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1 IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
2 FOR FLAGLER COUNTY, FLORIDA
3 CASE NO. 2010-DR-001376
DIVISION: 49

4

IN RE: THE MATTER OF:

5

LYNN O'BRIEN,

6

Petitioner/Former Wife,

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vs.

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DAVID O'BRIEN,

9

Respondent/Former Husband.

10 _____/

11

DEPOSITION OF: DAVID O'BRIEN

12

DATE: OCTOBER 15, 2013

13

TIME: COMMENCED AT 1:21 P.M.

14

CONCLUDED AT 3:55 P.M.

15 PLACE: 20 AIRPORT ROAD, SUITE A

16

STENOGRAPHICALLY

17 REPORTED BY: LOUISE K. JOHNSON, RMR, CRR, FPR

and Notary Public, State of Florida

18 at Large

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1 APPEARANCES

2 FOR THE PLAINTIFF:

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FOR THE DEFENDANTS:

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12

13 ALSO PRESENT:

14 Lynn O'Brien, Petitioner/Former Wife

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1 CERTIFIED QUESTIONS

2 CERTIFIED QUESTION NUMBER 1: Page 27, Lines 10 - 11?

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1 PROCEEDINGS

2 THE COURT REPORTER: Would you please raise
3 your right hand. Do you solemnly swear or affirm
4 to tell the truth, the whole truth, and nothing but
5 the truth?

6 THE WITNESS: I do.

7 DIRECT EXAMINATION

8 BY MR. ROSS:

9 Q Okay. Could you please state your name.

10 A David O'Brien.

11 Q Okay. And, Mr. O'Brien, understanding what
12 your position was in employment, I still want to ask
13 you, have you ever been charged with a crime or
14 threatened with being charged with a crime?

15 A No.

16 Q Okay. And have you ever been arrested?

17 A No.

18 Q Okay. Tell me what your employment has been
19 since July 28th of 2011, which was the Final Judgment.

20 A July -- say that again.

21 Q July 28th of 2011, or, if it's easier for you

22 to remember, just the date of the Final Judgment of
23 dissolution.

24 A 2011, I've been employed with the Flagler
25 County Sheriff's Office until March of 2013.

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1 Q Okay.

2 A 2013, I retired.

3 Q Okay. And then March of 2013 you retired.

4 A Yes. And then to July 18th of 2013, I am
5 employed with United American Security Company.

6 Q Let me just stop you so I understand, and I
7 apologize.

8 A Okay.

9 Q So from March to July of 2013, were you
10 unemployed?

11 A I was unemployed.

12 Q Okay. And were you getting unemployment at
13 that time?

14 A I was getting a -- my retirement check.

15 Q But no unemployment?

16 A No, sir. Retired.

17 Q Any reason? Oh, because you retired.

18 A Retired.

19 Q Ah, okay. All right. Let me ask you about
20 that for a second. Why did you retire?

21 A I was given the option by the Sheriff at that
22 time to either retire or he was going to terminate me.

23 Q Okay. And I know you had said that in your
24 statement, I think your Answers to Interrogatories. And
25 my question was at what point did he give that you

0008

1 option? If you left in March of 2013, at what point did
2 he say that to you?

3 A Three days before I retired.

4 Q Okay. And who said that to you?

5 A Sheriff Manfre.

6 Q Okay. And do you have any writings or
7 evidence to indicate that that's what he said to you or
8 those were your options?

9 A I do not have nothing in writing.

10 Q Okay. And whether you have it in your
11 possession or not, was there anything that would support
12 your position that the Sheriff said to you, either
13 retire or I'm going to terminate you?

14 A I have nothing in my possession that would --

15 Q Whether it's in your possession or not in your
16 possession.

17 A I don't have anything.

18 Q Do you know of of anything that exists that
19 supports that position?

20 A Not that I know of.

21 Q Okay. Who was in the room that could -- Was
22 there anybody in the room with you and him when he said
23 that?

24 A The undersheriff at the time, which is Rick
25 Staley.

0009

1 Q What's that?

2 A Rick Staley.

3 Q How do you spell Staley, do you know?

4 A S-t-a-l-e-y, I believe.

5 Q Okay. So Rick Staley would have heard this
6 conversation?

7 A Yes.

8 Q Okay. Are you close with Mr. Staley?

9 A No, sir.

10 Q Okay. Do you have an inkling as to whether or
11 not Mr. Staley will support what happened, your version
12 of what happened?

13 A Yeah, he was sitting right there when it
14 happened.

15 Q Okay. Do you think the Sheriff himself would
16 support that he told you that?

17 A Yeah, that's what he said to me.

18 Q And why did he say that he was going to
19 terminate you? What were the reasons?

20 A At the time, it was just lack of performance;
21 you know, getting work done and stuff like that.

22 Q And, again, what was the nature of the lack of
23 performance?

24 A Policies that weren't being done in a timely

25 fashion and some other issues that he had with me.

0010

1 Q Okay. Well, tell me what the policies were.

2 I mean, were these legitimate reasons?

3 A Yeah, they were policies that he wanted

4 rewritten within the agency.

5 Q Such as what, can you tell me?

6 A Pursuit policy, a tattoo policy. There was

7 some other policies that he wanted. He said that I

8 wasn't at -- that I wanted to leave some function that

9 was going on during -- that I should have been at.

10 Q When he said the pursuit policies, was he

11 saying you were violating the pursuit policies or --

12 A No. It was rewriting them.

13 Q He was rewriting them.

14 A Uh-huh.

15 Q So how did that -- why did that --

16 A It fell on my plate to get them done.

17 Q Oh, okay. So did he give you a time period to

18 rewrite them and say you need to have them done by this

19 time?

20 A They did.

21 Q And when did he give you the --

22 A They gave me various policies to rewrite.

23 Q During what period of time prior to the time

24 that you --

25 MR. ALEXANDER: For the record, when did the

0011

1 Sheriff become the new sheriff?

2 THE WITNESS: January of 2013.

3 MR. ALEXANDER: So if that helps out.

4 BY MR. ROSS:

5 Q That's fine.

6 So presumably it was after January.

7 A Yes.

8 Q Okay. So after January, he said I want you to
9 rewrite these policies, or somebody said that to you.

10 A Uh-huh.

11 Q Did they put that in writing?

12 A I think so.

13 Q Okay. And then did you not do them in a
14 timely fashion?

15 A I was getting them done, I was turning them
16 in. And they would send them back to me, then I would
17 fix whatever needed to be fixed and I would send that
18 back.

19 Q And from your perspective, was it -- were they
20 justified in their position that you didn't do it in the
21 timely fashion?

22 A I think it's my opinion and their opinion.

23 Q What's your opinion?

24 A I feel that I was doing it fine and getting
25 them in timely.

0012

1 Q Okay. All right. And then you left a
2 function. Explain that to me.

3 A There was a -- a hostage negotiation thing
4 down here that they were performing that I didn't need
5 to be at. There was the -- so I asked to leave and, you
6 know, the sheriff didn't like that.

7 MR. ALEXANDER: Was it a training or an
8 actual --

9 THE WITNESS: It was a training.

10 MR. ALEXANDER: Okay.

11 THE WITNESS: Not an actual --

12 MR. ALEXANDER: You need to explain that so he
13 understands.

14 THE WITNESS: Sorry.

15 BY MR. ROSS:

16 Q That's okay. All right.

17 A It was a training exercise.

18 Q Anything else that they -- that they had
19 reason for wanting to terminate you that they expressed?

20 A That was it --

21 Q Okay.

22 A -- that I know of.

23 Q Had you been written up before for any of the
24 negative aspects that you've just recounted?

25 A Yes.

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1 Q You have. How many times.

2 A Just once.

3 Q Since January, since he was elected?

4 A Yes.

5 Q Had you been written up prior to that time?

6 A No.

7 Q Okay. Ever disciplined?

8 A In the years that I was there?

9 Q Yes.

10 A Yes.

11 Q Okay. On how many occasions?

12 A I don't recall.

13 Q Okay. More than ten?

14 A No.

15 Q Okay. Okay. So what's the advantage of
16 retiring as opposed to being terminated?

17 A I don't know.

18 Q Okay. Why would you have retired as opposed
19 to saying --

20 A I could collect my pension at that point and
21 get a pension at that point.

22 Q Okay. And if you had been terminated, why
23 could you not have collected your pension?

24 A I could have. I could have still collected my
25 pension, but as far as going to look for employment

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1 someplace else, it -- you know, it would have been

2 better for me to resign and retire at that point.

3 Q Okay. I understand. Okay. So then I guess
4 the only advantage of getting it, you would have gotten
5 unemployment between March and July, right, if you would
6 would be terminated?

7 A Correct.

8 Q Okay. All right. And so then in -- when did
9 you start applying for jobs versus March, when you were
10 terminated? Or retired, I should say.

11 A Pretty much right after that, I was looking.

12 Q Okay.

13 A I went to Daytona State College looking for
14 employment there. I knew some people down there. And
15 then I was looking at St. Augustine College as well to
16 teach.

17 Q And what was your rate of pay when you were at
18 the point where you retired?

19 A It was 90-something, I think. I believe.

20 Q Okay. Do you have any idea what you were
21 grossing a month at that time?

22 A No, I don't.

23 Q Okay. How about back at the time of the
24 dissolution, did you -- did you fill out a financial
25 affidavit?

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1 A At the time of dissolution?

2 Q Yes.

3 A Yes.

4 Q Okay. And what -- do you know what your rate
5 of pay was then?

6 A Not off the top of my head, no.

7 Q Okay.

8 A Not without looking back at the dissolution
9 and financial that I filled out.

10 Q Okay. Who did you provide that financial
11 affidavit to at that time; do you know?

12 A My attorney.

13 Q Okay. And who was your attorney at that time?

14 A Donna Hung.

15 MR. ALEXANDER: Spell the last name.

16 THE WITNESS: H-u-n-g, I believe it is.

17 BY MR. ROSS:

18 Q Do you possess a copy of that financial
19 affidavit?

20 A I do not.

21 Q And, remember, I'm not asking you here today.
22 But, clearly, whether you have it here today.

23 A I don't have it on me today and I don't have
24 it at my house either.

25 Q Okay. We didn't see it in the court file, but

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1 you believe there's a copy of it somewhere there?

2 A I believe so.

3 MR. ROSS: Okay. Have you seen it or no?

4 MR. ALEXANDER: I wasn't his attorney back

5 then --

6 MR. ROSS: I know.

7 MR. ALEXANDER: -- so I haven't checked.

8 MR. ROSS: Okay.

9 MR. ALEXANDER: I didn't know you could
10 divorce these days without a financial affidavit
11 being filed, to be quite honest with you.

12 MR. ROSS: Right. Well, I've seen it.

13 MR. ALEXANDER: Our judges in St. John's
14 County are sticklers about that.

15 THE WITNESS: I could find out. I mean, I
16 could call her and get it if you need it.

17 MR. ROSS: Okay. Let's do this. Let's see if
18 we can figure out if it's somewhere hidden in the
19 court file. And if it is, we'll get it. If not,
20 maybe I'd have you call. Okay?

21 THE WITNESS: That's fine.

22 BY MR. ROSS:

23 Q Either way, it would reflect -- your income
24 would be reflected in your tax returns during that
25 period of time.

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1 A That's correct.

2 Q Okay. Do you have your tax returns with you
3 today from that period of time?

4 A No, I don't.

5 Q Okay.

6 A I think I provided what was requested.

7 MR. ALEXANDER: I'm sure you did.

8 BY MR. ROSS:

9 Q Because today we had asked on the
10 Schedule A -- I don't know if you had a chance to look
11 at the Schedule A that was attached to the Notice Of
12 Taking Deposition, regarding the tax returns for that
13 period of time.

14 A From 2011?

15 Q Yes.

16 A I thought it was 2012.

17 Q No. It said the last three years.

18 MR. ALEXANDER: All we have is 2012. Do you
19 want to see it, Counsel?

20 MR. ROSS: No. I think we have that one.

21 MR. ALEXANDER: Okay.

22 MR. ROSS: But thanks.

23 BY MR. ROSS:

24 Q Can you get me 2011?

25 A I'm sure I could.

0018

1 Q Okay. Okay. If you could do me a favor and
2 get that together.

3 A Do you mind if I have a little Post-it note so
4 I know --

5 Q I can give you a piece of paper. Is that
6 okay? Here you go. And there's about a thousand pens

7 in there.

