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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
INGENUIT LTD and COMPUTER
GUYS LLC,

Plaintiffs,

vs. No. 37137-05

MICHAEL HARRIFF,

Defendant.

-----X

EXAMINATION OF MICHAEL HARRIFF
New York, New York
Tuesday, July 24, 2007

Reported by:

ANGELA GRANT, RPR
JOB NO. 195947

Michael Harriff

Page 2

1
2 July 24, 2007
3 10:02 a.m.
4
5 Examination of MICHAEL HARRIFF,
6 held at the offices of Reitler, Brown &
7 Rosenblatt, LLC, 800 Third Avenue, New
8 York, New York, pursuant to Order,
9 before Angela Grant, a Registered
10 Professional Reporter and Notary Public
11 of the State of New York.
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Page 4

1
2 IT IS HEREBY STIPULATED AND AGREED,
3 by and between counsel for the
4 respective parties hereto, that the
5 filing, sealing and certification of the
6 within deposition shall be and the same
7 are hereby waived;
8 IT IS FURTHER STIPULATED AND AGREED
9 that all objections, except as to the
10 form of the question, shall be reserved
11 to the time of the trial;
12 IT IS FURTHER STIPULATED AND AGREED
13 that the within deposition may be signed
14 before any Notary Public with the same
15 force and effect as if signed and sworn
16 to before the Court.
17
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Page 3

1
2 APPEARANCES:
3
4 REITLER BROWN & ROSENBLATT, LLC
5 Attorneys for Plaintiff
6 800 Third Avenue
7 New York, New York 10022
8 BY: JOCELYN LEE JACOBSON, ESQ.
9
10 BAINTON McCARTHY, LLC
11 Attorneys for Defendant
12 26 Broadway, Suite 2400
13 New York, New York 10004
14 BY: CARMINE J. CASTELLANO, ESQ.
15
16
17
18
19
20
21 ALSO PRESENT:
22 ROBERT ANDERSON
23
24
25

Page 5

1
2 MICHAEL HARRIFF, called as a
3 witness, having been duly sworn by a
4 Notary Public, was examined and testified
5 as follows:
6 EXAMINATION BY
7 MS. JACOBSON:
8 Q. Please state your name.
9 A. Michael Harriff.
10 Q. Please state your address.
11 A. 1027 Grand Street, apartment 2-E,
12 Brooklyn, New York 11211.
13 Q. Good morning, Mr. Harriff.
14 Let me ask you, have you ever been
15 deposed before?
16 A. No, I have not.
17 Q. So I'm just going to ask you
18 questions. Answer them to the best of your
19 ability. Give verbal answers so the court
20 reporter can get them down. And I would ask
21 that you wait until I finish a question before
22 you start answering. It makes the record
23 clear. It makes her job easier to get both
24 my question and your answer.
25 A. OK.

2 (Pages 2 to 5)

Michael Harriff

Page 6

1 Harriff
 2 Q. What is your educational background?
 3 A. Completed high school.
 4 Q. What year was that?
 5 A. 1996.
 6 Q. What was your employment after that?
 7 A. I worked for a software company for
 8 a year and a half, I worked for
 9 Eastman Kodak Company for two years, I worked
 10 for Robert Anderson for five years, and I've
 11 been self-employed since.
 12 Q. And you were hired by Computer Guys
 13 in January of 2001?
 14 A. Yes.
 15 Q. And you became an employee of
 16 Ingenuit when it was formed in the fall of
 17 2001?
 18 A. Yes.
 19 Q. What computer certifications, if
 20 any, did you have when you were hired by
 21 Computer Guys?
 22 A. None at the time.
 23 Q. Did you obtain any during your
 24 employment?
 25 A. Yes.

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1 Harriff
 2 Q. Which ones were those?
 3 A. MCSA in Windows 2000, MCSE in
 4 Windows 2000 and Security Plus.
 5 Q. Do you have any additional computer
 6 certifications today?
 7 A. No, I do not.
 8 THE WITNESS: I'm just going to
 9 turn off my cellphone.
 10 MS. JACOBSON: Good idea.
 11 Q. When did you get your MCSE?
 12 A. I don't recall exactly. I want to
 13 say it was 2004.
 14 Q. Did you give any notification of
 15 that to your employer?
 16 A. To Robert Anderson?
 17 Q. Yes.
 18 A. It would have happened while I was
 19 working for him, so he would have been aware
 20 of when it happened.
 21 Q. Any reason why that certification is
 22 not in your personnel file?
 23 A. I'm not sure I understand what
 24 you're asking.
 25 Q. When you got certified in the MCSA,

Page 8

1 Harriff
 2 for instance, there was a form that you got
 3 when you got certified?
 4 A. I don't recall ever receiving a
 5 form.
 6 Q. Do you recall filling out a W-4 when
 7 you were hired in 2000 or 2001 I guess you
 8 started, but do you recall filling out a W-4?
 9 A. For exemptions?
 10 Q. Yes.
 11 A. Yes. It was actually for a -- it
 12 may have been, I don't recall.
 13 MS. JACOBSON: Well, why don't we
 14 make this the first exhibit.
 15 (Plaintiffs' Exhibit 1, Form W-4,
 16 marked for identification, as of this
 17 date.)
 18 Q. I'm going to hand you what's been
 19 marked as Plaintiffs' Exhibit 1, and ask if
 20 you can identify that document.
 21 A. Yes. That would be my handwriting.
 22 Q. And this is your W-4 for your
 23 employment at Computer Guys?
 24 A. Correct.
 25 Q. Do you know if this was the only one

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1 Harriff
 2 you ever filled out?
 3 A. As far as I can recall this is the
 4 only one I filled out. I'm not totally sure.
 5 MR. CASTELLANO: Don't guess.
 6 Q. Can you describe what you did while
 7 employed by the plaintiffs, what your job
 8 functions were.
 9 A. It varied. We would go on site to
 10 visit clients who owned businesses, we would
 11 make telephone calls to support clients,
 12 answer e-mails. My responsibilities were
 13 additional in that I often helped to train new
 14 hires, created newsletters, worked on the
 15 website, other functions as well along those
 16 lines.
 17 Q. How many clients would you see on a
 18 typical day?
 19 A. Mostly on average, four.
 20 Q. So in a typical week, would that be
 21 20 clients would you think?
 22 A. At most.
 23 Q. How often would you view the client
 24 information page, if you understand what I
 25 mean by that, for a client?

Michael Harriff

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1 Harriff
2 A. Hundreds of times a week.
3 Q. Why would you do that --
4 A. Not for a single client but.
5 Q. Why would you view somebody's client
6 information page hundreds of times a week?
7 A. It wouldn't be for every client that
8 you would do it that often, but it would be to
9 make phone calls, update information, add an
10 e-mail address. If they e-mailed you a
11 question, they wanted to know the password to
12 their router, for instance, you would look at
13 it and it contained all of the information
14 relevant to them.
15 Q. And you were supposed to fill out a
16 service record whenever you provided a service
17 to a client?
18 A. Yes.
19 Q. And do you know the steps that
20 plaintiffs took to find new clients?
21 A. Of the ones I was aware of, we had a
22 person stand on the sidewalk holding a sign
23 distributing flyers to passers-by, we
24 advertised on different things like City
25 Search, Yellow Pages, neighborhood newspapers

Page 11

1 Harriff
2 and other online ads that were placed with
3 Google and other services, but I don't know of
4 the exact details.
5 Q. And your salary was \$50,000 when you
6 left plaintiffs' employment?
7 A. The first time, yeah.
8 Q. I'm going with July 15, 2005, your
9 final departure, what was your salary then?
10 A. I believe it was 45.
11 Q. And can you describe the work you do
12 now on your own.
13 A. I visit homes and businesses
14 providing computer services. Very similar
15 work.
16 Q. Did you see clients on your last day
17 of employment, July 15, 2005?
18 A. I honestly don't recall.
19 Q. Do you recall in September of 2002 a
20 meeting at plaintiffs' where a Confidentiality
21 Agreement was handed out?
22 A. Yes.
23 Q. And you were at that meeting?
24 A. Yes.
25 Q. And could you describe what happened

Page 12

1 Harriff
2 at that meeting.
3 A. I don't really recall the dates. I
4 just remember that we were given the form and
5 asked to sign and return it.
6 Q. And who said that?
7 A. That I don't remember.
8 Q. Do you remember being informed what
9 the form was?
10 A. Yes.
11 Q. What were you told about what the
12 form was?
13 A. It was a noncompete agreement.
14 Q. A Confidentiality Agreement also?
15 A. Yes.
16 Q. Do you recall asking a question
17 about language in the agreement concerning
18 work for hire?
19 A. In terms of?
20 Q. Did you ask a question about the
21 work for hire?
22 A. I don't remember if I asked that
23 question.
24 Q. Do you recall that someone asked the
25 question?

