17 Q Well, this is again from the May 13th,
18 2009 transcript.

19 A Hearing before Judge Bollinger?

20 Q Uh huh.

21 MS. LIPPINCOTT: I'm sorry. Counsel, this

1 is out of context. Can you identify who's speaking
2 during this section of the transcript?

3 MR. DOWELL: This is Mr. Carney.

4 THE WITNESS: Yes. This is the
5 transcript. That's what I said.

6 Q Yeah. Can you tell me why you would have
7 represented to the court that the underlying case
8 became Ms. Senez's life work, she's unmarried, she
9 doesn't have any kids, she has the ability to focus on
10 the case.

11 Can you tell me what purpose that served,
12 that comment served to the court?

13 MS. LIPPINCOTT: Objection. Do you have
14 any more on this transcript for him to refer to?

15 MR. DOWELL: No.

16 MS. LIPPINCOTT: It's quite out of
17 context.

18 MR. DOWELL: Well, the comment was quite
19 out of context actually.

20 MS. LIPPINCOTT: Without being able to see
21 the rest of the transcript --

1 MR. DOWELL: I don't have the transcript
2 with me.

3 MS. LIPPINCOTT: This is the only page you
4 have from that section?

5 MR. DOWELL: No. I have a lot of pages,
6 but this is the one I'm asking about.

7 THE WITNESS: This was at the hearing on
8 your motion to set aside the order of default which I
9 had secured from the court due to your legal error.

10 And you filed a motion to set it aside in
11 a memorandum of support.

12 Q Uh huh.

13 A This was part of my argument as to why
14 that shouldn't have taken place.

15 Judge Bollinger agreed with me, as you
16 know, and you took it to the Court of Special Appeals,
17 and Judge Bollinger was reversed.

18 This was part of my oral argument to set
19 the stage for the court as to what had been going on
20 in this matter and that Ms. Senez was, as I pointed
21 out to the court, obsessed with this case. She made

1 it her -- she appeared to make it the focus of her
2 daily activities. She was -- as I've said in this
3 address to the court, she was just consumed by the
4 matter.

5 And then, of course, she doesn't want
6 to -- she didn't want to pay my bill.

7 Q What was the purpose of telling the court
8 she was unmarried and didn't have any children?

9 A Speaks for itself.

10 Q No, it doesn't really. I'm asking --

11 A That she's got the resources to be able to
12 fight this case because she is unmarried and has no
13 children. Therefore, she doesn't have a drain on her
14 resources that that would involve.

15 And that she is obsessed with this case.
16 She's got the money to fund it. That's why I said
17 what I said.

18 Q And you don't back away from that either?

19 A Not one word.

20 Q Okay.

21 A Unless she's got children and she's

1 married and I didn't know about it.

2 (Carney Deposition Exhibit 44 was marked
3 for purposes of identification.)

4 Q Number 44 is a several-page excerpt from
5 that same transcript, pages 17, 27 and 29, where you
6 indicate, for example, on page 17 --

7 MS. LIPPINCOTT: I'm sorry, counsel. Just
8 a standing objection as to questions about this
9 transcript. This is a transcript from this matter,
10 not from the underlying litigation?

11 MR. DOWELL: That's correct.

12 MS. LIPPINCOTT: Okay. I'm just -- as far
13 as what the relevancy is, this would have on her
14 malpractice claim with a fee dispute in the underlying
15 matter.

16 MR. DOWELL: I'm asking him about things
17 that he said which may bear on credibility or other
18 matters in this case.

19 I think it's discovery and it's liberal
20 discovery. It's wide-ranging. May lead to
21 discoverable information. And I think that I'm going

1 to ask him the questions.

2 Q The point of all these three pages is that
3 you repeatedly said that we did it, we won, she wins,
4 she wins hands down. I told her she was a winner. I
5 told her she was a winner umpteen different times. I
6 stand by it then and I stand by it now. We won.
7 Et cetera, et cetera.