8 Q I've have one, thank you.

9 A Okay.

10 Q Yeah, if you could provide that to your
11 attorney and see if we can get that within ten days. Is
12 that reasonable?

13 MR. ALEXANDER: That's fine.

14 MR. ROSS: Okay.

15 MR. ALEXANDER: Do you want his 2010 as well,
16 or not?

17 MR. ROSS: No, I just need 2011. All right.

18 MR. ALEXANDER: Okay. And his financial
19 affidavit, if he can get his hands on it.

20 MR. ROSS: If you can get that too as well,
21 that would be great. If you call Ms. Hung or if
22 you can check and see if it's not as hidden, as I
23 think it is.

24 MR. ALEXANDER: Well, I'll check myself in the
25 court file. But if it's not there, check with your

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1 attorney at the time and she might have it.

2 THE WITNESS: I'll call her when I leave.

3 MR. ALEXANDER: They're supposed to keep your
4 records for six years, so she should still have it.

5 BY MR. ROSS:

6 Q So then you get a job, you said, in July,
7 correct?

8 A That is correct.

9 Q And that is with whom?

10 A United American Securities.

11 Q Okay. And your pay there was how much?

12 A It's 48 a year.

13 Q Okay. But on top of that, you're receiving --

14 A Retirement.

15 Q -- your retirement, right?

16 A Yes, sir.

17 Q Okay. So your gross, which shows as 97,550,

18 how different do you think that's from the gross that

19 you were receiving from the Sheriff's Department when

20 you retired?

21 A The combination of both of them?

22 Q Well, no. In other words, the combination of

23 both of them right now is your gross income, as you can

24 see on your financial affidavit. You list your gross,

25 meaning a combination of all moneys you receive, of

0020

1 97,550. See it up here?

2 A Yeah, I see it.

3 Q Okay.

4 A Yeah.

5 Q How different is that from the time you

6 retired from the Sheriff's Department in March?

7 A I thought it was less. I see what you're

8 saying. I thought it was less than that.

9 Q Yeah. I'm just looking at your financial
10 affidavit.

11 A Right.

12 Q You can check. This is your financial
13 affidavit.

14 A Yeah, I understand.

15 Q Okay.

16 A It doesn't change.

17 Q Doesn't change much?

18 A No.

19 Q Okay. And actually would this, 97,550, be
20 more than you were grossing at the time of your
21 dissolution of marriage?

22 A Yes.

23 Q Okay. What benefits are you receiving right
24 now from your job?

25 A What do you mean by benefits?

0021

1 Q Sure. Are there any other additional
2 benefits?

3 MR. ALEXANDER: Like health insurance.

4 MR. ROSS: Right.

5 THE WITNESS: Yeah, I get health insurance
6 through them.

7 MR. ROSS: Okay.

8 MR. ALEXANDER: Is that how the child's health
9 insurance is being paid now?

10 THE WITNESS: Yes.

11 MR. ALEXANDER: Okay. Go ahead.

12 THE WITNESS: Before that, it was -- I was
13 paying -- I got an insurance company here in town
14 to get health insurance.

15 BY MR. ROSS:

16 Q Okay. Through your employer?

17 A Through -- right now I've got it through my
18 employer.

19 Q Okay. Right now you have it through -- does
20 your employer pay for it?

21 A No, I pay for it.

22 Q Okay. They don't contribute in any way
23 whatsoever?

24 A No, sir.

25 Q Okay. And how much is the health insurance?

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1 A 700 a month.

2 Q Okay. And that covers whom?

3 A Brianna and myself. It's a family plan. And
4 it covers my wife and her kids.

5 Q Okay.

6 A Two kids.

7 Q So let me understand this. At the time that
8 you retired, Brianna was on health insurance covered by
9 the Sheriff's Department.

10 A That is correct.

11 Q And was your wife and her kids on that same
12 policy at that time?

13 A That is correct.

14 Q How much did that cost then?

15 A That was two -- it was about four and change.
16 It was two something biweekly. It was about \$400 a
17 month.

18 Q Okay. And then as soon as you retired, did
19 you have anything for that gap between March and July?

20 A No, sir.

21 Q So Brianna wasn't covered.

22 A I got insurance in August, I believe it was.

23 Q Okay. So until August, Brianna went without
24 insurance?

25 A Correct.

0023

1 Q From March to August?

2 A Yeah.

3 Q And then did you place Brianna, your current
4 wife and her kids all on this new insurance at the same
5 time?

6 A Yes, sir.

7 Q Okay. Do you know what the breakdown in cost
8 is if you had simply yourself and Brianna on, as opposed
9 to the other kids?

10 A It's the same, which is a family plan.

11 Q Okay. And what is the name of the company; do

12 you know?

13 A It is United Healthcare.

14 Q Okay. Do you have any of the paperwork

15 pertaining to that health insurance with you today?

16 A No, I do not.

17 Q Okay. Do you get a monthly bill for that?

18 A It's taken out of my check --

19 Q Okay.

20 A -- directly.

21 Q Was there a contract you signed with them?

22 A To sign up for it, yes.

23 Q Can you get me that contract?

24 A I think I can.

25 Q Okay. Is there a particular insurance agent

0024

1 that you dealt with?

2 A I dealt with -- through my work, I could get

3 it through them.

4 Q Okay. So if you could get me that as well.

5 Okay? I don't know if you want to write that down.

6 A Yeah, I'm going to.

7 Q Okay. And the job itself, do you get any

8 overtime?

9 A No, sir.

10 Q Okay. What are your duties as far as the job?

11 What do you do?

12 A I oversee three properties: The Hammock Beach

13 Resort, Yacht Harbor, and The Conservatory.

14 Q Okay. Doing security there?

15 A Security at all three locations, and I oversee

16 all the employees.

17 Q And how many employees are there under you?

18 A There's 22 employees.

19 Q Got it. Okay.

20 Q No car allowance?

21 A No, sir.

22 Q Any mileage reimbursement?

23 A No, sir.

24 Q Okay. No other benefits of any kind or

25 nature?

0025

1 A The only benefit I get from them is they give

2 me a toll pass to go over the bridge.

3 Q They don't give you green fees at Ocean

4 Hammock?

5 A (Shakes head.)

6 Q Okay. Where are you living now?

7 A Currently I'm staying at 31 Christopher Court.

8 Q What city is that in?

9 A Palm Coast.

10 Q Who is living with you?

11 A My parents.

12 Q Okay. Is this your parents' residence?

13 A Yes, sir.

14 Q Do they own or do they rent?

15 A They own.

16 Q And how long have you been staying there for?

17 A Since May.

18 Q Okay. Where were you staying before that?

19 A 11 Deerfield Court in Palm Coast.

20 Q And who were you living with there?

21 A My wife.

22 Q And her kids?

23 A Yes.

24 Q How many kids is that?

25 A Two.

0026

1 Q Okay. Was -- is that something you owned or
2 rented?

3 A Rent.

4 Q And how long was that rented till?

5 A December of this year.

6 Q Okay. And why did you move out of the
7 residence at Deerfield Court?

8 A Me and my wife are going through some things
9 right now, so I am separated from her right now.

10 Q Okay. What things are you going through right
11 now?

12 MR. ALEXANDER: Objection, relevance. Go
13 ahead and answer it.

14 MR. ROSS: Noted.

15 MR. ALEXANDER: Go ahead and answer the
16 question.

17 THE WITNESS: Just issues that we and her
18 have.

19 BY MR. ROSS:

20 Q Okay. Are you going through a divorce
21 proceeding?

22 A No.

23 Q Okay. Has there been mention of a divorce
24 proceeding?

25 A No.

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1 MR. ALEXANDER: Objection. Same grounds,
2 relevance.

3 MR. ROSS: Noted.

4 MR. ALEXANDER: Go ahead and answer.

5 THE WITNESS: No.

6 BY MR. ROSS:

7 Q Okay. Has your current wife made allegations
8 against you of violence?

9 A Yes.

10 Q Okay. Why don't you tell me what those
11 allegations are, please.

12 MR. ALEXANDER: Objection. Relevance.

13 MR. ROSS: Noted.

14 MR. ALEXANDER: And objection, Fifth Amendment
15 privilege.

16 MR. ROSS: Okay. Are you advising the witness
17 not to answer?

18 MR. ALEXANDER: Would be my advice.

19 BY MR. ROSS:

20 Q Okay. Okay. So your attorney is advising you
21 not to answer the question on the Fifth Amendment. Are
22 you --

23 A I'm invoking it.

24 Q You're invoking the Fifth Amendment. Okay.

25 MR. ROSS: We'll certify that question.

0028

1 BY MR. ROSS:

2 Q Do you -- do you have an attorney representing
3 you with respect to the allegations that form the basis
4 of your objection or refusing to answer on the basis of
5 the Fifth Amendment?

6 A No.

7 Q Okay. Has there been a threat of criminal
8 prosecution?

9 MR. ALEXANDER: You may answer that. That's
10 not a Fifth Amendment -- that's not protected.

11 THE WITNESS: Can I have a minute with you?

12 MR. ALEXANDER: Is that okay if he talks to me
13 about it?

14 MR. ROSS: Sure.

15 (Mr. Alexander and Mr. O'Brien step out of the
16 room and return momentarily.)

17 (Discussion off the record.)

18 MR. ALEXANDER: We'll go back on the record.

19 Go ahead and ask whatever questions you have.

20 BY MR. ROSS:

21 Q Okay. Has there been a threat of criminal
22 prosecution?

23 A Going to take the Fifth.

24 MR. ROSS: Okay. We'll certify that question.

25 MR. ALEXANDER: Once again, just let me state

0029

1 that any of these questions in regards to his
2 current wife, I object on the grounds of relevance.

3 Go ahead.

4 BY MR. ROSS:

5 Q Okay. Are there writings that are in any way
6 related to this incident or incidents for which you are
7 taking the Fifth Amendment?

8 A Yes.

9 Q Okay. What are those writings?

10 A A police report.

11 Q Okay. And who is it that was the complainant?

12 A My wife.

13 Q Okay. And how long ago was this incident or
14 incidents?

15 A Couple of months ago.

16 Q Okay.

17 A Prior to May.

18 Q Is it one incident or more than one?

19 A There's one report.

20 Q Okay. Does the one report reference multiple

21 incidents?

22 A Uh-huh.

23 Q Okay.

24 MR. ALEXANDER: You've got to answer yes or

25 no.

0030

1 THE WITNESS: Yes. I'm sorry.

2 BY MR. ROSS:

3 Q Okay. Did the police talk to you?

4 A Yes.

5 Q Okay. Did you plead the Fifth with them or

6 did you talk to them about it?

7 A I didn't say anything to them.

8 Q In other words, you didn't even talk to them?

9 Because you said they talked -- you said the police

10 talked to you.

11 A I spoke to them and they went and spoke with

12 her, and that was the last contact I had with them.

13 Q Okay. Who else have you discussed this with

14 other than your attorney --

15 A Nobody.

16 Q -- Mr. Alexander? Okay.

17 Any other writings that exist without --

18 besides the police report?

19 A Not that I know of.

20 Q Okay. Have the police spoken to you only once
21 about it?

22 A Yes.

23 Q Okay. Do you know what the status is with
24 respect to the investigation dealing with the police
25 report?

0031

1 A My understanding is that there was an
2 agreement between the State Attorney's Office and my
3 wife not to proceed with any criminal charges.

4 Q Okay. Who told you that?

5 A My wife did.

6 Q Okay. And you do not believe that there will
7 be a proceeding with respect to you based on that? You
8 don't believe that there will be criminal charges
9 pending against you?

10 A I mean, I don't know. I'm assuming not.

11 Q Okay. Do you know the particular State
12 Attorney that was dealing with your wife?

13 A I know it was down in Daytona. She said she
14 went down to Daytona to talk to somebody down there.

15 Q Okay. But you don't know who it was.

16 A No.

17 Q Okay. And you'd prefer that I don't get into
18 this at this time until the Court would -- I mean,
19 you're still sticking to the Fifth Amendment, right,

20 even though I'm going to see the police report?

21 A I'm staying with the Fifth.

22 Q Okay. So we'll certify that whole issue and

23 we'll move on.

24 MR. ALEXANDER: Well, just one last question.

25 The matter, as far as you know, is still pending.

0032

1 You haven't received anything saying that the

2 investigation's over and they're not filing

3 charges?