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1 Harriff
2 A. I remember the answer, actually. I
3 don't remember the question.
4 Q. So you know there was a question
5 asked?
6 A. Yes.
7 Q. Were there any other questions asked
8 about the agreement?
9 A. Not that I recall.
10 Q. Did you go and ask anyone any
11 questions about the agreement?
12 A. Meaning who?
13 Q. Anyone.
14 Did you -- OK. Lets start with
15 Mr. Anderson.
16 A. During the meeting or after?
17 Q. At any time in the next, lets say,
18 week.
19 A. Not that I recall.
20 Q. Did you go and ask any questions of
21 KerryAnn Wolfe?
22 A. Not that I recall.
23 Q. What about other employees of the
24 plaintiffs, did you talk to your fellow
25 employees about the agreement?

4 (Pages 10 to 13)

Michael Harriff

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1 Harriff
 2 A. It was discussed.
 3 Q. Can you describe those discussions.
 4 A. I don't really recall details. I
 5 just remember us saying what is this about,
 6 why is this coming up now, that sort of thing.
 7 Q. And you understood what the
 8 agreement was asking for though. No
 9 competition while you worked there, that was
 10 one of the things in the agreement?
 11 A. Yes.
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. Yes.
 15 Q. Was another item in the agreement
 16 that you cannot solicit clients for a year
 17 after you left?
 18 A. Yes.
 19 Q. And that you couldn't use the
 20 proprietary and confidential information about
 21 clients?
 22 MR. CASTELLANO: Objection.
 23 The witness may answer.
 24 A. I don't remember that being the
 25 language.

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1 Harriff
 2 MS. JACOBSON: OK. We will get to
 3 the agreement in a minute.
 4 I'm going to mark as Plaintiffs'
 5 Exhibit 2 a copy of the affidavit that
 6 you submitted in opposition to the
 7 preliminary injunction in this case.
 8 (Plaintiffs' Exhibit 2, Affidavit
 9 of Michael Harriff, marked for
 10 identification, as of this date.)
 11 Q. I'm handing you what's been marked
 12 as Plaintiffs' 2 and ask if you can identify
 13 that.
 14 A. Yes.
 15 Q. That's your signature on the last
 16 page?
 17 A. Yes, it is.
 18 Q. And you read and agreed with
 19 everything in your affidavit?
 20 A. Yes, I did.
 21 Q. Do you still agree with everything
 22 that's in your affidavit?
 23 A. My business clients have changed.
 24 It's two years, but otherwise, yes.
 25 Q. And we'll go back to that a little

Page 16

1 Harriff
 2 bit later.
 3 This was true at the time?
 4 A. Yes.
 5 Q. And so is it still your position
 6 that you did not sign the Noncompete and
 7 Confidentiality Agreement in 2002?
 8 A. Yes.
 9 Q. Did you tell anyone as per your
 10 affidavit, paragraph 4, that you were
 11 declining to sign the agreement?
 12 A. Yes.
 13 Q. And who did you tell you were
 14 declining to sign?
 15 A. Todd Cavallo, C-a-v-a-l-l-o.
 16 Q. Why did you tell Todd Cavallo?
 17 A. He was a friend of mine for many
 18 years and we were in discussion about the
 19 meaning of the agreement.
 20 Q. Did you tell Mr. Anderson you were
 21 declining to sign?
 22 A. No.
 23 Q. Did you tell Ms. Wolfe that you were
 24 declining to sign?
 25 A. No.

Page 17

1 Harriff
 2 Q. Did anyone else besides you at the
 3 company not sign a confidentiality agreement?
 4 A. I don't know.
 5 Q. And when you didn't hand one back,
 6 is it your testimony that no one questioned
 7 you about it?
 8 A. Yes.
 9 Q. That no one questioned you?
 10 A. Correct.
 11 Q. Are you aware that Ms. Wolfe has
 12 given a deposition in this case?
 13 A. I am.
 14 Q. Are you aware that she testified
 15 that you returned a signed copy of the
 16 agreement to her in September of 2002?
 17 A. Yes, I am.
 18 Q. And that she also saw the agreement,
 19 again, in your file in 2003 when you left for
 20 the farm?
 21 MR. CASTELLANO: Objection.
 22 She testified that she saw that in
 23 the file.
 24 MS. JACOBSON: Yes.
 25 A. I'm aware that's her claim, yes.

Michael Harriff

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1 Harriff
 2 Q. Is it possible that you just don't
 3 remember signing the agreement?
 4 A. No.
 5 Q. How do you explain Ms. Wolfe seeing
 6 the agreement twice, at least twice, according
 7 to her testimony, signed by you?
 8 A. I can't explain that.
 9 Q. Could you describe the conversation
 10 you had with Ms. Wolfe on your last day of
 11 employment, July 15, 2005, when she brought
 12 you another copy of the agreement to sign?
 13 A. I don't really remember much of the
 14 discussion.
 15 Q. Do you recall telling her these
 16 things don't mean anything anyway?
 17 A. Not that I can recall but --
 18 Q. But?
 19 A. I don't know.
 20 Q. Do you recall her telling you that
 21 it was exactly the same thing that you had
 22 signed before?
 23 A. That sounds familiar, yes.
 24 Q. Did you contradict her and tell her
 25 I never signed it before?

Page 19

1 Harriff
 2 A. No.
 3 Q. Why did you sign it on July 15, 2005
 4 if you had refused to sign it in 2002?
 5 A. The primary reason was I was
 6 concerned about getting my final paycheck and
 7 not having a confrontation about it. That's
 8 something that had been a tactic used before
 9 with bonuses or paychecks when things did not
 10 go the way the company wanted them to. So out
 11 of fear for that money, which I really needed
 12 to start my business, I went ahead and signed.
 13 Q. Did Ms. Wolfe tell you that any
 14 money would be withheld if you didn't sign?
 15 A. Of course not.
 16 Q. In fact, she told you that to her
 17 knowledge you had already signed it before?
 18 A. She said what you said she said
 19 earlier, yes.
 20 Q. Have you spoken to anyone who told
 21 you that the agreement would not be
 22 enforceable in New York?
 23 A. I don't understand what you're
 24 asking.
 25 Q. Had someone told you that the

Page 20

1 Harriff
 2 agreement would not be enforceable in New
 3 York?
 4 A. Not specifically, no.
 5 Q. Generally, had someone told you that
 6 they had questions about --
 7 MR. CASTELLANO: Objection.
 8 Enforceable? Objection.
 9 Q. That the agreement wouldn't mean
 10 anything, had anyone told you that?
 11 MR. CASTELLANO: Objection.
 12 The witness may answer, if he
 13 understands.
 14 A. I think that's what I just answered,
 15 but.
 16 Q. Well, you said not specifically.
 17 Did someone generally tell you that
 18 noncompete agreements, that New York courts
 19 would not necessarily hold up noncompete
 20 agreements?
 21 A. After I had already quit I had
 22 conversations with people in regards to that,
 23 people who were my friends in casual
 24 conversation but.
 25 Q. Was Mr. Nelson one of the people you

Page 21

1 Harriff
 2 had a conversation with?
 3 A. Not about that specifically.
 4 Q. Who were the people that you had
 5 conversations with?
 6 A. I'm not sure they're relevant.
 7 They're personal friends.
 8 Do you want the names?
 9 Q. Yeah, I want the names.
 10 A. Brian, B-r-i-a-n, Tomsu, T-o-m-s-u.
 11 Q. Anyone else?
 12 A. And a guy named Tony, T-o-n-y, who I
 13 don't know the last name of. He works for a
 14 company here in New York.
 15 Q. And they told you these agreements
 16 aren't enforceable?
 17 MR. CASTELLANO: Objection.
 18 The witness may answer.
 19 A. They had dealt with similar issues
 20 at the point where I was at now having just
 21 recently been served with my first notice at
 22 that point.
 23 Q. So not until you got something on
 24 this litigation?
 25 A. Correct.

6 (Pages 18 to 21)

Michael Harriff

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1 Harriff
 2 MS. JACOBSON: Lets mark this as
 3 Plaintiffs' Exhibit 3.
 4 (Plaintiffs' Exhibit 3,
 5 Confidentiality and Noncompete Agreement
 6 stamped P0192, marked for
 7 identification, as of this date.)
 8 Q. I'm handing you what's been marked
 9 as Plaintiffs' Exhibit 3, which is a copy of a
 10 Confidentiality Noncompete Agreement dated
 11 July 15, 2005.
 12 Is that your signature on the
 13 bottom?
 14 A. Yes, it is.
 15 Q. This is the agreement you signed on
 16 your last day?
 17 A. It appears to be, yes.
 18 Q. And was this identical in substance
 19 to the agreement you had been handed in 2002?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. I don't have a recollection
 23 specifically.
 24 MS. JACOBSON: So let me mark this
 25 as Plaintiffs' 4.

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1 Harriff
 2 (Plaintiffs' Exhibit 4,
 3 Confidentiality and Noncompete Agreement
 4 stamped HARRIFF 00002, marked for
 5 identification, as of this date.)
 6 Q. I'm handing you what's been marked
 7 as Exhibit 4. I'll represent this was
 8 attached to your affidavit, the affidavit we
 9 saw before as the copy that you had since
 10 2002. And feel free to compare and let me
 11 know if you see a substantive difference
 12 between these agreements.
 13 Just to speed it up. You don't have
 14 to read the work for hire paragraph since
 15 that's obviously not an issue here.
 16 A. I don't see a particular difference
 17 in them.
 18 Q. Did you ever tell another employee
 19 of plaintiffs after you left your employment
 20 that this agreement would not quote unquote
 21 "hold up under New York law"?
 22 A. No, not prior -- any current, I'm
 23 sorry?
 24 Q. Any current --
 25 MS. JACOBSON: Let me rephrase.