8 So, my question is at this time based on
9 the present situation with respect to the adverse
10 possession claim and her property, do you still
11 believe that you won?

12 MS. LIPPINCOTT: Objection. First of all,
13 this transcript speaks for itself.

14 To the extent that you can answer this, go
15 ahead.

16 A I don't recall the exact number of counts.
17 I think there were six or seven. Linda received
18 either a defendant's verdict on those counts or there
19 was a plaintiff's verdict entered against Linda on the
20 remaining counts but no damages were awarded.

21 I consider and every one of my colleagues

1 in this profession would consider that to be a win on
2 a particular count.

3 Q Well --

4 A The only count that went against her was
5 the adverse possession count, and it went -- and what
6 I was saying in front of Judge Bollinger was that it
7 went against her at trial because the trial judge made
8 an error as a matter of law and the Court of Special
9 Appeals affirmed my belief that she made an error as a
10 matter of law, that she should not have lost that
11 claim based on Souder's, Judge Souder's logic and
12 reasoning and understanding of the law.

13 That's what I meant.

14 Q Well, my question was in the present
15 posture of her situation, do you still believe that
16 she won?

17 MS. LIPPINCOTT: Objection. Asked and
18 answered.

19 A She lost the adverse possession claim
20 because Judge Souder made a factual finding that
21 Ms. Collins' testimony apparently was more believable

1 than Ms. Senez's.

2 The court made a factual finding --

3 Q Uh huh.

4 A -- which is bulletproof on appeal, as I'm
5 sure you know.

6 Q And there's nothing -- just to revisit
7 this for one last time.

8 There was nothing you feel that you could
9 have done or no evidence that you feel you could have
10 introduced at the trial which have altered or
11 challenged Mrs. Collins' testimony as to that alleged
12 question that Ms. Senez supposedly asked, whether her
13 fence could follow the wall instead of the property
14 line.

15 There's nothing you could have done,
16 introduced or commented on at trial which would have
17 altered that.

18 Is that a fair characterization?

19 MS. LIPPINCOTT: Objection as to form.
20 Misstates his previous testimony. And this has been
21 asked and answered a number of times.

1 You may answer again.

2 A I adopt my prior answers in their
3 entirety. And the answer to your question is, you
4 know what, there's a winner and loser in every case.

5 The judge believes somebody or they don't
6 believe somebody.

7 Q Okay.

8 A If you don't believe somebody and it hurts
9 the other person, well, so be it. Happens in civil
10 cases and criminal cases all the time.

11 Linda Senez walked into that courtroom
12 with a lot of baggage to deal with and we dealt with
13 it and we won.

14 She was the one who decided to do the
15 things that she did and all of which were in front of
16 the court. The court could then decide who is the
17 more believable person. The court made its decision.

18 Q What baggage did she walk in with?

19 A I already talked to you about that
20 earlier.

21 Q About all the signs and all that kind of

1 stuff?

2 A Mick Jagger's tongue. I don't -- we don't
3 call 911. The spotlights that they used. The tapes.
4 Just the constant -- the sign in the back yard, nosy
5 neighbor zone.

6 She was in a war with her neighbors. We
7 all know that. And the court knew it. It wasn't the
8 Collinses who put up the signs. It wasn't the
9 Collinses who shined lights allegedly on the
10 neighbor's property.

11 She had to deal with these allegations.
12 We did. We were able to prove that they didn't rise
13 to the level of compensatory torts.

14 The court may have found that she
15 committed a tort, but found that the Collinses weren't
16 damaged, and, therefore, awarded no damages to them.

17 But she had that baggage to deal with.

18 Q So --

19 A From a credibility perspective, the court
20 is going to decide whether a person is believable or
21 not believable based on the totality of the

1 circumstances.

2 And you know that, Mr. Dowell. And
3 sometimes it's going to go with you and sometimes it's
4 going to cut against you.