4 THE WITNESS: Correct, I have not received

5 anything.

6 MR. ALEXANDER: Okay. I want the record to be

7 clear on that.

8 BY MR. ROSS:

9 Q How long do you plan on living with your

10 parents for?

11 A I don't know. I --

12 Q Okay.

13 A I mean my wife and I are still working things

14 out.

15 Q When you say working things out --

16 A Trying to, you know, reconcile things, get

17 back together.

18 MR. ROSS: Okay. Do you -- do you have a copy

19 of his Financial Affidavit that he could look at

20 while I'm going over this, or do you want me to

21 make another copy of mine?

22 MR. ALEXANDER: Probably make -- because the
23 only one I can find that I made was the one from
24 May or June. I know we did a new one.

25 MR. ROSS: Yeah, you did one in September.

0033

1 MR. ALEXANDER: I just don't have them.

2 MR. ROSS: Okay. Okay. All right. Let me
3 see who would make a copy here.

4 MR. ALEXANDER: There's a girl sitting right
5 behind the desk. Let me just look. Maybe I have
6 it and I don't...

7 No.

8 MR. ROSS: No. Okay.

9 (Discussion off the record.)

10 BY MR. ROSS:

11 Q If we could take a look, down on Line 30 on
12 Page 2, it shows court ordered support payments for
13 children actually paid --

14 A Yes.

15 Q -- and says 750.

16 A Yes.

17 Q Okay. Are you paying that?

18 A Yes.

19 Q Okay. Tell me what has been your course of
20 payment with respect to the child support.

21 A I pay -- I mail a check or a money order of

22 750 a month.

23 Q Okay. And have you ever missed a payment?

24 A Yes.

25 Q Okay. How many payments have you missed?

0034

1 A Two, I believe.

2 Q Two payments?

3 A Yes.

4 Q When would that have been; do you know?

5 A One in March and then there was -- was another

6 one.

7 MR. ALEXANDER: Don't be guessing at it.

8 Here. Let me give you the records that you

9 gave me. (Tendering.)

10 THE WITNESS: (Examining documents.) I

11 believe it was June and July.

12 BY MR. ROSS:

13 Q Not in March?

14 A Not -- I did not pay one in March.

15 Q So you didn't pay one in March and you didn't

16 pay another one in June and another one in July?

17 A Right, but the June and July have been paid.

18 Q Okay. And --

19 A The only one that's outstanding is the March

20 one.

21 Q Okay. When did you pay the ones for June and

22 July?

23 A I think it was in August.

24 Q Okay. And what about the one from March? Are
25 you planning on paying that?

0035

1 A Yes.

2 Q When do you plan on paying that?

3 A This month.

4 Q Okay. And then we've got underneath that,
5 Item 31, court ordered alimony.

6 MR. ALEXANDER: Just let's make it easy on the
7 child support. Do you agree that he's paid,
8 through October, all the child support payments
9 except for the March one? Does that sound correct?

10 MS. O'BRIEN: Yes.

11 MR. ALEXANDER: Okay. So if he pays this by,
12 say, November 1st, pays a double payment
13 November 1st, we'd be up to date.

14 MR. ROSS: Is that right?

15 MS. O'BRIEN: Yes.

16 MR. ALEXANDER: Let's just make it easy on the
17 child support.

18 MR. ROSS: Sure. Sure. Absolutely.

19 MR. ALEXANDER: Okay. Go ahead.

20 BY MR. ROSS:

21 Q Then we have Item 31, the Court Ordered
22 alimony actually paid. It shows \$1,250. Have you been
23 paying that on a regular basis?

24 A That -- actually that was the one where the
25 income tax check went to her, and my attorney sent her a
0036

1 letter saying that she would be paid up until July.

2 Q Okay. Let me see the letter that you're
3 referencing.

4 A (Tendering.)

5 Q And this is the -- this is a letter dated had
6 March 26th?

7 MR. ALEXANDER: You can keep that. I have
8 a -- I made an extra.

9 MR. ROSS: Thank you.

10 BY MR. ROSS:

11 Q And did your former wife, Ms. O'Brien, ever
12 agree that that money should be credited towards
13 alimony?

14 A I don't think she ever responded back to the
15 letter.

16 Q Didn't she actually send you a writing
17 indicating that any matters coming from the tax return
18 payments would be credited towards extracurricular
19 activities, which included or primarily were dance?

20 A No.

21 Q And so if you've paid through July, you say.
22 You say you wanted that money to be paid through July.

23 A That is correct.

24 Q Okay.

25 MR. ALEXANDER: Actually the letter says for

0037

1 March, April, May and June.

2 MR. ROSS: Okay.

3 MR. ALEXANDER: I want to be clear. Not July.

4 MR. ROSS: Okay. No, I appreciate that.

5 Okay.

6 MR. ALEXANDER: Not July.

7 BY MR. ROSS:

8 Q So did you pay for July?

9 A No, I did not.

10 Q Okay. Why not?

11 A Because at that time, the retirement -- she

12 was getting retirement from the -- my retirement check.

13 Q Okay. Explain to me why that would -- what

14 that would have anything to do with the fact of her

15 not -- or you not paying your alimony obligation for

16 July.

17 A Because it was -- my understanding is once

18 that kicked in, that's all I needed to pay.

19 Q Okay. Tell me what formed the basis of that

20 understanding.

21 A Through the final divorce, where it said that

22 when the retirement was that the Quadro would kick in or

23 the retirement would kick in -- or she would get the

24 retirement, and I was just under the assumption at that

25 point that that's how that would work.

0038

1 Q Was there anywhere in the Final Judgment that
2 you can show me that supports that position?

3 A I don't think so. I think that's what my
4 attorney had told me at the time when I was with her
5 during the mediator [sic].

6 Q Your attorney being Ms. --

7 A Hung.

8 Q -- Hung?

9 A Yes.

10 Q That was, you mean, prior to signing the
11 Marital Settlement Agreement?

12 A Uh-huh.

13 Q Is that a yes?

14 A I'm sorry, yes.

15 Q You understand how it goes.

16 A Yes.

17 Q You've probably had depositions taken before.

18 Okay. If you could look at Roman Numeral IV,

19 this is the Marital Settlement Agreement, in this case

20 adopted in the -- into the Final Judgment. (Tendering.)

21 See where it says alimony? If you want to just read

22 that paragraph.

23 A (Examining.) Okay.

24 Q Is there anywhere there that says that it

25 terminates upon your former wife receiving your

0039

1 retirement?

2 A Not in there, no.

3 Q Is there any agreement or court order that
4 provides for your former wife to receive -- or for you
5 to not pay alimony anymore once your former wife
6 receives the retirement?

7 A No. It was -- like I said, it was -- my
8 attorney at the time told me that if the retirement
9 kicked in early, that it would just be the retirement
10 and not both.

11 Q She told you this before you signed the
12 Marital Settlement Agreement?

13 A Uh-huh.

14 Q Is that a yes?

15 A Yes. I'm sorry.

16 Q Okay. But you understand the Marital
17 Settlement Agreement doesn't say that.

18 A No, I agree with you there.

19 Q Okay. So you didn't pay for July. You didn't
20 pay for -- alimony for August?

21 A No.

22 Q How about September?

23 A No.

24 Q How about October?

25 A No.

0040

1 Q Okay. Do you now understand that you are

2 behind for those -- at least those four months in

3 alimony?

4 A According to what you're telling me.

5 MR. ALEXANDER: That's your position. We

6 don't agree with that. We understand that's your

7 position.

8 MR. ROSS: Well, tell me anything that

9 disputes that position.

10 MR. ALEXANDER: Rehabilitative alimony by the

11 nature of the statute can't go more than 24 months.

12 I haven't really sprung that on you yet, but I

13 think if you read the statute, it's right in there.

14 If you look at the case with Judge Dennis

15 Craig of Cottam vs. Cottam, there was another

16 attorney, I can't remember who it was, that

17 represented Ms. Cottam, he had written in the

18 settlement agreement 24 months. The Judge set it

19 aside and voided and vacated it, said it couldn't

20 run more than 24 months.

21 MR. ROSS: Okay. Have you filed a Motion to

22 Set Aside the Marital Settlement Agreement?

23 MR. ALEXANDER: He hasn't hired me to do it

24 yet, but I think he probably will in light of -- if

25 you're not going to give us any credit on the,

0041

1 retirement, so --

2 MR. ROSS: Okay. So you're saying --

3 MR. ALEXANDER: I feel relatively confident it
4 will be granted in light of the Cottam case.

5 MR. ROSS: Okay. I would disagree, but you're
6 entitled to your opinion.

7 MR. ALEXANDER: Read the order.

8 BY MR. ROSS:

9 Q So you're saying here that when you signed
10 this Marital Settlement Agreement --

11 A Uh-huh.

12 Q -- right, that -- did you sign it agreeing to
13 pay \$1250 per month, beginning on March 1st, 2011,
14 through July 17th, 2016.

15 A Yes.

16 Q Okay. And you understand what Mr. Alexander
17 just told you?

18 A Yes.

19 Q What did he tell you?

20 A That there's a -- there's -- it shouldn't go
21 longer than 24 months and there's a case out there that
22 supports that.

23 Q Okay. What shouldn't go longer than 24
24 months?

25 A The rehabilitation order --

0042

1 Q Okay.

2 A -- and alimony.

3 Q Okay. You're just hearing that today?

4 A No. Actually, he's told me that before.

5 Q Okay. But when you signed this Marital
6 Settlement Agreement you intended to go through
7 July 10th, 2016, correct?

8 A With the understanding from my attorney that
9 if I was to retire early, the retirement would come in.

10 Q But you agree that nowhere --

11 A I know what you're saying there, but I'm just
12 letting you know what my attorney told me at the time.

13 Q Have you sued your attorney?

14 A No, I have not.

15 Q So if I contact Ms. Hung, is she going to tell
16 me that she told that you?

17 A She should because that's what she told me.

18 Q What's her name again?

19 A Donna Hung.

20 Q Okay. Where is she located?

21 A In Orlando.

22 Q Okay. You don't know her phone number, do
23 you?

24 A No, I don't.

25 Q Okay.

0043

1 MR. ALEXANDER: Maybe your client should be
2 suing her.

3 MR. ROSS: What's that?

4 MR. ALEXANDER: Maybe your client should be

5 suing her.

6 MR. ROSS: I don't think my client needs to
7 sue her. I mean, she's bringing an action against
8 her former husband for not paying.

9 MR. ALEXANDER: I know, but if the judge
10 agrees that it voids the rehabilitative alimony,
11 she's out the money, not him.

12 MR. ROSS: I'm not too concerned about that
13 right now.

14 BY MR. ROSS:

15 Q Is there any writing or documents or evidence
16 you would have besides your word alone that Ms. Hung
17 told you that after you -- your retirement started
18 kicking in, that you would not have to pay alimony?

19 A I do not have any written documentation to
20 that, no.

21 Q Do you know of any that exists?

22 A I don't.

23 Q Okay. You paid April and you paid May of
24 2012, right?

25 MR. ALEXANDER: Paid what now?

0044

1 MR. ROSS: 2013. I'm sorry.

2 MR. ALEXANDER: Child support or alimony?

3 MR. ROSS: Alimony.

4 THE WITNESS: Yes.

5 BY MR. ROSS:

6 Q Okay. And that would be after a period of 24
7 months from the period of time you were obligated to
8 start paying, correct?

9 A That is correct.

10 Q Okay. Let me ask you a question. In your
11 Financial Affidavit, which is dated September 23rd of
12 2013, you swore that you were paying court ordered
13 alimony payments because it says actually paid of
14 \$1,250. You weren't, were you?

15 A That was the money that was -- the income tax
16 that was sent, so yes.

17 Q No, the income tax would have gone through
18 June, as your attorney just pointed out. This is -- you
19 swore on this financial affidavit as of September 23rd,
20 2013.

21 A Yes.

22 Q So you were not paying it as of the time you
23 swore that it was actually being paid.

24 A That is correct.

25 Q Okay. Okay. Now, we move to Item -- on Page
0045

1 3, Item 34, showing mortgage or rent payment, \$1,688.