Page 24

1 Harriff
 2 Q. After you left, did you ever tell a
 3 then current employee of plaintiffs' that the
 4 agreement would not hold up under New York
 5 law?
 6 MR. CASTELLANO: Objection.
 7 The witness may answer.
 8 A. To the best of my recollection, no.
 9 Q. Ever tell any then current employee
 10 of plaintiffs after you left that you had not
 11 signed the agreement while you were employed?
 12 A. Yes.
 13 Q. Who?
 14 A. After I had left, Todd Cavallo.
 15 Q. How did you come up with Todd
 16 Cavallo?
 17 MR. CASTELLANO: Objection.
 18 The witness may answer.
 19 A. Again, during my litigation it was
 20 brought to his attention.
 21 Q. So this was during the litigation?
 22 A. If I recall correctly. I don't.
 23 MR. CASTELLANO: During the
 24 litigation when he made the comment to
 25 Todd Cavallo?

Page 25

1 Harriff
 2 MS. JACOBSON: To Todd Cavallo,
 3 yes.
 4 A. If he was still a then employee. I
 5 honestly don't remember the time line.
 6 Q. I'll tell you he left in October of
 7 2005.
 8 A. I don't remember when I was served.
 9 Q. December of 2005.
 10 A. That's probably not correct. This
 11 all came up after I was served.
 12 Q. So you never told any other employee
 13 other than Todd Cavallo?
 14 MR. CASTELLANO: At any time?
 15 Q. Other than Todd Cavallo, at any time
 16 did you tell any other employees?
 17 A. David Campbell was told.
 18 Q. What did you tell David Campbell?
 19 A. Just that I hadn't signed the
 20 agreement, and this was now during the
 21 litigation and that I was being sued.
 22 Q. And you told Mr. Campbell that you
 23 had not signed the agreement?
 24 A. Yes.
 25 Q. Now, back in 2002, did you read the

7 (Pages 22 to 25)

Michael Harriff

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1 Harriff
 2 agreement that you were given?
 3 A. Yes.
 4 Q. And you understood what plaintiffs
 5 were seeking in the agreement?
 6 MR. CASTELLANO: Objection.
 7 The witness may answer.
 8 A. I believe I did, yes.
 9 Q. And if you look at paragraph 2 of
 10 the agreement, and look at either version
 11 since you said they're the same, you
 12 understood that plaintiffs did not want you to
 13 compete with them providing services to any
 14 active clients during your employment?
 15 MR. CASTELLANO: Objection.
 16 The witness may answer.
 17 A. Yes.
 18 Q. Putting aside whether or not you
 19 signed this agreement, would that seem
 20 something that would be logical for you not to
 21 do, compete directly with your employer while
 22 you were employed?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. Theoretically, yes.

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1 Harriff
 2 Q. Well, why only theoretically?
 3 A. Yes.
 4 Q. In fact, aside from the employment
 5 agreement, you had been told that you couldn't
 6 service clients with the same services
 7 plaintiffs were providing while you were
 8 employed there, weren't you?
 9 A. Yeah.
 10 Q. So you knew that was part of the
 11 requirements of the job.
 12 Let me rephrase that.
 13 Part of the conditions?
 14 A. Yes.
 15 Q. And you knew -- the last sentence
 16 said for one year after you left you could not
 17 solicit active clients.
 18 A. Active clients, yes.
 19 Q. And you also knew that you couldn't
 20 engage in any employment with anyone else in
 21 the technical, consulting industry during your
 22 employment?
 23 A. No.
 24 Q. That's the middle sentence of that
 25 second paragraph, "Employee agrees not to

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1 Harriff
 2 engage in employment with any other company."
 3 A. During employment.
 4 Q. During employment.
 5 A. Yes.
 6 Q. That would be a condition of
 7 employment whether or not there was an
 8 agreement about it, wouldn't it?
 9 A. Presumably.
 10 Q. In fact, you knew doing work behind
 11 the company's back would be wrong, didn't you?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer, if you
 14 understand.
 15 A. I understand the words. It's a very
 16 complicated answer.
 17 Q. What's complicated about it?
 18 A. It has a lot of things to do with
 19 work environment, the way employees are
 20 treated. A whole variety of things.
 21 MR. CASTELLANO: Do you want the
 22 question read back?
 23 MS. JACOBSON: No. I think he
 24 answered.
 25 Q. So if it's an unpleasant work

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1 Harriff
 2 environment you think it's OK to compete with
 3 your employer?
 4 MR. CASTELLANO: Objection.
 5 The witness may answer.
 6 A. That's not really what I'm trying to
 7 say, but I think all people are pushed and
 8 pushed until a breaking point and eventually
 9 we give in because we're human, so.
 10 Q. So you competed while you were
 11 employed by plaintiffs?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. Yes.
 15 Q. What exactly did you do while you
 16 were still employed by plaintiffs?
 17 A. I serviced a handful of clients I
 18 had built a personal friendship with.
 19 Q. Which clients were those?
 20 A. Definitely speaking I would say
 21 Mary Link. I can't recall who else it would
 22 have been. I'd have to check.
 23 Q. Sandy Smith?
 24 A. Yes, I believe so.
 25 Q. And lets see who else. I'm going to

8 (Pages 26 to 29)

Michael Harriff

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1 Harriff
 2 have trouble with the name. Hasson Mireles,
 3 M-i-r-e-l-e-s?
 4 A. I believe I saw them once.
 5 Q. Can you recall any other names?
 6 A. Not at this time.
 7 Q. When did you start seeing Mary Link
 8 outside your employment with plaintiffs?
 9 A. For work purposes?
 10 Q. Yes.
 11 A. Probably around a month prior to
 12 leaving the company.
 13 Q. Is it your testimony June 2005?
 14 A. That would sound right. I don't
 15 remember exactly when, but we had a personal
 16 relationship that involved many things
 17 including dinner and tickets to the opera that
 18 I was given as a gift, among other things.
 19 Q. You never asked plaintiffs whether
 20 it was OK to see her outside, outside of
 21 the -- for business purposes outside of the
 22 company because you had a personal
 23 relationship?
 24 A. I'm sorry. What are you asking me
 25 now?

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1 Harriff
 2 Q. Whether you ever told the company
 3 you were providing her services outside of the
 4 company outside your employment because of
 5 your personal relationship?
 6 A. No, I did not.
 7 Q. When did you start seeing Sandy
 8 Smith outside the company on business
 9 purposes?
 10 A. I think around the same time. They
 11 were close friends as well.
 12 Q. What about Mr. Mireles?
 13 A. That was a fashion company, I
 14 believe.
 15 Q. When did you start seeing them
 16 outside?
 17 A. I don't recall. Again, I think I
 18 only saw them one time.
 19 Q. How much income did you make from
 20 Mary Link prior to your leaving plaintiffs'
 21 employment?
 22 A. I have no idea.
 23 Q. Did you keep records?
 24 A. Not very good ones.
 25 Q. How did she pay you?

Page 32

1 Harriff
 2 A. Cash typically.
 3 Q. And you have no records that you
 4 declared to the IRS, some way of checking how
 5 much she paid you?
 6 A. Not -- my records initially were
 7 very poor. I kept spreadsheets at best but.
 8 Q. What about Ms. Smith, how much money
 9 did you make from her prior to leaving
 10 plaintiffs' employment?
 11 A. Again, no recollection.
 12 Q. Did she also pay you in cash?
 13 A. Yes, typically.
 14 Q. And the fashion company?
 15 A. They would have written a check.
 16 Q. Do you know how much they paid you
 17 before you left plaintiffs' employment?
 18 A. I believe it was \$110.
 19 Q. Do you have records of that?
 20 A. I would have to look.
 21 Q. Didn't you also take work from
 22 Mr. Nelson while still employed by plaintiffs
 23 or a client of plaintiffs?
 24 A. No, I don't believe so.
 25 Q. So your best recollection is those

Page 33

1 Harriff
 2 are the only three or you just don't remember
 3 the names of the others?
 4 A. Sorry. I'm thinking.
 5 Q. That's OK.
 6 A. To the best of my recollection,
 7 there may have been one or two other people.
 8 But, again, it would have been very minimal to
 9 the tune of maybe \$80, something along those
 10 lines. I don't recall. I honestly do not
 11 recall the names.
 12 Q. Now, if we can go back to Mary Link
 13 for a second.
 14 Do you recall that your last
 15 appointment with her as an employee of
 16 plaintiffs was April 14, 2005?
 17 A. I would have no recollection of
 18 that.
 19 MS. JACOBSON: OK. Why don't we
 20 mark this.
 21 (Plaintiffs' Exhibit 5, Client
 22 service record, marked for
 23 identification, as of this date.)
 24 MS. JACOBSON: I'm handing you
 25 what's been marked as Plaintiffs'

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 2 Exhibit 5.
 3 For the record, I'd like to say
 4 that some of these documents are going
 5 to be confidential, like this one. I'm
 6 going to keep the documents. I don't
 7 think we're going to put anything on the
 8 record that would reveal the
 9 confidential --
 10 MR. CASTELLANO: To mark the
 11 transcript you mean?
 12 MS. JACOBSON: Right.
 13 MR. CASTELLANO: Designate it
 14 confidential?
 15 MS. JACOBSON: But right now I
 16 don't think what we're going to be
 17 discussing will trigger the
 18 confidentiality requirements.
 19 Q. First of all, can you identify what
 20 we've marked as Plaintiffs' Exhibit 5.
 21 A. It's an extract from the
 22 Extranet.
 23 Q. What is it?
 24 A. It's a client information page and a
 25 list of service records.