5 That's why there's a winner and loser in
6 every case. That's why we have appellate courts.

7 Q Thank you for that explanation.

8 A You're welcome.

9 (Carney Deposition Exhibit 45 was marked
10 for purposes of identification.)

11 Q I want to show you one last document,
12 which is Number 45. And I'm referring to looks
13 like --

14 A This is already in evidence.

15 Q No, it's not.

16 About nine lines -- eight or nine lines
17 down. The sentence begins I cannot speak to the issue
18 of what the Collinses know.

19 Do you see that?

20 A What paragraph is this now?

21 Q Well, there's no real paragraphs.

1 A Where is this?

2 Q About a third of the way down to the
3 left-hand side.

4 A I cannot speak to the issue of what the
5 Collinses know. Yes, I see that.

6 Q However, they certainly know about their
7 adverse possession count. It's in their complaint.

8 Do you see that?

9 A Yes.

10 Q And this was an e-mail from you to
11 Ms. Senez of July 19, '06; correct?

12 A To Linda and Rusty Bergen, yes, correct.

13 Q What -- did the Collinses actually have an
14 adverse possession count in their complaint as of that
15 time?

16 A They had an adverse possession count.

17 Q Do you know whether it was --

18 A They amended the complaint to add it.

19 Q Do you remember whether it was in
20 existence as of July 19th of '06?

21 A I have no idea.

1 Q Wasn't it in December they put that in
2 there? Do you recall that?

3 A I don't recall that.

4 Q You don't?

5 A As a matter of fact, I do recall when they
6 put it in, because I filed a motion to strike it
7 because it was within days of the trial itself.

8 Q That's what I'm saying.

9 A It wasn't until the end of the -- not
10 until the end of the case. It was just before trial
11 they filed an amended complaint. It was within I want
12 to say ten days of trial. They didn't seek leave of
13 court. They didn't get an agreement from me.

14 I filed a motion to strike it. That was a
15 preliminary matter that Judge Souder heard before the
16 trial commenced. And my motion to strike it was
17 denied.

18 Q And that's in -- that was in December of
19 '06; correct?

20 A That's correct.

21 Q So, why would you have put in an e-mail of

1 July of '06 they certainly know about their adverse
2 possession count. It's in their complaint.

3 Why would you have put that in?

4 A Because I know Rob Thompson, he had either
5 sent me a draft that he was going to file or he told
6 me that they were going to file it.

7 He always told me that they were going to
8 file an adverse possession claim.

9 Q What adverse possession claim was filed by
10 the Collinses --

11 A Until December.

12 Q -- in July; correct?

13 A I understand that. But there was
14 significant talk by them that they were going to file
15 it.

16 MR. DOWELL: All right. Let's take a
17 five-minute break.

18 (Pause in the proceedings.)

19 MR. DOWELL: I don't have any questions.

20 MS. LIPPINCOTT: I don't have any
21 questions. Thank you. He'll read.

(Deposition concluded at 3:10 p.m.)

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

Bradford Carney

1 State of Maryland

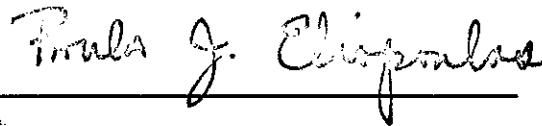
2 City of Baltimore, to wit:

3 I, PAULA J. ELIOPOULOS, a Notary Public of
4 the State of Maryland, City of Baltimore, do hereby
5 certify that the within-named witness personally
6 appeared before me at the time and place herein set
7 out, and after having been duly sworn by me, according
8 to law, was examined by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this transcript is
11 a true record of the proceedings.

12 I further certify that I am not of counsel
13 to any of the parties, nor in any way interested in
14 the outcome of this action.

15 As witness my hand and notarial seal this
16 2nd day of September, 2011.

17 

18 PAULA J. ELIOPOULOS

19 Notary Public

20 My Commission Expires:

21 June 15, 2012