2 Do you pay that?

3 A Yes.

4 Q Okay. And what -- on what residence is that?

5 A That's 11 Deerfield.

6 Q Where who lives?

7 A My wife dose.

8 Q Okay. Are you paying for where you live at
9 your parents?

10 A No.

11 Q Okay. Does your current wife contribute to
12 this \$1,688?

13 A No.

14 Q Is she employed?

15 A Yes.

16 Q Okay. Where does she work?

17 A Strategy, I think, Lobbying Firm out of
18 Jacksonville.

19 Q And her paychecks -- You got married when?

20 A April of 2012.

21 Q Okay. Since April of 2012, what has been your
22 course of action with respect to where her paychecks go?

23 A She hasn't worked since November.

24 Q November of what?

25 A Of 2012.

0046

1 Q Okay. She hasn't worked from November 2012
2 until now?

3 A Till July, yes.

4 Q Till July?

5 A Of 2013.

6 Q Did she lose her job?

7 A Yes. Well, she resigned from her job.

8 Q She resigned?

9 A Uh-huh.

10 Q And then did she become employed again in July
11 of 2013?

12 A Yes.

13 Q Okay. So let me understand this. From the
14 time you got married until November, when she lost her
15 job, what was your cause of action with your current
16 wife as to her paychecks? Did they go into one joint
17 account or where did they go?

18 A They were separate --

19 Q Okay.

20 A -- prior to 2012.

21 Q Prior to 2012.

22 A Uh-huh.

23 Q Okay. And where was her account at?

24 A I think it was at Wells Fargo.

25 Q Where was your account at?

0047

1 A Wells Fargo.

2 Q Two totally separate accounts?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes.

6 Q Okay. And then did that -- did she
7 contribute -- prior to the time she lost her position or
8 resigned, did she contribute to the monthly bills?

9 A No, I was paying everything.

10 Q Okay. Why would she not pay anything? Where
11 did her check go?

12 A She was -- she paid for groceries and stuff
13 and car insurance and gas and stuff.

14 Q Okay.

15 A I paid for everything -- I paid the rent and
16 everything.

17 Q Okay. And then she became employed again in
18 July of 2013?

19 A That is correct.

20 Q And you two became separated when?

21 A May --

22 Q Okay.

23 A -- of 2013.

24 Q Okay. Did the two of you at any time have any
25 joint account or where you had the ability to write

0048

1 checks on each other's accounts, being a signer on the
2 account or withdraw money?

3 A Yes.

4 Q Okay. What accounts are those?

5 A The one that I provided to you.

6 Q The Wells Fargo?

7 A Yes.

8 Q Okay. Did she put money into that account as
9 well?

10 A Yes.

11 Q Okay. So she deposited money in that account
12 from what period of time till when?

13 A July till just last week.

14 Q Okay. Give me one second.

15 Okay. And she would deposit what money into
16 that account? Money that she earned?

17 A Yes.

18 Q Where is she employed?

19 A Strategy Lobbying Firm.

20 Q That's what she is now. I thought that's the
21 position that she had before that she lost.

22 A No, I'm sorry. I thought you said what did
23 she have now.

24 Q That's fine. What did she resign from?

25 A She was a County Commissioner for Flagler

0049

1 County.

2 Q Okay. So now she deposits her check into the
3 joint account, or has since July. Correct?

4 A That is correct.

5 Q 2013?

6 A Yes.

7 Q Okay. So as far as, then, the checks that are
8 written out of that account to pay for these monthly
9 expenses, does she share in that obligation?

10 A No. I pretty much pay for everything.

11 Q Well, what -- if her paychecks are deposited
12 into the accounts --

13 A She got a new job, and she had been buying
14 clothes and stuff like that out of the account.

15 Q So in other words --

16 A So I've been paying everything.

17 Q -- money goes into that account.

18 A Uh-huh.

19 Q Joint money from her, right?

20 A Uh-huh. Yes.

21 Q That's okay. And the joint money is how much
22 on the weekly basis, or does she get paid biweekly?

23 A Biweekly. It's two-something every two weeks.

24 Q Okay. And then your money goes into that
25 account too, right?

0050

1 A That is correct.

2 Q And you write checks out of there and she
3 writes checks out of there.

4 A That is correct.

5 Q Okay. So you don't know if some of your money
6 goes to her clothes or some of her money goes to pay for
7 expenses, right?

8 A That's true.

9 Q So this mortgage of 1688, your current wife
10 may be contributing to that as well.

11 A Yes.

12 Q As with respect to all of the other bills as

13 well, correct?

14 A That is correct.

15 Q Okay. Then we've got the food and household

16 items down there on Item 48 being \$600. Who is that

17 for?

18 A For the household.

19 Q Okay.

20 A Everyone.

21 Q That's you --

22 A Everybody.

23 Q -- your wife?

24 A And kids.

25 Q Her kids?

0051

1 A Uh-huh. Yes. I'm sorry.

2 Q And your parents too, or no?

3 A No.

4 Q Okay. Meals outside the house, the 150, who

5 is that for?

6 A Myself and her.

7 Q And your wife.

8 A Yes.

9 Q Okay. Then item 56, I have auto loan

10 payments, 779. Who is that -- what is that for?

11 A A vehicle that I purchased.

12 Q What vehicle is that?

13 A That's a 2011 -- I'm sorry, 2012 Lexus.

14 Q What type? What model?

15 A CT200H.

16 Q Was that new?

17 A No, it was used.

18 Q Okay. And the payment on that is 779 a month?

19 A That is correct.

20 Q When did you --

21 A In July.

22 Q -- buy that?

23 A July.

24 Q July of --

25 A 2013.

0052

1 Q Of 2013.

2 A Right.

3 Q So you purchased this vehicle after you

4 resigned from your employment with the Sheriff's

5 Department?

6 A Yes.

7 Q Okay. What was the purchase price?

8 MR. ALEXANDER: If you remember, tell him. If

9 you don't, just say "I don't know."

10 THE WITNESS: I don't know what it was.

11 BY MR. ROSS:

12 Q Is it over --

13 A I think it was -- say -- I don't know the

14 exact amount.

15 Q Over 60,000?

16 A No.

17 Q Over 50?

18 A No. It was -- I don't know what it was.

19 Q How long are your payments for, do you know
20 how many years?

21 A Five, I believe.

22 Q Okay. Do you have the contract for that car?

23 A I do.

24 Q Okay. Can you provide that to me, please.

25 A Okay.

0053

1 Q And where did you purchase that from?

2 A Car Max in Sanford.

3 Q Okay. Did you have to fill out a financial
4 application?

5 A No, I did not.

6 Q Okay. Does your wife have a vehicle as well?

7 A Yes.

8 Q What does she have?

9 MR. ALEXANDER: Objection. It's not relevant.

10 MR. ROSS: Noted.

11 MR. ALEXANDER: I'm instructing him not to
12 answer.

13 MR. ROSS: Can you state the basis?

14 MR. ALEXANDER: Under Rule 12.285, my

15 understanding is if he's remarried, you're not
16 entitled to know any of his wife's assets unless
17 they're joint.

18 MR. ROSS: Okay. I would disagree. But if
19 you're instructing him not to answer, then I will
20 certify the question.

21 MR. ALEXANDER: That's fine. Certify it.

22 BY MR. ROSS:

23 Q Okay. Now I show under Item 63, you see
24 health insurance of 279.88?

25 A Yes.

0054

1 Q Do you pay for that?

2 A Yes.

3 Q Okay.

4 A That -- and that's actually the old insurance
5 when I did this, so this has gone up --

6 Q Okay.

7 A -- just to let you know.

8 Q And you testified to that before, correct, in
9 this deposition?

10 A Yes, I did.

11 Q Okay. And then you have down here orthodontic
12 braces of 160. Did you sign a contract for Brianna's
13 braces?

14 A No, I did not.

15 Q Do you pay for the braces?

16 A No, I don't.

17 Q How come you put down here \$160?

18 A That's what I owed them, according to what
19 they tell me up there.

20 Q Which is "they," please?

21 A The orthodontist up in St. Augustine.

22 MR. ALEXANDER: Just for the record, is that a
23 recurring monthly bill or is that just a
24 one-time --

25 THE WITNESS: A monthly bill.

0055

1 BY MR. ROSS:

2 Q Okay. And why are you not paying it?

3 A Because -- I wasn't paying it because there
4 was -- this was all done when I didn't know anything
5 about it, and my ex-wife had told me that she was going
6 up there, I couldn't make it, and then the braces were
7 put on.

8 Q So you never agreed to it.

9 A Never.

10 Q Okay. Let me show you this, which I'll ask to
11 be marked as Exhibit 1. And you can show it to your
12 attorney as well, and ask if that's a contract for
13 braces that you agreed to for Brianna.

14 (Exhibit 1 was marked for identification)

15 THE WITNESS: Yes, I signed it in March of
16 this year.

17 BY MR. ROSS:

18 Q So you did sign it.

19 A Yes. I went there.

20 Q Okay. I thought you had said that you did not
21 sign it.

22 A In the beginning, when this first -- when the
23 braces first went on, I didn't sign.

24 Q So you subsequently agreed to pay.

25 A Uh-huh. Right. And I contacted them the
0056

1 other day to find out what -- what it was, how much I
2 owed and everything.

3 Q But you haven't paid?

4 A I have not paid, no. I have not paid them.

5 Q And now we're in October and this was in
6 March, correct?

7 A That is correct. I didn't have the money at
8 the time and I was trying to get insurance and
9 everything else, so I didn't pay them.

10 Q You didn't have the money at what time?

11 A When I signed that.

12 Q In March?

13 A That is correct.

14 Q Well, you certainly had the money to buy the
15 Lexus in July of 2013, right?

16 A I didn't put any money down. Correct.

17 Q Well, you you've made payments on the

18 payment -- on the Lexus, correct?

19 A That is correct.

20 MR. ROSS: Okay. Okay. I'm going to attach

21 this as Exhibit 1 as I indicated.

22 BY MR. ROSS:

23 Q Has your former wife notified you that you owe

24 money for the braces?

25 A When?

0057

1 Q Ever.

2 A Yes.

3 Q She sent you e-mails?

4 A Yes.

5 Q And you still have not paid, correct?

6 A That is correct.

7 Q Item 99 references pet food and grooming of

8 \$100. Who is that for?

9 A A dog that I have.

10 Q Is the dog with you or your wife?

11 A Right now it's with my wife.

12 Q And on Item 12d [sic], you show a Kay Jewelers

13 Credit card. What -- Do you see that, 12d. Or 112d.

14 I'm sorry.

15 A Yes.

16 Q On Page 5.

17 A That is correct.

18 Q Can you explain that, what's that's for?

19 A That's for my wife's wedding ring.

20 Q You're current wife, right?

21 A That is correct.

22 Q Have you had an opportunity to look at your
23 former wife's affidavit?

24 A No.

25 Q Okay. Let me have you take a look at this

0058

1 now. Take whatever time you need to look at it and tell
2 me if there's anything that you have knowledge of that
3 you disagree with or think is incorrect.

4 A (Examining.)

5 And you're asking me --

6 Q Anything on your former wife's affidavit that
7 I have before you that is dated, I believe, September of
8 2013. Why don't we look at the end to make sure we're
9 looking at the right one.

10 A 9/4?

11 Q Yes. And if you could tell me if there's
12 anything on there that you believe is incorrect or that
13 you disagree with.

14 A Not off the top of my head. I don't see
15 anything that jumps out in front of me.

16 MR. ROSS: Okay. Have you seen this?

17 MR. ALEXANDER: Yeah, I have.

18 BY MR. ROSS:

19 Q Do you have a Flag Credit Union account?

20 A No.

21 Q Have you?

22 A Yes, I have.

23 Q Okay. And when did you have that Flag Credit

24 Union account until?

25 A It was December 2012. They closed it.

0059

1 Q Okay. When you say they closed it, who is

2 "they"?

3 A Flag Credit.

4 Q Okay.

5 A There was money in it.

6 Q Did you take money out of there before then?

7 A Yes, I did.

8 Q Did you take like a lump sum out?

9 A I took some money here and there. It was

10 not -- there wasn't a lot going into it.

11 Q Do you have -- I don't think you provided us

12 records for Flag Credit Union, right?

13 A No, I don't have any for them.

14 MR. ROSS: Do you have any records for --

15 MR. ALEXANDER: We're not going to provide it.

16 We don't have to go past 12 months.

17 MR. ROSS: Okay. So your position, Steve, is

18 that you're refusing to provide those to us,

19 correct?