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1 Harriff
 2 Q. And this is for Ms. Link?
 3 A. Yes.
 4 Q. Have you seen this before?
 5 A. Of course.
 6 Q. And how did you see it?
 7 A. I'm sorry?
 8 Q. How, in what circumstances did you
 9 see it before?
 10 A. During work, again, as I said
 11 earlier, you'd call a client, e-mail a client,
 12 do work for the client. We utilized the
 13 extranet all day every day.
 14 Q. And you see that this reflects that
 15 Ms. Link's last appointment with plaintiff was
 16 April 14, 2005?
 17 A. I don't actually, but.
 18 Q. Look at the top of page 1. It says
 19 last service record.
 20 A. I see that the date on the last page
 21 where the service record is cut off, but I see
 22 that at the top, yes.
 23 MR. CASTELLANO: I don't. OK.
 24 Q. Does that refresh your recollection
 25 as to when you saw Ms. Link last as under the

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1 Harriff
 2 employment of plaintiffs?
 3 A. No, but I -- it's there, I mean.
 4 Q. Did you find that the extranet
 5 records for clients would be wrong when you
 6 worked there?
 7 A. No.
 8 Q. So given the fact that this April
 9 14, 2005, how did it come about that you
 10 stopped providing services to her pursuant to
 11 your employment with plaintiffs and started
 12 doing it on your own?
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 A. Well, as I mentioned, we had a
 16 personal relationship so we were in touch
 17 about various things, and at some point, I
 18 mean, if you want all the details, but for
 19 quite a while she had been observing the way
 20 the things operated at the company and the way
 21 we were always rushed and never had a lunch
 22 break that was proper. And her frustrations
 23 grew with my frustrations as the way things
 24 worked for us. So we started talking about me
 25 going out on my own at some point, and I guess

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 2 at some point I decided that that's what I
 3 wanted to do, so I told her that was my plan
 4 and began servicing her.
 5 Q. And you testified before that you
 6 thought it was about a month.
 7 Would May seem more accurate to you
 8 than June?
 9 A. It's possible. Again, I don't
 10 recall the exact date I began working with
 11 her. It would have been towards the end of my
 12 employment, so.
 13 Q. And you testified, I'm sorry.
 14 A. I'd like to say she was not an
 15 active client when I began servicing her, and
 16 she had chosen to stop utilizing Computer
 17 Guys' services.
 18 Q. So you define active client as
 19 someone who chooses not to continue utilizing
 20 Computer Guys' services?
 21 A. That would seem to be the
 22 definition.
 23 Q. So if you solicit someone and then
 24 they continue not to continue using Computer
 25 Guys' services, do you consider that person

10 (Pages 34 to 37)

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 2 not to be an active client?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 A. I think that would be up to the
 6 client but not me.
 7 Q. But if you have already sent them a
 8 letter saying I'm out there, come give me
 9 work, would you consider that person who then
 10 responds to that letter not to be an active
 11 client?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. Again, I think the witness may make
 15 that decision. The client has no agreement
 16 with either company.
 17 Q. So basically anybody who decided to
 18 use you instead of plaintiffs, regardless of
 19 how that came about, would therefore not be an
 20 active client?
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 A. I'm not sure that's my choice to
 24 make again, but.
 25 Q. Well, then how did you understand

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1 Harriff
 2 the word "active," that you could not solicit
 3 active clients if they became not active
 4 clients by responding to your solicitation?
 5 A. You're extrapolating from what I
 6 said. My point was Mary Link did not want to
 7 continue to utilize Computer Guys.
 8 Q. No. I understand what you said.
 9 But you said that if someone chose,
 10 after you contacted them, to use you instead
 11 of Computer Guys, they were not an active
 12 client and I'm asking what about the
 13 prohibition on soliciting active clients?
 14 A. I don't believe that's what I said.
 15 I believe I said that it would be up to the
 16 client to make that decision.
 17 Q. But if the client didn't know that
 18 there was an option, except by you contacting
 19 them, aren't you then contacting a then active
 20 client?
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 A. In that example, yes, but that's not
 24 what I'm talking about here.
 25 Q. I understand, but you were making a

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1 Harriff
 2 broader statement and I wanted to clarify
 3 that.
 4 You testified that sometime in that
 5 time period you were talking with Mary Link
 6 about leaving; is that correct?
 7 A. Yes.
 8 Q. Who else -- what other clients of
 9 plaintiffs did you discuss leaving with?
 10 A. The only other I recall specifically
 11 discussing that with was David Scribner.
 12 Q. When did you discuss it with David
 13 Scribner?
 14 A. I don't recall.
 15 Q. What was that conversation?
 16 A. Did you say what was it?
 17 Q. What was it, yeah. Describe the
 18 conversation.
 19 A. It was essentially me saying I was
 20 thinking about trying to start my own business
 21 and going out on my own. Pretty basic.
 22 Q. Did you tell him how to contact you
 23 once you were out on your own?
 24 A. He would almost certainly had my
 25 information already at that point.

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 2 MS. JACOBSON: Lets mark this as
 3 Plaintiffs' Exhibit 6.
 4 (Plaintiffs' Exhibit 6, e-mail
 5 stamped HARRIFF 00340-00341, marked for
 6 identification, as of this date.)
 7 Q. What I'm handing you is what's been
 8 marked as Plaintiffs' Exhibit 6, which is two
 9 pages from your document production in this
 10 case marked, I believe, 340 to 341.
 11 Do you recognize these two pages?
 12 A. Those appear to be e-mails between
 13 Mary Link and myself.
 14 Q. Would you agree these e-mails were
 15 while you were still an employee of
 16 plaintiffs?
 17 A. Yes.
 18 Q. Does this in some respect refer to
 19 the services you were providing to Ms. Link at
 20 that time?
 21 A. Say that again.
 22 Q. Does this e-mail in any way refer to
 23 the services you were providing to Ms. Link at
 24 the time?
 25 A. I'll have to read it.

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 2 Q. Please.
 3 A. No.
 4 Q. No?
 5 What about the last paragraph on the
 6 page. "I know your calendar is getting really
 7 busy now, so I wanted to lock you into a date
 8 to go up to Martha's."
 9 Who's Martha?
 10 A. Mary's sister in Greenwich,
 11 Connecticut.
 12 Q. Did you provide services to Mary's
 13 sister?
 14 A. Yes.
 15 Q. When did you do that?
 16 A. I believe it would have been that
 17 weekend or whatever day the 19th or 20th was.
 18 I don't recall specifically.
 19 Q. When she says, "I know your calendar
 20 is getting busy right now," did that mean that
 21 she knew you were booking lots of appointments
 22 for after you left Computer Guys?
 23 A. I don't believe so.
 24 Q. Then what did she mean by that?
 25 A. That I was quitting my job, for one

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1 Harriff
 2 thing, starting a company and I had a lot of
 3 work to do in terms of getting things done
 4 with that. Sure, I would have been traveling
 5 around that time. I go away pretty much every
 6 weekend in the summers.
 7 Q. Now, you mentioned before that you
 8 also provided services to Sandra Smith.
 9 How did you stay in touch with
 10 Ms. Smith while you were still employed at
 11 plaintiffs?
 12 A. I believe mostly through Mary Link,
 13 but I believe she also had my personal e-mail
 14 address as well.
 15 Q. And are you aware that Ms. Smith's
 16 last appointment with plaintiffs was September
 17 of 2004?
 18 A. No.
 19 Q. Did you start providing her with
 20 services shortly after September 2004?
 21 A. I really don't believe so, no.
 22 Q. What about in February of 2005?
 23 A. I don't recall servicing her then.
 24 Q. Do you remember calling her in
 25 February of 2005?

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 2 A. I don't recall that.
 3 Q. I mean, I can mark it as an exhibit,
 4 from your cellphone records.
 5 MR. CASTELLANO: If he doesn't
 6 know, he doesn't know.
 7 A. I just don't recall.
 8 Q. If you called her in February of
 9 2005, would that have been to schedule an
 10 appointment to come and help her with her
 11 computers?
 12 A. I don't believe so.
 13 Q. What else would you have been
 14 calling her for?
 15 A. Any number of things.
 16 Again, I mean, she had tickets to
 17 the opera on a regular basis. She's a season
 18 subscriber. It could have been that.
 19 Q. Is it your testimony you went to the
 20 opera with Ms. Smith?
 21 A. No. I was offered tickets by
 22 Ms. Smith, but I had to decline.
 23 Q. Now, going to the fashion company.
 24 Are you aware that your last service
 25 call from plaintiffs was April 1, 2005?

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 2 A. No.
 3 Q. But you called three times in June.
 4 Again, I can show you the records.
 5 Was that in connection with calls --
 6 active service calls to them in June of 2005?
 7 A. Not multiple. It would have been
 8 discussions about what they would want, what
 9 they needed, when to meet, that sort of thing.
 10 Q. How did you get into a relationship
 11 where they were talking to you outside of
 12 plaintiffs' business?
 13 A. Some of the girls that worked there
 14 were just very friendly and we just discussed
 15 the possibility of me going out on my own so.
 16 Q. So Ms. Link, Ms. Smith and the
 17 fashion company were all clients that you had
 18 discussed that you were leaving with?
 19 A. Yes.
 20 Q. And Mr. Scribner was the other one
 21 that you discussed leaving with?
 22 A. Yes.
 23 Q. Anyone else?
 24 A. Not that I can recall at this time.
 25 Q. With each of those four clients, did

12 (Pages 42 to 45)

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 2 you discuss your alleged dissatisfaction with
 3 the conditions at plaintiffs?
 4 A. Yes.
 5 MR. CASTELLANO: Objection.
 6 The witness may answer.
 7 Q. Did you discuss with any other
 8 clients of plaintiffs your dissatisfaction
 9 with the conditions at plaintiffs?
 10 A. Not at this time that I recall, but
 11 it's possible.
 12 Q. Did you ever tell anyone at
 13 plaintiffs, other than Mr. Cavallo, that you
 14 were dissatisfied with the conditions at
 15 plaintiffs?
 16 A. Everyone discussed that constantly.
 17 Q. Did you ever tell Mr. Anderson that
 18 you were dissatisfied with the conditions?
 19 A. Yes.
 20 Q. Can you just tell me when you did
 21 that?
 22 A. Many, many times.
 23 Q. What did you tell him?
 24 A. That we felt we deserved more time
 25 for lunch breaks, that we thought the strict

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 2 requirements for certification that changed
 3 constantly as, did most of the rules at the
 4 company, were overly demanding in light of the
 5 lack of time we had to devote to things
 6 outside of on-site service calls, which was
 7 obviously the priority of the business, but we
 8 were expected to do studying and everything
 9 else during our off time at home in the
 10 evenings without compensation. So we objected
 11 to that. We objected to being called
 12 expendable, being told the checks could stop
 13 being signed whenever he felt like it, that
 14 bonuses would be withheld.
 15 We ate some chocolate and we were
 16 told we would lose Christmas bonus and owed
 17 hundreds of dollars for a \$50 box of
 18 chocolate. I mean, there were a lot of little
 19 things like that that we objected to on a
 20 regular basis.
 21 Q. And these were all things that you
 22 said to Mr. Anderson?
 23 A. And KerryAnn Wolfe. They were
 24 brought up at most of the weekly meetings.
 25 Sometimes in an e-mail, other times

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 2 face-to-face.
 3 Q. When did you provide computer
 4 services to Ms. Link, like what day of the
 5 week, what time of day?
 6 MR. CASTELLANO: Objection.
 7 In terms of when?
 8 Q. Days of week and times of day. Not
 9 like what month. We've already done that.
 10 When were you doing --
 11 MR. CASTELLANO: Every appointment?
 12 Q. Outside of plaintiffs' employment,
 13 when did you provide computer consulting
 14 services to Ms. Link?
 15 A. Are you asking after employment?
 16 Q. No. While you were still employed
 17 by plaintiffs, but when you were not doing it
 18 pursuant to your employment with plaintiffs.
 19 A. It would have been in the evenings.
 20 Q. What about to Ms. Smith?
 21 A. The same.
 22 Q. And the fashion company?
 23 A. The same.
 24 Q. Didn't the fashion company close for
 25 the evening?

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 2 A. I mean, they -- if I was coming,
 3 they wouldn't close.
 4 Q. Now, going back to the agreement for
 5 a second, Plaintiffs' 3 or 4. There you go.
 6 It also talked about the fact that you have
 7 access, in the first paragraph, to
 8 confidential information and trade secrets
 9 between Computer Guys' business and the
 10 clients, etcetera, which are considered
 11 proprietary information.
 12 Did you read that at the time you
 13 were given the agreement?
 14 A. Yes.
 15 Q. And did you understand the remainder
 16 of that which says that you were not to use it
 17 for any purpose, that confidential
 18 information?
 19 MR. CASTELLANO: Objection.
 20 The witness may answer.
 21 A. Are you asking if I understood
 22 the -- what's your specific question?
 23 Q. Did you understand that this
 24 agreement said that you were not to use that
 25 information for any purpose?

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 2 MR. CASTELLANO: Objection.
 3 The witness may answer.
 4 A. That information, yes, as it was
 5 defined.
 6 Q. Well, this defines it as --
 7 A. Trade secrets and proprietary
 8 information, I believe.
 9 Q. Well, how did you understand -- what
 10 did you understand -- what part of client
 11 information did you consider to be proprietary
 12 information and trade secrets?
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 A. The only cases I can think of of the
 16 clients with proprietary information were
 17 those who had purchased software systems or
 18 that kind of thing where the software was
 19 written by our company for the client.
 20 Certain personal details presumably would be
 21 considered trade secrets, I guess.
 22 MR. CASTELLANO: Don't guess.
 23 Q. What personal details?
 24 A. Information you couldn't get from
 25 the Internet or 411 or information or the

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1 Harriff
 2 phone book.
 3 Q. Well, did you -- are you aware that
 4 plaintiffs considered all their client
 5 information, addresses, phone numbers, the
 6 fact that they were clients, confidential?
 7 MR. CASTELLANO: Objection.
 8 The witness may answer.
 9 A. Not until the litigation began.
 10 Q. If you look back at Plaintiffs'
 11 Exhibit 5, which is the Mary Link record. If
 12 you look at the last page of that document.
 13 Would the copyright notices at the
 14 bottom, and it says proprietary and
 15 confidential. Are you aware that that appears
 16 on every client information page at
 17 plaintiffs?
 18 A. I am now.
 19 Q. Are you aware that the database was
 20 password protected, right?
 21 A. Yes.
 22 Q. What was the purpose of that?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. To prevent hackers and outsiders

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1 Harriff
 2 from accessing the database.
 3 Q. Why would they care if it wasn't
 4 confidential?
 5 MR. CASTELLANO: Objection.
 6 The witness may answer.
 7 A. Why would who care?
 8 Q. Why would the company care to
 9 prevent someone from accessing the database if
 10 it wasn't confidential?
 11 A. Because it contained passwords and
 12 other private information that should not be
 13 in the hands of people that aren't working
 14 with those clients. But the information is
 15 owned by the client. The client owns the
 16 router that stores the password, for instance.
 17 Q. Right.
 18 But you would think that a client
 19 would not want the company choosing to provide
 20 the computer consulting services to allow that
 21 information to fall into someone else's hands?
 22 A. Right.
 23 Q. And you were also, didn't you, while
 24 you were employed, received oral instructions
 25 not to give out your personal phone number to

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 2 any clients?
 3 A. Yes.
 4 Q. And that all calls should be made
 5 through the office and not personally to you?
 6 A. In most circumstances, yes.
 7 Q. What would be the exceptions?
 8 A. There were rare occasions where we
 9 had to do support from the field or we would
 10 be asked to let a client know if we were
 11 running late in the middle of the day and that
 12 sort of thing.
 13 Q. Weren't you asked to put in a code
 14 into your phone so that your client wouldn't
 15 know your phone number when you called the
 16 client from the field?
 17 A. I don't recall.
 18 Q. That didn't come up at staff
 19 meetings?
 20 A. I think it might have, yeah.
 21 Q. Weren't you told not to make
 22 personal appointments with clients?
 23 A. Yes.
 24 Q. And these instructions were also put
 25 in writing, weren't they?

14 (Pages 50 to 53)

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 2 A. Maybe I misunderstood. I'm sorry.
 3 Personal appointments meaning?
 4 Q. That you shouldn't make an
 5 appointment with a client to provide computer
 6 consulting services with a client outside of
 7 the company.
 8 A. Yes.
 9 Q. And these instructions were put in
 10 writing, weren't they?
 11 MR. CASTELLANO: The one that you
 12 just described?
 13 MS. JACOBSON: Yeah.
 14 A. Outside of the agreement you're
 15 saying?
 16 Q. Outside of the agreement. And
 17 outside of being told orally about it.
 18 A. I believe late in our employment
 19 there was some kind of guideline sheet
 20 drafted. We worked for many years without any
 21 sort of written policy whatsoever.
 22 Q. The things I told to you, they were
 23 orally told to you throughout your employment,
 24 weren't they?
 25 A. Sometimes. A lot of that stuff

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 2 would change on the fly, so it's difficult to
 3 know where things stood.
 4 Q. Did it change on the fly that you
 5 shouldn't make personal appointments with
 6 clients at the company?
 7 A. No.
 8 Q. Did it ever change that you
 9 shouldn't make a personal appointment with a
 10 client at the company?
 11 A. No.
 12 Q. Did it ever change that appointments
 13 should be made through the office and not
 14 through you?
 15 A. No.
 16 Q. Did it ever change that you
 17 shouldn't give clients your personal contact
 18 information?
 19 A. No.
 20 For the purposes of making
 21 appointments?
 22 Q. Right.
 23 A. No.
 24 Q. Besides Ms. Link and Ms. Smith, what
 25 other clients of plaintiffs did you become

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 2 personal social friends with?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 Is this personal?
 6 Q. While he was still employed by
 7 plaintiffs.
 8 A. That would be difficult, a difficult
 9 question to answer.
 10 Q. Well, I don't mean friendly. People
 11 you hung out with. How's that?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. It wasn't typical that I would hang
 15 out quote unquote "with clients."
 16 Q. When did you decide to leave
 17 plaintiffs to start your own company?
 18 MR. CASTELLANO: Objection.
 19 The witness may answer.
 20 A. I couldn't give you a specific date.
 21 It was probably in the spring of 2005.
 22 Q. Really?
 23 Didn't you, Mr. Nelson and Mr.
 24 Cavallo consider leaving in late 2004, early
 25 2005 together?