20 MR. ALEXANDER: Under 12.285, Supplemental

21 Proceedings discovery requests, all bank records,
22 it's either three months or 12 months.

23 MR. ROSS: Yeah, that's mandatory. This is a
24 Notice of Taking Deposition with a Schedule A that
25 references the prior amounts.

0060

1 MR. ALEXANDER: Okay. We're not providing
2 them.

3 MR. ROSS: Okay. We will deal with that.

4 BY MR. ROSS:

5 Q And what about a Morgan Stanley account, did
6 you have that?

7 A I did.

8 Q Okay. And what happened to that?

9 A That's closed. There's no money in it.

10 Q When did you close that?

11 A 2012.

12 Q Okay. And who was on that account with you;
13 anyone?

14 A Just myself.

15 Q Okay. And did you take out a large amount of
16 money then.

17 A Yes.

18 Q How much did you take out?

19 A I think it was like 15.

20 Q 15,000?

21 A 15,000.

22 Q Okay. And what did do you with that money?

23 A I got married with that.

24 Q You paid for the wedding with that?

25 A Yes.

0061

1 Q Okay.

2 MR. ALEXANDER: Just for the record, about
3 what month are we talking about?

4 THE WITNESS: I'm sorry, April.

5 MR. ALEXANDER: Of last year?

6 THE WITNESS: Of 2012, yes.

7 MR. ALEXANDER: Okay.

8 BY MR. ROSS:

9 Q Okay. Your former wife received these
10 documents in the mail. (Indicating.) Obviously, she
11 did not open them. Can you tell me what they represent?
12 One says Nationwide Retirement Solutions, made out to
13 you. Any idea what that is?

14 A That was a insurance company through the
15 sheriff's office, I believe, that if there was a -- if I
16 was to be hurt on the job or something like that, it
17 would cover me additionally.

18 MR. ALEXANDER: Disability, you mean?

19 THE WITNESS: Yeah.

20 MR. ROSS: Can you open it up and take a look
21 at it and we can figure out what it is?

22 THE WITNESS: Sure.

23 MR. ROSS: Because I'm certainly not opening
24 your mail.

25 THE WITNESS: That's okay.

0062

1 This -- do you want me to --

2 BY MR. ROSS:

3 Q Sure. Just tell me what it is.

4 A This is where I was putting money into this
5 account, this was a retirement like deferred comp.

6 Q Okay. Deferred comp.

7 A Yes.

8 Q Okay. So how much is in there?

9 A As of this date, it was 3,647.76, and that was
10 as of 10/1/2012. I'm sorry, it was --

11 Q The just came, so I'm assuming it's 2013.

12 A I'm sorry. Balance of 12/31 of 2012, it
13 was -- there's two dates on here, so the one date says
14 balance as of 10/1 of 2012: 3,647.76.

15 And then you have gains and loss at minus
16 58.98, and it gives you a balance as of 12/31/2012 of
17 \$3,588 --

18 Q Okay.

19 A -- and 78 cents.

20 Q Can I look at the statement? Show it to your
21 attorney first, if he wants to.

22 THE WITNESS: And this was a 457b plan.

23 MR. ALEXANDER: (Examining.)

24 How long has she been holding onto this? It's
25 from last year.

0063

1 Go ahead and show it to him.

2 BY MR. ROSS:

3 Q Okay. So is that money still --

4 A No.

5 Q -- existing?

6 A No, sir.

7 Q You took this money out?

8 A Yes, sir.

9 Q When did you take it out?

10 A March of 2013.

11 Q Okay. This is yours. (Tendering.)

12 Okay. Okay. Then she got this one from the
13 Hartford Retirement Plan Service Center. Do you have
14 any idea what this is?

15 A No, I do not.

16 Q You want to open it up and take a look and we
17 can figure that out?

18 A I think that -- I think it's the same thing.

19 (Examining documents.)

20 Q Find that an elderly aunt died and left you a
21 million dollars?

22 A I wish.

23 This is a deferred comp thing. It's also
24 closed as well.

25 Q Okay. That's a different deferred comp?

0064

1 A Yes.

2 Q Okay. How much was in there?

3 A As of -- ending balance of 12/31/2012,

4 \$6,297.44.

5 Q Okay. And when did you take that money out?

6 A In March as well.

7 Q And what did you do with that money?

8 A Apparently I spent it.

9 Q Okay. You don't know how you spent it,

10 though, presumably, correct?

11 A That is correct.

12 Q Did you deposit it in another account?

13 A No, I did not.

14 Q You would have taken it out in cash?

15 A And put it in -- it would -- it was given to

16 me in a check.

17 Q Okay. And then what did you do with the

18 check?

19 A I deposited into my account.

20 Q That's what I'm asking, if you deposited into

21 another account. The Wells Fargo account?

22 A Yes.

23 Q Okay. Same thing with this other one?

24 A Correct .

25 Q Okay.

1 MR. ALEXANDER: While we're on the subject
2 matter on those two accounts, can I ask one
3 question?

4 MR. ROSS: Sure.

5 MR. ALEXANDER: Would you have had those two
6 accounts active at the time of your divorce from
7 her, or were they -- would these have been opened
8 after your divorce, or do you remember?

9 THE WITNESS: I don't remember when it was
10 opened.

11 MR. ALEXANDER: Okay.

12 MR. ROSS: Let's do this. Let's -- can we
13 copy those? And I'll give it to her to copy. I
14 feel bad having to copying everything them for us.
15 And let's attach it to the deposition, okay, so we
16 all have copies. Okay with you?

17 MR. ALEXANDER: I don't really want to attach
18 it to the deposition. Can't we just give it to
19 you? I hate putting that in the court file. I
20 don't like putting account numbers, unless you
21 agree to redact out --

22 MR. ROSS: Well, it's already removed. That's
23 why -- he's taken the money out.

24 MR. ALEXANDER: I see so much fraud these
25 days. You don't know how much I handle on the

1 criminal end of --

2 MR. ROSS: I don't care. I don't need this
3 attached. But just why don't we make copy of.

4 MR. ALEXANDER: I'll give you a copy of it.

5 MR. ROSS: Want to send me copies?

6 MR. ALEXANDER: We'll do it today.

7 MR. ROSS: That's fine.

8 MR. ALEXANDER: Okay. It's within 12 months,
9 so you're entitled to it.

10 BY MR. ROSS:

11 Q Now, you agree that the Final Judgment
12 requires you to equally divide uncovered deductibles,
13 correct, for medical, dental orthodontic?

14 A Yes.

15 Q Did you do this?

16 A I don't understand your question.

17 Q Have you done this or have you not done this?
18 Have you not -- Are you behind, is what I'm asking.

19 A I'm behind in the orthodontist, yes.

20 Q Okay. What about any other co-pays that you
21 haven't paid or that your former wife has advised you
22 of?

23 A I just got an e-mail that she went to the
24 chiropractor with some payments attached to it. And
25 then attached to that, I think, there was ones from last

0067

1 year or something.

2 Q Okay. One for last year from 2012, and then
3 for 2013, correct?

4 A Correct.

5 Q What about for prescriptions, did she also
6 provide with you information as to the amount of
7 prescriptions that were past due?

8 A I just got that one.

9 Q Okay. So you've never gotten them before?

10 A No.

11 Q Okay. And when would you be paying those?

12 A The ones for 2013?

13 Q And '12.

14 A Well, the 2012, I'm disputing those because --

15 Q Why are you disputing those?

16 A Well, because the Court Order says that she
17 has 30 days to provide it and I have 30 days to pay it.

18 Q So you're not going to pay those from 2012.

19 A I'm going to talk to my attorney about it.

20 Q Okay. What about all of the extracurricular
21 expense, what's your position on that?

22 A When I -- in 2011 -- 2010 -- I'm sorry, 2011,
23 I told my former wife that I was not in agreeance [sic]
24 to any of the dance stuff and that I was not paying it.
25 And she continued to put her into dance clinics and

0068

1 everything else and I told her then -- I told her back

2 then that I was not paying for it --

3 Q Okay.

4 A -- and if she wanted to continue, she would
5 pay for it herself.

6 Q And in what form did you tell her this?

7 A It was verbal. And, if I'm not mistaken, I
8 had sent her -- I replied to one of her e-mails.

9 Q Do you have any of the e-mails that you're
10 responding -- I guess you sent one e-mail. Do you have
11 any e-mail or writing or evidence to support the
12 contention that you told her you would not be agreeing
13 to dance?

14 A I don't know. I would have to check.

15 Q You don't have any with you today?

16 A I don't have any today, no.

17 Q Can you look for that too --

18 A Uh-huh.

19 Q -- and provide that to me? Thank you.

20 Why do you not agree to the dance?

21 A Because it's too much and as -- now, my
22 daughter's injured over it. And she's going --

23 Q Tell me --

24 A -- through -- she's going to a chiropractor at
25 the age of 15 because she's hurt her hip, she's hurt her

0069

1 leg, her wrist, and everything else to go along with it.

2 Q Okay. Did you agree with her originally being
3 in the dance?

4 A What do you mean, originally?

5 Q When she started dance, did you agree to it?

6 A Uh-huh. And then she got more and more

7 involved in it and I was not a big fan of it.

8 Q Okay. Had your wife discussed with you that

9 there was a dance season for the year that you obligated

10 yourself to?

11 A I didn't obligate myself to it and I told her

12 then that I wasn't paying for anymore.

13 Q That was -- When is then?

14 A That was in 2000 -- it was 2010, 2011,

15 somewhere around there. The end of 2010 into 2011.

16 Q And that would be something you'll look for so

17 that we can really identify the date that, correct?

18 A Yes.

19 Q You started receiving your retirement check

20 when?

21 A At the end of April, I think it was.

22 Q Okay. Do you know when your former wife

23 started receiving her portion?

24 A July.

25 Q And why is that?

0070

1 A I don't know why.

2 Q Okay. So were you receiving more of the

3 retirement check for April, May and June? Then you

4 started receiving less because she was receiving a

5 percentage of the retirement check?

6 MR. ALEXANDER: When we did the May financial
7 affidavit, we explained that in the May financial
8 affidavit. You want to take a look at that again
9 or not? It shows that you're making a full benefit
10 and you knew that at some point her amount was
11 going to come out of it.

12 THE WITNESS: Right.

13 MR. ALEXANDER: You just didn't know when it
14 was going to take place.

15 THE WITNESS: Right. Correct.

16 MR. ROSS: So my question now is you were
17 receiving the full benefit for April, May and June,
18 correct?

19 MR. ALEXANDER: You're looking at the wrong
20 financial affidavit. Is that the one from -- which
21 one is that one?

22 THE WITNESS: This is from September.

23 MR. ALEXANDER: Yeah. Here, I'll give you the
24 one that was from May.

25 But listen to his question. You can answer

0071

1 without seeing it. Go ahead, ask it again,
2 counsel.

3 BY MR. ROSS:

4 Q You were receiving the full benefit for April
5 May and June, correct?

6 A I believe -- whatever they were sending me.

7 Q Which -- do you know whether that was the full
8 retirement benefit? Because you're now indicating your
9 former wife did not receive her percentage of it until
10 July.

11 MR. ALEXANDER: Here you go. (Tendering
12 document.)

13 THE WITNESS: They had sent me -- someone had
14 sent me something saying that the Quadro was
15 completed and X amount of dollars was coming out of
16 my check to go to her. What that was, I don't know
17 what it was.

18 BY MR. ROSS:

19 Q You just indicated, did you not, a moment ago,
20 that you received your retirement benefit for April, May
21 and June. Correct?

22 A Correct.

23 Q Okay. And you just indicated that your former
24 wife did not start receiving hers until July. Correct?

25 A That is correct.

0072

1 Q So do you not owe her one-half of the
2 retirement benefit that you were receiving, the whole
3 one for April, May and June?

4 MR. ALEXANDER: David, you got the entire
5 benefit for April, May and June.

6 THE WITNESS: Yeah, I did. That's what --

7 MR. ALEXANDER: That's what he's asking you.

8 THE WITNESS: Yeah, I did. I got the

9 entire --

10 MR. ROSS: It not a trick question.

11 THE WITNESS: No, I was just trying to think.

12 I got the whole thing, yes.

13 BY MR. ROSS:

14 Q Okay. So wouldn't she be entitled to that

15 one-half of each of those payments for April, May and

16 June, or is there some reason she's not from your

17 perspective?

18 A There's nothing from my perspective that she

19 wouldn't be entitled to it.

20 Q Okay. So why have you not paid her that half

21 for April, May and June that you were obligated to pay

22 her?

23 A I don't have any reason why I didn't pay it.

24 Q Okay. Is there some plan that you would now

25 have to pay this?

0073

1 A I would have to get with my attorney, see what

2 I can do to work it out and see how I'm going to take

3 care of it.

4 Q Okay. What other lump sum did you receive

5 from the Sheriff's Office before -- other than deferred

6 compensation when you resigned? Anything else?

7 A I think it was sick time I received. Sick

8 time.

9 Q Do you know how much you received?

10 A No, I do not.

11 Q Do you have any records of that?

12 A Yes.

13 Q Okay. Where are those records?

14 A At the Sheriff's Office. They would have
15 given them to me in a pay stub and I don't have that.

16 Q Okay.

17 A I can get it.

18 Q And that sick time would have been in the form
19 of a check?

20 A Yes.

21 Q And you have no clue what that was?

22 A No, I do not.

23 Q Okay. And that was sick time that you earned
24 during the time of your marriage to your former wife?

25 A Correct.

0074

1 Q Okay. Did you pay any of that amount that you
2 received for sick time to your former wife?

3 A No.

4 Q Okay. And do you know why not?

5 MR. ALEXANDER: It's not in the Settlement
6 Agreement. That's probably the best reason. Is
7 there anything in the Settlement Agreement that you
8 recall that required you to pay any vacation or

9 sick leave or pay to your wife?

10 THE WITNESS: No.

11 BY MR. ROSS:

12 Q Did you receive any other money from the
13 Sheriff's Department when you left --

14 A No, I didn't.

15 Q -- other than what you've told me so far?

16 A No.

17 Q When's the last time that you saw Brianna?

18 A It's been over a year.

19 Q Okay. And why is that?

20 A Because she doesn't want to come to see me.

21 Q And how do you know that?

22 A Because she sent me an e-mail to that effect.

23 Q Who sent you the e-mail?

24 A Brianna did.

25 Q When did she send that you e-mail?

0075

1 A Last year.

2 Q Okay. And last year being -- any idea when
3 that e-mail was?

4 A No, I don't.

5 Q Okay. But we're talking about 2012, correct?

6 A That is correct.

7 Q Okay. And did she indicate - that being

8 Brianna - why she didn't want to see you?

9 MR. ALEXANDER: I'm going to object to this

10 entire line of questioning, make a continuing
11 objection. It's not relevant to any pending
12 pleading.

13 But you have to answer. Go ahead.

14 THE WITNESS: Can you repeat it?

15 BY MR. ROSS:

16 Q Sure. Did Brianna indicate why she did not
17 want to see you?

18 A She said she didn't like coming to the house
19 and she didn't feel comfortable.

20 Q Do you still have that e-mail?

21 A I think I do.

22 Q Okay. And so what efforts did you make after
23 you received that e-mail from her saying that she was
24 not comfortable coming to the house? Let me back up for
25 a second. Did she specify why she wasn't comfortable?

0076

1 A No.

2 Q Okay. And was that the first time you heard
3 that Brianna was not comfortable coming to the house?

4 A No.

5 Q She had said that to you before?

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes. I'm sorry.

9 Q And what had she articulated the reasons
10 before for not being comfortable?

11 A She really didn't say. I would go out to
12 dinner with her and talk with her and she just didn't
13 feel comfortable coming. You know, she didn't like --
14 it was a hard time for Brianna during that time.

15 And I met somebody and, you know, I don't know
16 if Brianna didn't know how to handle it, and I probably
17 didn't handle it well either, and she didn't want to
18 come.

19 Q Okay. So after she sent you this e-mail and
20 said she didn't want to come anymore, what did you do to
21 try to see her?

22 A I didn't do anything.

23 Q Why is that?

24 A Because I didn't want to upset her any more
25 than what she already was.

0077

1 Q Have you made any attempt to see her since
2 that time that she sent that you e-mail saying she
3 didn't want to see you?

4 A No.

5 Q Did you attend any of her dance competitions
6 this year or last year?

7 A I think in 2000 -- this year or last year, no.

8 Q Okay. Did you call her for her birthday this
9 year?

10 A No, I did not.

11 Q Did you send her a birthday card or a present?

12 A No, I did not.

13 Q Did you send her any Christmas presents or any
14 cards?

15 A No, sir.

16 Q Would it be correct that you would have seen
17 Brianna for a total of six nights in all of 2012?

18 A I don't know.

19 Q Has your former wife called you and texted you
20 several times a month and sometimes several times a week
21 about Brianna?

22 A In reference to?

23 Q Anything about Brianna.

24 A Yeah.

25 Q Have you made any attempt to talk to your
0078

1 former wife regarding Brianna in this year?

2 A I had called back and I sent her a text to ask
3 her what she needed.

4 Q When was that?

5 A A week or two ago.

6 Q A week or two ago?

7 A (Nods head.)

8 Q What do you mean, what she needed. Explain
9 what you mean.

10 A She said she needed to talk to me about
11 Brianna and I asked what she needed and she said call.
12 I asked her what she needed.

13 Q And did you call her?

14 A I did.

15 Q You did or did not?

16 A I did.

17 Q Okay.

18 A And she asked me about the insurance, wanted
19 to know about the insurance, when she was going to get
20 the insurance card and if it was a PPO or not.

21 Q Do you have any objection to your former wife
22 and Brianna moving out of state?

23 MR. ALEXANDER: You don't have to answer that.
24 They have to give you 30 days under the rule.

25 MR. ROSS: That has to do with the petition.

0079

1 I'm asking him his feelings on it.

2 MR. ALEXANDER: I'd recommend you not answer
3 it.

4 THE WITNESS: I'm not going to.

5 MR. ROSS: You're advising the witness not to
6 answer the question?

7 MR. ALEXANDER: It's my recommendation.

8 MR. ROSS: On what basis is that?

9 MR. ALEXANDER: There's no petition to
10 relocate currently filed. It's total speculation.

11 MR. ROSS: It doesn't have to be with respect
12 to a question.

13 MR. ALEXANDER: You don't have to follow my

14 advice. That's just my recommendation.

15 MR. ROSS: His is not privileged information.

16 BY MR. ROSS:

17 Q I'm simply asking you a question. Do you have
18 an objection to your former wife and Brianna moving out
19 of the State?

20 THE WITNESS: I'm not going to answer that.

21 MR. ROSS: Okay. We'll certify that question.

22 BY MR. ROSS:

23 Q Have you had \$100,000 in life insurance with
24 your former wife as sole beneficiary maintained at all
25 times since the Final Judgment?

0080

1 A Up until March.

2 Q What happened in March?

3 A When I retired, I no longer had it.

4 Q Okay. And do you have it now?

5 A No, I do not.

6 Q Okay. And why is that? Why don't you have
7 it?

8 A I just haven't looked into it and I haven't
9 had the time to check it out yet, so...

10 Q You haven't had the time since March through
11 October to check it out?

12 A No, I did not.

13 Q How much money have you paid in attorney's
14 fees so far?

15 A I believe \$3,000.

16 Q Okay. And do you owe money right now?

17 A No, I do not.

18 Q Probably might after today, right?

19 A I could.

20 Q Okay. All right. Do you claim that your
21 former wife has not done anything that she was required
22 to do pursuant to the Marital Settlement Agreement or
23 Final Judgment?

24 A Not that I know of.

25 Q Okay. Have you applied for any other

0081

1 employment, other than what you have right now, since
2 you resigned from the Sheriff's Department?

3 A No.

4 Q Do know what witnesses would have any
5 knowledge of any matter involved with the controversy
6 that we have here today that you may call to testify?

7 A Not that I know of.

8 Q Okay. Do you know of any documents or
9 writings or videos or photographs that you intend to
10 utilize in the trial in this case or any hearings?

11 A Not that I know of.

12 MR. ROSS: Okay. Why don't we take a
13 five-minute break, if we can, and then I'll start
14 going through some of these unexciting documents.,
15 okay?

16 THE WITNESS: Okay.

17 MR. ROSS: Thank you.

18 (A recess was taken.)

19 BY MR. ROSS:

20 Q Okay. We are back on the record.

21 And I'm going to show you what we'll mark as

22 Exhibit -- I'll mark as Exhibit 2.

23 (Exhibit 2 was marked for identification)

24 BY MR. ROSS:

25 Q And I don't know if you have copies of the

0082

1 Wells Fargo checking records with you to follow along,

2 or I'll --

3 MR. ALEXANDER: Is it the stuff I provided

4 you?

5 MR. ROSS: Yes, it is.

6 MR. ALEXANDER: Okay.

7 MR. ROSS: And I'll tell you what's going to

8 be easier, and I don't know how you feel about

9 this. It might be easier with you sitting next to

10 me and just for me to show these to you.

11 Do you have a problem with that? Do you have

12 a problem with that, Steve?

13 MR. ALEXANDER: No, that's all right.

14 MR. ROSS: Okay.

15 MR. ALEXANDER: Why don't you do this. Why

16 don't you just stand up and look over --

17 MS. O'BRIEN: Switch seats?

18 MR. ALEXANDER: That would be good. Do it
19 like that.

20 MR. ROSS: Switch seats, yeah.

21 (Discussion off the record.)

22 BY MR. ROSS:

23 Q Okay. So I'm looking at Exhibit 2, which is a
24 statement here from Wells Fargo, which is dated
25 April 10th, 2012, to May 8, 2012, and I'm trying to
0083

1 figure out what these highlighted charges are. The
2 first one shows 4/10, and it shows online transfer from
3 checking account, and that seems to say 2843. Can you
4 explain to me what checking account 2843 is?

5 A I think the 2843 was the Morgan Stanley
6 account.

7 Q Okay. So you have taken money out of the
8 Morgan Stanley and put it in the Wells Fargo.

9 A Correct.

10 MR. ROSS: And the Morgan Stanley records are
11 the ones, Steve, you don't want to give me?

12 MR. ALEXANDER: If they're over 12 months old,
13 those are the ones I don't want to give you.

14 BY MR. ROSS:

15 Q And then we've got, on 4/12, you can see, of
16 2012, we have Flag Credit Union. What is this, this
17 \$800 deposit, and it says Flag Credit Union. Did you

18 transfer money out of that?

19 A Yes.

20 MR. ROSS: Okay. That's the other account you
21 don't want to give me as well. Yes?

22 MR. ALEXANDER: Once again, if it's over 12
23 months, I do not want to give that to you without a
24 court order.

25 BY MR. ROSS:

0084

1 Q Can you tell me what any of those checks are
2 for written on 4/12? And you see them highlighted,
3 right?

4 A Yes, I do.

5 MR. ALEXANDER: Go off the record.

6 (Discussion off the record.)

7 THE WITNESS: Okay. I don't know what they
8 are.

9 BY MR. ROSS:

10 Q You don't know what those are. Okay.

11 Then we have on 4/13a recurring transfer.

12 A Yes.

13 Q Reference to Way 2 Save Savings?

14 A Yes.

15 Q Can you explain what that is?

16 A That is what's ever in your checking account,
17 once a week, if you have any money in it, \$10 goes into
18 that Way 2 Save. And if it doesn't, it doesn't

19 transfer.

20 Q So is that a separate savings account with the
21 numbers 4957 as the last digits?

22 A That is correct.

23 Q And do you still have that?

24 A Yes.

25 Q Okay. And what account -- what is that? Is
0085

1 that Wells Fargo as well?

2 A Yes, it is.

3 Q And how much is in there?

4 A Nothing as of today.

5 Q Okay. What is -- did you just recently take
6 money out of there or what?

7 A There was -- No, I just -- it's kind of set up
8 to your checking account. If you can follow me, it's
9 set up to your checking account. So if you -- say you
10 use your debit card.

11 Q Okay.

12 A They transfer a dollar to your savings
13 account. So it's kind of all the same money that's in
14 your account, and then if you run -- if you bounce a
15 check, they can take it from that account and bring it
16 over into your checking account to cover anything.

17 Q Okay. Then on 4/17 we have another transfer
18 from the Flag Credit Union, right?

19 A That is correct.

20 Q Okay. Any idea what this 4/17 check is for

21 \$1800?

22 A No, I do not.

23 Q Okay. 4/19 we have an online transfer of \$30.

24 It says Way 2 Save, but it's into the account, right?

25 A That is correct.

0086

1 Q Explain that one to me.

2 A So -- Can I see this?

3 Q Sure.

4 A If you -- So like can I just use an example

5 with you?