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 2 A. No.
 3 Q. You didn't tell anyone that?
 4 A. No. Not that I recall.
 5 Q. The three of you did not consider
 6 asking Mr. Anderson if you could buy out part
 7 of his business and leave?
 8 A. No.
 9 Q. Never told anyone that?
 10 A. With what money? We didn't make
 11 enough to buy any part of the business.
 12 Q. Weren't you originally planning to
 13 leave the company with Mr. Nelson and Mr.
 14 Cavallo?
 15 MR. CASTELLANO: Asked and
 16 answered.
 17 MS. JACOBSON: No. I gave him a
 18 date before. Now I'm asking him
 19 generally.
 20 A. No.
 21 Q. And I know we've discussed
 22 specifically three clients who you provided
 23 services to while you were employed.
 24 When was the first date you started
 25 providing services to plaintiffs' clients

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 2 outside of plaintiffs' employment itself?
 3 A. After I left.
 4 Q. No. While you were there. When was
 5 the first time that -- where the income came
 6 to you instead of to plaintiffs?
 7 A. Again, I couldn't tell you the exact
 8 date, but it probably was in late May or early
 9 June, like I said earlier.
 10 Q. Now, you said before that one of the
 11 reasons that you signed the confidentiality
 12 agreement on July 15 was you needed to get the
 13 money, you know, your paychecks to help start
 14 your business.
 15 When did you start setting up your
 16 new business?
 17 MR. CASTELLANO: Objection.
 18 The witness may answer.
 19 A. In what context, I guess?
 20 MR. CASTELLANO: Setting up.
 21 Q. What was the first step you took to
 22 setting up your business?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. The first formal step was

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1 Harriff
 2 registering a DBA in August.
 3 Q. You had already done appointments by
 4 then though, hadn't you?
 5 A. Yeah.
 6 MR. CASTELLANO: So you're
 7 considering that setting up his
 8 business? I mean --
 9 Q. Well, what was the first piece of
 10 equipment you bought for your business?
 11 A. That would have been my laser
 12 printer.
 13 Q. When did you buy your laser printer?
 14 A. I would have to check the receipt.
 15 Late July, I believe.
 16 Q. Did you take any steps prior to
 17 leaving plaintiffs' employment to begin in any
 18 way at all getting ready to have your own
 19 company?
 20 A. No.
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 MS. JACOBSON: Are we up to 7?
 24 (Plaintiffs' Exhibit 7, invoice
 25 from Tekserve, marked for

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 2 identification, as of this date.)
 3 Q. I'm handing you what's been marked
 4 as Plaintiffs' 7 which is an invoice from
 5 Tekserve, T-e-k-s-e-r-v-e, dated, sale date
 6 dated February 8, 2005.
 7 Do you recognize this document?
 8 A. I do.
 9 Q. What is this?
 10 A. It was a computer I purchased.
 11 Q. Did you purchase it for your
 12 business?
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 A. I purchased it as a technical
 16 consultant in the hopes that with my tax
 17 amount I'd be able to write this off as a
 18 work-related purchase, yes, but not towards my
 19 business, no. My business didn't exist then.
 20 MS. JACOBSON: I missed something
 21 he said. Could you read back his
 22 answer.
 23 (Record read.)
 24 Q. Did you ever have to do computer
 25 work at home for the plaintiffs' business?

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 2 A. We did research, we did studying. I
 3 did do occasional work on the newsletters,
 4 website design, that kind of stuff from home.
 5 Q. Well, you did end up applying this
 6 as a business expense to your new business,
 7 didn't you?
 8 A. I actually have not yet. I'm still
 9 working with my tax guy. I'm a little behind.
 10 Q. You still haven't filed a 2005 tax
 11 return yet?
 12 A. No. I'm still working on it. He
 13 has the records.
 14 MS. JACOBSON: Lets mark this as
 15 Plaintiffs' Exhibit 8.
 16 (Plaintiffs' Exhibit 8, 2005
 17 expenses stamped HARRIFF 00936-00941,
 18 marked for identification, as of this
 19 date.)
 20 Q. I'm handing you what's been marked
 21 as Plaintiffs' Exhibit 8, and ask you if you
 22 can identify that document, please.
 23 A. This was an Excel spreadsheet made
 24 to try to track expenses.
 25 Q. And would these -- these were

16 (Pages 58 to 61)

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2 business expenses related to your new
3 consulting business?
4 A. No. These were all expenses related
5 to being a computer consultant.
6 Again, my hope is to be able to
7 write off certain expenses incurred while
8 working for Computer Guys as well as things I
9 incurred after leaving Computer Guys.
10 Q. And that includes a percentage of
11 rent?
12 A. Again, I don't know.
13 Q. Let me ask you a question.
14 Do you spend more time -- withdrawn.
15 Is your office your home?
16 A. Yes.
17 Q. And so you currently work out of
18 your home?
19 A. Yes.
20 Q. Is there a reason that in January of
21 2005 the amount you -- the percentage of rent
22 you attributed to business purposes is the
23 same as it was in August of 2005 when you were
24 now working solely out of your home?
25 A. Because I don't know anything about

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2 taxes. And I was tracking -- that was the
3 number I made up in response to what my
4 monthly rent was in the hopes I'd be able to
5 write that amount or some amount off. Again,
6 I haven't filed these figures. This was a
7 generic document I made to tie me over.
8 Q. You worked for Computer Guys in
9 2004, did you not?
10 A. Yes.
11 Q. Have you filed your 2004 tax
12 returns?
13 A. We're actually looking into that. I
14 don't have a record of it. I have all my
15 records up to 2003. My 2004 is missing, so
16 I'm not sure.
17 Q. Did you file tax returns in 2003?
18 A. Yes.
19 Q. Did you charge a portion of your
20 rent to business expenses in 2003?
21 A. No.
22 I was working at the time for a vast
23 majority of it.
24 Q. OK. We'll go back to 2002.
25 Did you work for Computer Guys in

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1 Harriff
2 2002?
3 A. Yes.
4 Q. Did you charge -- and you've done
5 your tax returns for 2002?
6 A. Yes.
7 Q. Did you charge a percentage of your
8 rent --
9 A. No.
10 Q. Well, let me finish the question.
11 Did you charge a percentage of your
12 rent in 2002 to business expenses?
13 A. No.
14 Q. And looking at your 2005 expenses,
15 what office supplies did you buy that would
16 not have been paid for by Computer Guys that
17 you'd have it down as a business expense in
18 January of 2005?
19 A. I mean, you have a desk, staples,
20 pens, ink, paper, could be anything. It could
21 also have been computer equipment, like a
22 memory upgrade for my computer at home. I'm
23 not really sure.
24 Q. Lets turn to the second page.
25 Would you look at May 24, 2005. Go

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1 Harriff
2 Daddy computer Internet domain hosting. What
3 domain hosting were you planning for that was
4 a business expense while you were still
5 employed by plaintiffs?
6 A. I'm not sure. I own several
7 domains.
8 Q. Techknow as a domain,
9 T-e-c-h-k-n-o-w.
10 A. T-e-c-h-k-n-o-w-n-y.
11 Q. I'm sorry.
12 A. It is one of my domains, yes, that
13 was purchased, I believe, in September or
14 August of 2005. I'm sorry, July or August.
15 This would have been for probably -- I
16 couldn't tell you.
17 Q. Then if you look, you were charged,
18 if you turn to the third page on August 1,
19 USPS shipping for mailing, \$117.
20 A. Uh-huh.
21 Q. Was that postage in connection with
22 the mailing you made out, you sent out on or
23 about August 1, 2005?
24 A. Some of it would have been.
25 Q. Other than, lets say, that mailings,