6 Q Sure.

7 A If you -- say the bill pay credit card, bill

8 day credit card and stuff like that, if you use -- as an

9 example, if you were to use your debit card for that, a

10 dollar would go in. So it was an online transfer from

11 the account, from the Way 2 Save to the -- what do you

12 call -- it the checking account.

13 Q Okay.

14 A Or into the Way 2 Save, I'm sorry.

15 Q Okay. Then this is just a purchase of

16 cigarettes or something of that nature on 4/19?

17 A At the BP station. I don't know what it was.

18 Q And then what is this on 4/19 showing 4957?

19 A It says overdraft protection. So they took

20 \$5.63 and they put it into my checking account to cover

21 a check.

22 Q And what was the -- what is the account ending
23 in 4957?

24 A 4957. That's my checking account, if I'm not
25 mistaken.

0087

1 Q I'm looking at your -- In other words, if it's
2 an overdraft protection, it would come from somewhere
3 else, right? See what I'm saying? Because it says from
4 this account. And this is your checking account we're
5 looking at, right? And that checking ends in 3970,
6 so --

7 A Right.

8 Q -- I'm trying to figure out that.

9 A I don't know what it is.

10 Q Okay. Then you've got Flagler County payroll.

11 A Correct.

12 Q And that's your check, your paycheck?

13 A Yes.

14 Q All right. And then we have another deposit
15 right after that. Any idea what that deposit is from?

16 A No, I don't.

17 Q Okay.

18 A That's, what, 215.56? No, I don't know what
19 that is.

20 Q Okay. Then we move once again down to 4/20 on

21 Page 2 of this and I've got a recurring transfer, 2843,

22 of 971.26. What does that represent, if you know?

23 A I don't know what that is.

24 Q Okay. And then I have another one down here
25 online transfer from checking via mobile of \$800. Can
0088

1 you explain what checking account that would have come
2 from?

3 A This -- Can we go back up to 4/23?

4 Q Sure.

5 A That is a deposit from Flag Credit Union.

6 That's the one you were asking me about.

7 Q Okay. That's the \$800. Okay.

8 A Correct.

9 Q From Flag. Right, I understand that one.

10 This is the one I don't understand. It says
11 from checking and it's another deposit of \$800. And I'm
12 trying to figure out what credit -- what other checking
13 account that you may have had or -- it was transfer
14 from.

15 A All right. I don't know.

16 Q Okay. Well, did you have any other checking
17 account at that time?

18 A No, I didn't have any other checking account.

19 That's why I don't know which one it is. I only had one
20 checking account and the Way 2 Save account. And I had
21 the Flag Credit Union and the Morgan Stanley at that
22 time. This is 2012, right?

23 Q Yes.

24 A Uh-huh.

25 Q April to May of 2012.

0089

1 A Uh-huh.

2 Q Any clue what this payment is on 4/30. It's a
3 reference to Paris. I'm just curious.

4 MR. ALEXANDER: Did you take a honeymoon to
5 Paris? I know that much.

6 THE WITNESS: Yeah, that was my -- I didn't
7 know it. Yeah.

8 BY MR. ROSS:

9 Q You went to Paris?

10 A Yeah, I went to Paris.

11 Q Okay. And once again we have that recurring
12 transfer again on 5/4 of 2012 of 971.26 reference to
13 another checking account.

14 A I don't know what it is.

15 Q Any idea?

16 A No. I don't know what it is.

17 Q Okay. We can attach Number 2 and I'll move on
18 to 3.

19 (Exhibit 3 was marked for identification)

20 BY MR. ROSS:

21 Q Okay. Now we're on 3. Once again, we've got
22 that on 3/9. And this is March 9th, 2012, to April 9th,
23 2012 statement, we've got that recurring transfer again

24 of the 971.26, 2843. Doesn't click still?

25 A No.

0090

1 Q Okay.

2 A That's for the same amount?

3 Q Right.

4 Once again on 3/16, we have an online transfer
5 from checking. And this is your checking account once
6 again, right?

7 A Uh-huh.

8 Q So any idea how -- from what checking account
9 that occurred from?

10 A It probably came from --

11 MR. ALEXANDER: I'd prefer you not say
12 "probably." Either you know or you don't.

13 THE WITNESS: No, I don't know what it is.

14 BY MR. ROSS:

15 Q Okay. How do you think we'd figure that out,
16 or how would you figure that out?

17 A I'd have to get with the bank and find out
18 from them.

19 Q Okay. Once again on 3/23, this one identifies
20 that same recurring transfer to checking, ending again
21 in 2843. Do you see that?

22 A Uh-huh.

23 Q Same thing. I mean it's a lot of recurring
24 transfers to that account.

25 A I agree with you. I don't know what it is,

0091

1 though.

2 Q Okay. Do you have any record with you on the
3 Flag or on any of the other ones so we can identify this
4 number and figure out what it is, or the Morgan Stanley,
5 whatever it may be? Because we're going to see it
6 throughout and I'm just trying to see how we can figure
7 this out.

8 A I don't have -- I don't have anything --

9 BY MR. ROSS:

10 Q Nothing with you that would --

11 A No.

12 Q Okay. Then we go to 3/29, we have another
13 online transfer from checking again. Do you see my
14 concern there? I'm just not sure what checking account
15 it's from, and you don't know either, right?

16 A No.

17 Q And nothing that you could look at that would
18 refresh your recollection as to what it was?

19 A No.

20 Q Okay. Did you keep check registers, like
21 records, to show what was happening?

22 A No.

23 Q Okay. And just to point out, you see it
24 again, right, on 4/6, 971.26.

25 A Yes.

0092

1 Q If at any time when I'm showing you these, if
2 it's something that you could think of that could help
3 us identify what that is, let me know. Okay?

4 A Okay. Yes.

5 Q I presume this is for your current wife,
6 Pretty in the City Palm Coast?

7 A No, that was mine.

8 Q That was yours. What is that?

9 A It's a haircutting place.

10 MR. ROSS: Okay. Okay. I'm going to put 3
11 down here and I'm going to take out 4.

12 (Exhibit 4 was marked for identification)

13 BY MR. ROSS:

14 Q And this is February 2012 to March. Once
15 again now you see the February 9th, an online transfer
16 from checking. But you say you didn't have another
17 checking account. And that's a pretty large deposit,
18 \$2200.

19 A Uh-huh.

20 Q Any clue?

21 A No.

22 Q Okay. And, of course, we've got our
23 February 10th recurring transfer of the 971.26. Again
24 still no clue, right?

25 A That is correct.

0093

1 Q Okay. Once again we have 2/16, we have a
2 pretty large deposit of \$1,000 from 2843. No idea what
3 that is?

4 A No.

5 Q And once again we have a February 23rd
6 transfer from 2843 again.

7 A Uh-huh.

8 Q And you don't know what that is, correct?

9 A No.

10 Q Once again we've got a large transfer from
11 2843 on 3/1, right? And another one on March 2nd of
12 \$1800.

13 A Correct.

14 MR. ROSS: Okay. Let's put Number 4 down here
15 and we'll go down to 5.

16 (Exhibit 5 was marked for identification)

17 BY MR. ROSS:

18 Q Any idea what this 1/23 on Exhibit Number 5
19 is, purchase of 446 -- 448.18?

20 A I think that is the Harley-Davidson, a payment
21 to Harley-Davidson for my motorcycle.

22 Q Okay. Now we've got a withdrawal from 2843 if
23 you can see on 2/8.

24 A Uh-huh.

25 Q Still no idea?

0094

1 A No, I don't know what account it's from. It's

2 either from the Flag Credit Union that I had or the
3 Morgan Stanley one. I just don't know what their
4 account number is.

5 Q Well, how about doing me this favor before
6 I --

7 A It's either one of those accounts.

8 Q Do me this favor.

9 MR. ROSS: Steve, see if you have an objection
10 to this.

11 MR. ALEXANDER: Sure.

12 MR. ROSS: Before I have do any kind of motion
13 to compel for the records, can you provide me
14 something to show what those accounts are from, so
15 we can clarify them?

16 MR. ALEXANDER: I don't know. He'll have
17 to -- can you find out? I'm not going to go find
18 it out.

19 MR. ROSS: No, no. Do you not have the
20 records from Flag that would show you what the
21 accounts are?

22 THE WITNESS: No. I can call them and ask
23 them what the account was.

24 MR. ROSS: Okay. Okay.

25 THE WITNESS: I can probably call -- I don't

0095

1 even know if I can call Morgan Stanley. I don't
2 even have their number anymore.

3 MR. ROSS: Okay?

4 THE WITNESS: But I can call flag.

5 MR. ROSS: Morgan Stanley, you can look up the
6 number, can't you, and see what account you had?

7 Because otherwise I get a subpoena out. It wastes
8 a whole bunch of time.

9 THE WITNESS: I mean, I'll try to find out for
10 you.

11 MR. ROSS: Can you do that? You want to write
12 that on this list and then call Steve with it. And
13 he'll let me know so I can -- so we can cut through
14 a lot of wasted time.

15 THE WITNESS: What's the account?

16 MR. ROSS: 2843.

17 THE WITNESS: 2843. Okay.

18 MR. ROSS: Let me see if it has any other
19 identifying.

20 And then here's one more. The account was
21 4957, was the other one. So 2843 and 4957.

22 THE WITNESS: 4957 is the -- is the checking
23 account -- or the savings account that, the Way 2
24 Save saving.

25 MR. ROSS: Okay. So you're saying that.

0096

1 Okay. Okay. Let's make sure that we got all this.

2 MR. ALEXANDER: 4957 is the savings account
3 information we gave you.

4 MR. ROSS: Okay.

5 MR. ALEXANDER: So we're just missing one
6 account number; is that correct?

7 MR. ROSS: 2843, is what it appears to be.

8 MR. ALEXANDER: So you want to know which bank
9 that is from.

10 MR. ROSS: What that is, yeah.

11 MR. ALEXANDER: Okay. You can do that.

12 THE WITNESS: I will let you know.

13 (Exhibit 6 was marked for identification)

14 BY MR. ROSS:

15 Q Yeah. We see down here again on Exhibit 6,
16 2843 again you can see on 12/30, right?

17 A Yes.

18 Q I don't know if this helps at all. I'm
19 looking over here at the 12/9 one and it says Flag
20 Credit Union, with certainly different numbers. You
21 see?

22 A I don't -- I mean I don't know what they are.

23 Q Yeah, I don't know what they are either. I
24 don't know if there's any -- you know, we've got
25 repetitive transfers here from the 2843. So if we can

0097

1 figure that out. I don't want to belabor the point and
2 go over each one with you.

3 A It's either two accounts; it's either the Flag
4 or it's the Morgan Stanley one.

5 Q Okay. Let's see if we can get to the bottom
6 of that.

7 Have you received a consistent amount of --
8 Other than the months that you said that you received an
9 entire amount for the retirement, have you received a
10 consistent retirement check in the same amount or has it
11 been in varying amounts? Because the records seem to
12 indicate varying amounts and I thought maybe you might
13 be able to explain that to me.

14 A It was in varying amounts and I don't know
15 why.

16 Q Okay. So you have no clue.

17 A No.

18 Q Okay.

19 MR. ALEXANDER: How far did it vary? I mean,
20 are we talking about a dollar or a hundred dollars
21 or what?

22 THE WITNESS: It wasn't that much.

23 MR. ALEXANDER: Like about how much?

24 THE WITNESS: I think maybe like 50 to a
25 hundred dollars.

0098

1 MR. ALEXANDER: Okay.

2 (Exhibit 7 was marked for identification)

3 BY MR. ROSS:

4 Q The shopping that indicates from -- now I'm
5 on -- I'm sorry, I'm on Exhibit 7, which is the checking

6 account Wells Fargo 3970 from July 2013 to August 2013,
7 is showing me purchases at Jcrew and things of that
8 nature. Is that you or is that your wife?

9 A That's my wife.

10 Q Ray-Ban, is that you or your wife?

11 A My wife.

12 Q This Southern -- on 7/31 on Exhibit 7, this
13 Southern Strategy QuickBooks --

14 A Uh-huh.

15 Q -- Milissa Holland of 3,750.50, what is that?

16 A That is her pay coming in.

17 Q Okay. What is -- on 8/1, this Golden Rule
18 Insurance Premium, what is that for?

19 A That's the -- what date is that, 8/1?

20 Q 8/1.

21 A That's the health insurance.

22 MR. ALEXANDER: For who?

23 THE WITNESS: The family. Brianna, myself,
24 everybody.

25 (Exhibit 8 was marked for identification)

0099

1 BY MR. ROSS:

2 Q Now we have January through February of 2013
3 of transfers -- an online transfer from that same
4 account 2843. When did you say you closed Flag?

5 A December.

6 Q Okay. So that wouldn't make sense, would it,

7 that it would be coming from Flag?

8 MR. ROSS: Steve, I presume you're going to
9 withdraw your objection since it's within?

10 MR. ALEXANDER: What's the month?

11 MR. ROSS: Through February of 2013.

12 MR. ALEXANDER: I'll have to withdraw my
13 objection if it's within 12 months.

14 BY MR. ROSS:

15 Q So I'm going to try to see what records we can
16 get on 2843, because obviously they were still in effect
17 and you don't know what it is.

18 A No.

19 Q So you want to call the bank, find out, and
20 then call Steve. And he'll tell me and then you want to
21 see what records you can get on 2843 or what? I mean,
22 it's got to be something, some account.

23 A Uh-huh. I'll find out what it is.

24 Q Okay.

25 MR. ROSS: And this will be marked Exhibit 8.

0100

1 MR. ALEXANDER: Just to let you know, checking
2 the Clerk of Court's file, the husband filed his
3 financial affidavit 12/2 of 2010. It's in the
4 clerk file.

5 MR. ROSS: '10. Okay. That's the one that --

6 MR. ALEXANDER: Well, they got divorce three
7 months later --

8 MR. ROSS: Okay.

9 MR. ALEXANDER: -- in March of '11. I'm
10 sorry, July 28th of '11. Pardon me. July 28th of
11 '11.

12 MR. ROSS: That's fine. I'll get it. Thanks.

13 MR. ALEXANDER: And it says in the Final
14 Judgment, I just noticed it says that both parties
15 haven't filed their respective financial
16 affidavits.

17 MR. ROSS: Okay. We'll, I'll get that then.

18 MR. ALEXANDER: Okay.

19 BY MR. ROSS:

20 Q I'm not going to go over each transfer on 2843
21 because we'll figure that out. Okay?

22 A Uh-huh. I understand.

23 MR. ROSS: Put 8 over here.

24 (Exhibit 9 was marked for identification)

25 BY MR. ROSS:

0101

1 Q Now we're looking at May to June of 2013, and
2 we'll have this as Exhibit 9 And that shows a check card
3 purchase State Farm Insurance on 5/9. Any idea what
4 that is?

5 A Car insurance.

6 Q Okay. For what car?

7 A When was this?

8 Q May 9th of 2013.

9 A The Saab.

10 Q The Saab is the one that your wife drives?

11 A Yes.

12 Q Okay. Then did you go on a cruise in May of
13 2013?

14 A No.

15 Q It says Royal Caribbean. What's that all
16 about?

17 A Yeah, she was going on one.

18 Q She went on one?

19 A Well, she didn't go, but she paid for it.

20 Q Okay. Where do you think this deposit would
21 come from, this large one of \$5,886.35 on June 3rd of
22 2013?

23 A That was the...

24 I don't know. When was this?

25 Q That's of May -- I'm sorry, June 3rd, 2013.

0102

1 A I don't know what that is.

2 Q Okay.

3 (Exhibit 10 was marked for identification)

4 BY MR. ROSS:

5 Q Any idea on -- I'm looking at Exhibit 10 now.

6 On March 12th of 2013, what is this Hartford Life
7 Insurance, a deposit of \$5,719.08?

8 A That was the envelopes that you had me open.

9 Q Okay. That was the deferred comp?

10 A That was the Hartford.

11 Q Because it says life insurance. That's what
12 I'm trying to figure out. See?

13 A Right.

14 Q Hartford Life Insurance. I'm trying to figure
15 out. See if you match it up and see if it shows the
16 same thing or not.

17 A It's -- what was the amount, 5,000?

18 Q Sure, 5719.08.

19 A Would have been the Hartford account, the
20 deferred comp, \$5,000.

21 Q Okay. So it wasn't life insurance.

22 A No.

23 Q Okay. This is the money -- this was the time
24 period during which you resigned from the Sheriff's
25 Department, right?

0103

1 A Retired.

2 Q Retired.

3 A Yes. I'm sorry.

4 Q That's okay. You would agree there's a lot of
5 clothes purchases during that period of time, a lot of
6 dinners?

7 A Uh-huh. Yes.

8 Q Okay. Can you tell me, on March 22nd, I see
9 an A.T.M. check deposit from Exhibit 10 of 10,646.35.
10 Any idea what that is?

11 A That would have been -- Can I see this?

12 Q Sure.

13 A (Examining document.) I believe that was my
14 sick time check.

15 Q Oh, that's the sick time check. Okay.

16 (Exhibit 11 was marked for identification)

17 BY MR. ROSS:

18 Q This is Number 11, which is a statement from
19 June 11th, 2013 to July 9th 2013 on 3970 at Wells Fargo.

20 This would show that you were receiving the entire
21 portion of the Florida retirement being on 6/28; is that
22 right?

23 A Yes.

24 (Exhibit 12 was marked for identification)

25 Q Okay. Looking at Exhibit 12, this includes
0104

1 your paychecks and your wife's paychecks on here,
2 correct? That's your paycheck, your wife's paycheck,
3 right?

4 A Yes.

5 Q Okay. And that is August through September of
6 2013 with -- as you can see, we've added up over \$1500
7 in clothing on just one page, right?

8 A Okay.

9 (Exhibit 13 was marked for identification)

10 BY MR. ROSS:

11 Q Okay. I'm going to reference now Number 13

12 Exhibit and just trying to see where -- if you could
13 tell me where this deposit came from of 6,281.88. Was
14 that your whole retirement or is that something
15 different?

16 A That would have been retirement.

17 MR. ROSS: Okay. Okay. Let me step out with
18 Lynn and see if we can cut this short. And I'm
19 sure you'll be very disappointed if I finish up
20 your questions.

21 THE WITNESS: It's all right.

22 (A recess was taken.)

23 MR. ROSS: No further questions.

24 CROSS-EXAMINATION

25 BY MR. ALEXANDER:

0105

1 Q Mr. O'Brien, when you were talking about March
2 of 2013 not being your planned retirement date, what was
3 your planned retirement date coming into this year?
4 When were you planning to retire?

5 A Not for a very long time. I was not planning
6 on retiring this year.

7 Q How many years did you have in this year?

8 A This year I had 28 years.

9 Q Okay.

10 A I was looking to do 30 and then go into the
11 DROP, do 35.

12 Q Okay. So had you gotten everything you'd have

13 liked, you'd have stayed in for about another seven more
14 years.

15 A That is correct.

16 Q Okay. And had you had any reprimands or any
17 issues --

18 A No.

19 Q -- up until January of this year with Sheriff
20 Fleming, the former sheriff?

21 A No, I did not.

22 Q And you served Sheriff Fleming in what
23 capacity?

24 A Major and the Chief Deputy.

25 Q Okay. And were you retained as a Major and
0106

1 Chief Deputy in January of 2013, when Sheriff Manfre
2 came into office?

3 A I was demoted down -- or I was not demoted,
4 but I was reassigned or they did a restructuring and I
5 was called the Senior Commander.

6 Q Okay. And with within approximately 60 days
7 after that, you were asked to give either your
8 resignation or you were going to be fired.

9 A That is correct.

10 Q And the sheriff gave you three days.

11 A That is correct.

12 Q And you said this was witnessed by the current
13 under sheriff?

14 A That is correct.

15 Q What is his name?

16 A Rick Staley.

17 Q Okay. Now, when you told counsel you he

18 couldn't think of any witnesses might testify at the

19 hearing, Mr. Staley is a potential witness, isn't he?

20 A Yes, he is.

21 Q And Sheriff Manfre would be a potential

22 witness.

23 A That, he would be.

24 Q Don Fleming, the former sheriff, would be a

25 potential witness as the caliber of deputy you were up

0107

1 until January of this year.

2 A That is correct.

3 Q And do you know a lady by the name of Linda

4 Bolante?

5 A Yes.

6 Q So counsel knows, who is she with the

7 Sheriff's Office?

8 A She is the Chief Financial Officer with the

9 Sheriff's Office.

10 Q Okay. And would she possibly be a person that

11 would be in the know as far as you being forced to

12 resign?

13 A Could be.

14 Q Okay.

15 MR. ROSS: Can you give me her last name
16 again?

17 THE WITNESS: Bolante.

18 MR. ALEXANDER: Spelled B-o-l-a-n-t-e.

19 MR. ROSS: Okay. Thank you.

20 BY MR. ALEXANDER:

21 Q So are any one of those people potential
22 witnesses for you if there's any question about whether
23 or not you were forced to resign?

24 A No.

25 Q I mean, those people could be witnesses?

0108

1 A They could be witnesses.

2 Q I want counsel to know that, because when you
3 were saying, "I can't think of any witnesses," I want to
4 let him know that there's a possibility.

5 Let me also talk to you about your retirement
6 that you're actually receiving. How much is that every
7 month? I know you said it varies 50 or a hundred
8 dollars, but roughly what is it supposed to be?

9 A It is three -- I think it's 3,000.

10 Q Let me show this document. (Tendering.)

11 Is that what it was back in April of 2013?

12 A Yes, it was.

13 Q And what was that amount?

14 A I'm sorry, \$6,281.88.

15 Q Okay. And sometime -- I believe the records

16 show this divorce case, I know we didn't personally do
17 it, but I've seen the Quadro or the Qualified Domestic
18 Relations Order. In June an order was signed by Judge
19 Craig. It goes into effect in July, correct?

20 A That's correct.

21 Q What is your income now, just roughly?

22 A It is, I want to say, 4,000 and change.

23 Q Okay. A little over 4,000?

24 A Uh-huh.

25 Q And your former wife gets the rest of that?

0109

1 A That is correct.

2 Q Okay. And what you're telling us, even though
3 it might not be in the actual Final Judgment entered by
4 the Court in 2011 or in the Settlement Agreement, you
5 always had contemplated working 35 years.

6 A That is correct.

7 Q Okay. So you weren't contemplating your
8 former wife getting this money at this time.

9 A No.

10 Q You weren't considering getting it at this
11 time.

12 A No.

13 Q Okay. That might be it.

14 Did you agree that you will pay the one month
15 of child support on or before November 1st of this year?

16 A Yes.

17 Q And then you'll pay the November 1st child
18 support so you're back on track, correct? It basically
19 calls for a double payment.

20 A Yes, it will be made.

21 Q What I want you to do is do two payments, one
22 that -- you know, it could say November 1st, but on the
23 bottom margin, put on there March 2013 child support.

24 A Uh-huh.

25 Q And then the next check, make that the -- put

0110

1 on it 2013, two separate checks so that we're all clear
2 on it.

3 A Okay.

4 MR. ALEXANDER: I don't have any other
5 questions.

6 MR. ROSS: Okay. Want to read and sign or
7 waive it?

8 MR. ALEXANDER: We'll waive it.

9 (WHEREUPON the deposition was concluded.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF FLAGLER)

I, the undersigned authority, certify that DAVID
O'BRIEN personally appeared before me on October 15,
2013, and was duly sworn.

WITNESS my hand and official seal this 6th day of
December, 2013.

Louise K. Johnson

Notary Public - State of Florida

My Commission No.: DD989552

Expires: July 28, 2014

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0112

1 REPORTER'S DEPOSITION CERTIFICATE

2 STATE OF FLORIDA)

3 COUNTY OF FLAGLER)

4 I, LOUISE K. JOHNSON, RMR, CRR, FPR, certify that I

5 was authorized to and did stenographically report the

6 deposition of DAVID O'BRIEN; that a review of the

7 transcript was not requested; that the transcript is a

8 true and complete record of my stenographic notes.

9 I further certify that I am not a relative,

10 employee, attorney, or counsel of any of the parties,

11 nor am I a relative or employee of any of the parties'

12 attorneys or counsel connected with the action, nor am I

13 financially interested in the action.

14 Dated this 6th day of December, 2013.

15

16

LOUISE K. JOHNSON, RMR, CRR, FPR

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