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<p style="text-align: right;">Page 66</p> <p>1 Harriff 2 are there any other expenses for advertising 3 of your business on this expense sheet? 4 A. No. 5 Q. Have you done any advertising for 6 your business other than sent out that August 7 1 mailing? 8 A. No. 9 My clients are word of mouth 10 primarily. 11 Q. Before you left plaintiffs' 12 employment, didn't you copy information from 13 their database about clients? 14 MR. CASTELLANO: Objection. 15 The witness may answer. 16 A. None that I recall. No. 17 Q. Did you print screen shots so that 18 plaintiffs wouldn't be able to tell that you 19 copied client information? 20 A. Definitely not. 21 Q. Did you view information on clients 22 and write it down so that you would have 23 information on clients to contact them? 24 A. No. 25 Q. Did you exploit information from the</p>	<p style="text-align: right;">Page 68</p> <p>1 Harriff 2 you the records? 3 A. No. 4 Q. What client was this? 5 A. Jaspar, LLC. J-a-s-p-a-r. 6 MS. JACOBSON: So lets mark this as 7 Plaintiffs' 9. 8 (Plaintiffs' Exhibit 9, e-mail 9 stamped HARRIFF 00257-00259, marked for 10 identification, as of this date.) 11 Q. I'm handing you what's been marked 12 as Plaintiffs' 9, which has Bates stamp 13 numbers from your production 257 to 259, and 14 if you look at the bottom e-mail that you 15 wrote to Ms. Atherton, she works at Jaspar, 16 does she not? 17 A. Not any longer. She used to. 18 Q. Did she on October 29, 2005? 19 A. Yes. 20 Q. And you write, "In reviewing the 21 notes from the past, which I had to have," and 22 you put in quotes "smuggled" quotes "out to 23 me. Remember, I no longer work for Computer 24 Guys." 25 Does that refresh your recollection</p>
<p style="text-align: right;">Page 67</p> <p>1 Harriff 2 database to another computer so that you would 3 have access to that information after you 4 left? 5 A. As far as I know that wasn't 6 possible without being on the server itself, 7 so no. 8 Q. Did you ever ask anyone else at 9 Computer Guys to look at information for you? 10 A. Once. 11 Q. Tell me about that. 12 MR. CASTELLANO: In what context? 13 MS. JACOBSON: He said once, so let 14 him tell me. 15 A. I was doing work with a client who I 16 had done the website for and one of their 17 e-mail accounts was not working and they asked 18 if I had set up the e-mail account. And I 19 said I thought I had. And they said it still 20 wasn't functional. And so we had a discussion 21 about what would be a fair way to resolve 22 that. So I asked someone at Computer Guys to 23 just double check the record for me to see if 24 that had ever actually been done or not. 25 Q. Did you actually ask them to send</p>	<p style="text-align: right;">Page 69</p> <p>1 Harriff 2 that, in fact, you had someone send you the 3 documents? 4 A. They didn't send me the documents. 5 Please note smuggled in quotes. I was 6 speaking in jest. I'm speaking to a client. 7 MR. CASTELLANO: That answers the 8 question. 9 Q. Why did you use the term "smuggled"? 10 A. Well, I clearly couldn't go back 11 into the office to double check the records or 12 call KerryAnn to look it up. 13 Q. And you knew it was wrong to look at 14 computer records? 15 MR. CASTELLANO: Objection. 16 The witness may answer. 17 A. No. I don't think it was wrong. I 18 was asking to have confirmed whether or not 19 something had been done for them. 20 Q. Something that had been done while 21 you were employed at plaintiffs? 22 A. Yes. 23 Q. And wasn't the use of the word 24 "smuggled" an acknowledgment that you didn't 25 have the right to look at those records</p>

18 (Pages 66 to 69)

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1 Harriff
 2 anymore?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 Right in what, morale?
 6 MS. JACOBSON: You can object.
 7 MR. CASTELLANO: Are you asking
 8 morale?
 9 MS. JACOBSON: No. You can object.
 10 No speaking objections.
 11 MR. CASTELLANO: I don't understand
 12 the question though.
 13 MS. JACOBSON: That's for him to
 14 say, not for you to say. But for you to
 15 coach the witness --
 16 MR. CASTELLANO: I'm not coaching.
 17 MS. JACOBSON: Yes, you are. No
 18 speaking objections. You can object but
 19 you can't tell him what's wrong with the
 20 question.
 21 A. That's my hesitation.
 22 I guess I don't know in what context
 23 you're asking me.
 24 Q. Well, did you think it was something
 25 that Computer Guys would be in favor of you

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1 Harriff
 2 having access to information on this client
 3 after you had left employment?
 4 MR. CASTELLANO: Objection.
 5 The witness may answer.
 6 A. Presumably not.
 7 Q. So that's why you couldn't call Ms.
 8 Wolfe for the information?
 9 A. That was the least of my worries,
 10 but in terms of calling her, I didn't want
 11 anything to do with the company at that point.
 12 Q. That's not my question.
 13 The company would not want you to
 14 have this information, so that's why you
 15 called it smuggled, isn't it?
 16 A. I don't think the company would have
 17 cared really except that I was now working
 18 with a former client of theirs.
 19 Q. And, therefore, they would not want
 20 you to have access to that information?
 21 A. There is no information per se that
 22 I had access to. It's whether or not an
 23 e-mail address was set up.
 24 Q. Who was it that you asked to smuggle
 25 the information to you?

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1 Harriff
 2 A. David Campbell.
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 Q. Didn't you actually ask him to send
 6 you a screen shot of the information?
 7 A. No. I asked him to read the service
 8 record and tell me if -- he may have decided
 9 to do that. I don't recall.
 10 Q. You didn't send him an e-mail saying
 11 do it by screen shot. Don't copy it.
 12 MR. CASTELLANO: Asked and
 13 answered.
 14 A. I don't recall.
 15 Q. Now, Jaspar, I take it, was a client
 16 of yours by October of 2005?
 17 A. Yes.
 18 Q. How did that come about?
 19 A. You would have to ask them. I'm not
 20 entirely sure.
 21 Q. Didn't you send them a solicitation
 22 letter? Isn't that how you got them?
 23 A. I believe they were sent a letter.
 24 I'm not sure that's how they found me.
 25 Q. But they were sent a letter?

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1 Harriff
 2 A. I believe. I can't recall.
 3 Q. And do you recall when your last
 4 appointment with Jaspar was?
 5 A. No. I would have to check.
 6 MS. JACOBSON: Why don't we mark
 7 this as Plaintiffs' 10.
 8 THE WITNESS: When?
 9 Q. I'm sorry. Your last employment as
 10 an employee of plaintiffs.
 11 A. (Witness nods.)
 12 MS. JACOBSON: OK. Plaintiffs' 10.
 13 (Plaintiffs' Exhibit 10, Client
 14 service record, P0567-P0569, marked for
 15 identification, as of this date.)
 16 Q. I'm handing you what's been marked
 17 as Plaintiffs' Exhibit 10, which is the client
 18 page for Jaspar, LLC, and ask if you recognize
 19 that document.
 20 A. Yes.
 21 Q. And does that refresh your
 22 recollection as to when was the last time as
 23 an employee of plaintiffs that you saw Jaspar?
 24 A. No, but I see the date.
 25 Q. And that date is?

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1 Harriff
2 A. June 27, 2005.
3 Q. So you had seen them less than a
4 month before you left plaintiffs' employment?
5 A. Yes, apparently.
6 Q. So wouldn't you call them an active
7 client of plaintiffs?
8 MR. CASTELLANO: Objection.
9 The witness may answer.
10 A. Yes. At that time.
11 Q. Now, before you left plaintiffs'
12 employment didn't you review lots of client
13 information pages?
14 A. We reviewed client information
15 constantly.
16 Q. Aren't they usually in connection
17 with an appointment with a client or to
18 provide service to a client?
19 A. Not always.
20 Q. What else would you review a client
21 information page for?
22 A. For e-mails they may have sent.
23 They may have called in for help.
24 Q. If they called in for help, wouldn't
25 you end up charging them for the off-site help

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1 Harriff
2 you provided?
3 A. Sometimes. Not always.
4 MS. JACOBSON: Why don't we mark
5 this as Plaintiffs' 11.
6 (Plaintiffs' Exhibit 11, Activity
7 Log Report, P0394-P0405, marked for
8 identification, as of this date.)
9 Q. I'm handing you what's been marked
10 as Plaintiffs' 11. It was produced in this
11 litigation by plaintiffs, and it's basically
12 some -- it's called Activity Log Report. It
13 was a document created by looking at what you
14 viewed on the database between July 1, 2005
15 and July 15, 2005.
16 If you look at the last two pages,
17 although it shows numerous readings. You
18 viewed six specifically different clients on
19 your last day of employment.
20 Do you know why you were reviewing
21 records for six clients on the very last date
22 of your employment?
23 A. I'm sorry. Which pages are we
24 looking at?
25 Q. The last two pages of the document,

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1 Harriff
2 pages 11 and 12.
3 A. Well, on the last page I made
4 changes to several service records and/or
5 client data, so the last pages I was doing
6 something to update the records on both of
7 these, Lauri Adler and Holding House. And on
8 the second to last page, same thing. Every
9 one of these has either a change or an
10 addition it looks like.
11 Work done for Patricia Simon. Work
12 done for The Lakeside Group. Added a client
13 named, Ken Fisher. Updated a client named
14 Tricia Jamison twice. Updated a client named
15 Amy Silver. I guess I don't know what you're
16 asking.
17 Q. Why don't you go to page 3 of this
18 document, of Plaintiffs' 11. On the first
19 line for July 6 is Sanford Rosen & Associates.
20 Do you see that?
21 A. Yes.
22 Q. And you can look through July 6.
23 There is no updating, no service records, just
24 the view.
25 Are you aware that their last

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1 Harriff
2 service call -- they didn't have a service
3 call on July 6.
4 MS. JACOBSON: Withdrawn.
5 Q. Are you aware that that last service
6 call had been September 3, 2004 --
7 A. No.
8 Q. -- 360 days prior to this viewing?
9 Why were you viewing Sanford Rosen &
10 Associates on July 6, 2005?
11 A. I don't recall.
12 Q. Weren't you doing it so that you
13 could get their contact information?
14 MR. CASTELLANO: Objection.
15 The witness may answer.
16 A. I don't believe so. I did not send
17 them a letter.
18 Q. You know you didn't send them a
19 letter?
20 A. I don't believe I sent them a
21 letter.
22 Q. Looking at the next page, Elissa
23 Levy, who I'm going to confirm also only has
24 views and no updates of service record. And
25 Ms. Levy's last appointment had been January

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1 Harriff
 2 4, 2005, 183 days before July 6.
 3 What would have been your purpose of
 4 viewing her client information other than to
 5 get her contact information for your new
 6 business?
 7 A. Again, it could be a number of
 8 things. Like I said, it could have been --
 9 she could have e-mailed me and had a question
 10 wanting to know her router password, for
 11 instance, or it could have been any number of
 12 things without having something to cross
 13 reference, phone logs. I don't know if she
 14 called in, if I called her for some reason.
 15 She may have e-mailed me. She may have
 16 e-mailed someone else who asked me to do
 17 something for them.
 18 Q. But you clearly weren't updating or
 19 having a service record, so you weren't
 20 actually doing any work.
 21 A. It doesn't appear so, but, again, we
 22 didn't always bill for simple things. If
 23 someone wants their router password, we can't
 24 charge them for that.
 25 Q. Did you view any statements of work

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1 Harriff
 2 before you left?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 A. Not that I recall. I believe, if
 6 memory serves, I mean, there may have been
 7 one.
 8 Q. And that would have been?
 9 A. I don't recall the client. It was a
 10 new business client. I had been asked to help
 11 finish a scope shortly before leaving.
 12 MR. CASTELLANO: When you get a
 13 chance, I have to use the men's room.
 14 MS. JACOBSON: I was going to say
 15 it's actually a good breaking point, so
 16 why don't we take a ten-minute break.
 17 (Recess taken.)
 18 Q. Have you incorporated your business?
 19 A. No.
 20 Q. But you're operating under the name
 21 Techknow?
 22 A. Yes.
 23 Q. But it's not a separate corporate
 24 entity, right?
 25 A. It's a DBA.

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1 Harriff
 2 Q. Now, in addition to the letter that
 3 you sent out on or about August 1 which we're
 4 going to come to, what, if anything, did you
 5 do to find clients?
 6 MR. CASTELLANO: Asked and
 7 answered.
 8 MS. JACOBSON: You can answer.
 9 A. Nothing.
 10 Q. You didn't call clients that you had
 11 seen while at plaintiffs to tell them you were
 12 out on your own?
 13 A. No.
 14 Q. You didn't provide your contact
 15 information to any of plaintiffs' clients
 16 before you left their employment to some
 17 clients so they would know you would be out
 18 there?
 19 A. Not for those purposes, no.
 20 Q. Had you provided your phone number
 21 to some clients before you left?
 22 A. Not really, no. Not that I can
 23 recall, no.
 24 Q. Had you provided your e-mail address
 25 to some clients before you left?

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1 Harriff
 2 A. Very many of the clients had
 3 personal e-mail addresses anyway.
 4 Q. Why did they have your personal
 5 e-mail address?
 6 A. Most often because it was easiest to
 7 test e-mails, incoming and outgoing, to a
 8 personal account. It took quite a bit of
 9 effort to log into our work e-mail, so we
 10 would usually test to a free Hotmail type of
 11 account because we could be in and out of that
 12 more quickly.
 13 Q. So you knew that was against the
 14 rules of the company, of the plaintiffs to
 15 give out any personal contact information?
 16 A. It wasn't given out.
 17 Q. It was in their computers?
 18 A. It was utilized for testing.
 19 Q. Did those clients end up with your
 20 personal e-mail address?
 21 A. Some would have, presumably.
 22 There was no policy against that as
 23 far as we were told.
 24 Q. Did you give your contact
 25 information to Mallygirl, LLC before you left

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1 Harriff
 2 plaintiffs' employment?
 3 A. It's possible.
 4 Q. Any others that you're now
 5 remembering you gave your contact information
 6 to before you left plaintiffs' employment?
 7 A. Not that I recall.
 8 Q. Do you recall that your last
 9 appointment with Mallygirls was June of 2005?
 10 A. No.
 11 Q. When did you give Mallygirls your
 12 personal contact information?
 13 A. I don't recall.
 14 Q. And you gave it to them so they
 15 could contact you after you left plaintiffs?
 16 A. Yes.
 17 Q. So that's another client that you
 18 had discussed the fact that you were leaving
 19 with?
 20 A. Yes.
 21 Q. Does it refresh your recollection as
 22 to others you had discussed leaving with?
 23 A. Lauri Romanzi would have been one.
 24 L-a-u-r-i R-o-m-a-n-z-i.
 25 Q. Anyone else?

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1 Harriff
 2 A. Not that I recall.
 3 Q. So lets start with Mallygirls.
 4 How did you raise the fact that you
 5 were leaving plaintiffs with Mallygirls?
 6 A. I believe they asked if I ever
 7 worked on my own.
 8 Q. And they asked that while you were
 9 there on an appointment working for
 10 plaintiffs?
 11 A. Yes.
 12 Q. Did you do any work for them prior
 13 to leaving plaintiffs?
 14 A. Not that I recall.
 15 MS. JACOBSON: Why don't we mark
 16 this as Plaintiffs' 12.
 17 (Plaintiffs' Exhibit 12, Client
 18 Service Record, P0580-P0582, marked for
 19 identification, as of this date.)
 20 Q. I'm handing you what's been marked
 21 as Plaintiffs' Exhibit 12, which is a copy of
 22 the Mallygirl, LLC client information pages.
 23 Do you recognize this document?
 24 A. Yes.
 25 Q. Does this refresh your recollection

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1 Harriff
 2 that you were the last consultant there on
 3 June 24, 2005?
 4 A. I see that's what it says.
 5 Q. Do you have any reason to doubt
 6 that?
 7 A. No.
 8 Q. So when you left plaintiffs, they
 9 were an active client of plaintiffs, weren't
 10 they?
 11 A. Again, you'd have to ask them.
 12 Q. Do you recall that you called them
 13 just less than a week after you left
 14 plaintiffs?
 15 A. I don't recall that.
 16 Q. Do you recall your first appointment
 17 with them on your own?
 18 A. As far as?
 19 Q. Seeing them as a client, you know,
 20 them being your client?
 21 A. Not really. I mean, what -- I'm not
 22 sure what you're asking.
 23 Q. Do you remember the first time you
 24 provided a service call to Mallygirl once
 25 after you left plaintiffs?

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1 Harriff
 2 A. No.
 3 MS. JACOBSON: Mark as Plaintiffs'
 4 Exhibit 13.
 5 (Plaintiffs' Exhibit 13, Calendars
 6 stamped HARRIFF 00010-00019, marked for
 7 identification, as of this date.)
 8 Q. I'm handing you what's been marked
 9 as Plaintiffs' Exhibit 13 which is a set of
 10 your Outlook calendars for the month of July
 11 2005 through April 2006, which was redacted by
 12 counsel before being produced to us.
 13 Do you recognize this document?
 14 A. Yes.
 15 Q. And what are they?
 16 A. It's my calendar.
 17 Q. If you'd look at the entry for July
 18 21.
 19 A. Yes.
 20 Q. Does that refresh your recollection
 21 as to when you first saw Mallygirl or Mally
 22 Beauty?
 23 A. Presumably, yes.
 24 Q. When did you first see them?
 25 A. It would appear July 21.

22 (Pages 82 to 85)

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1 Harriff
 2 Q. And Mally Beauty and Mallygirl are
 3 basically the same entity; is that correct?
 4 A. Yes.
 5 Q. Do you remember when that
 6 appointment was made?
 7 A. I do not.
 8 Q. Do you remember what led to that
 9 appointment being made?
 10 A. I do not.
 11 Q. How they were in touch with you so
 12 shortly after you left plaintiffs' employment?
 13 A. I'm sorry.
 14 Is there a question?
 15 Q. Yes. Sorry.
 16 Do you know how they had an
 17 appointment so soon after you left plaintiffs'
 18 employment?
 19 A. Well, they would have needed
 20 something, so they would have gotten in touch
 21 with me.
 22 Q. Did they get in touch with you or
 23 did you get in touch with them?
 24 A. I don't recall, to be honest. I'm
 25 fairly certain they would have gotten in touch

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1 Harriff
 2 with me but.
 3 MS. JACOBSON: Lets mark this as
 4 Plaintiffs' 14.
 5 Off the record.
 6 (Discussion off the record.)
 7 MS. JACOBSON: Mark this as
 8 Plaintiffs' 14.
 9 (Plaintiffs' Exhibit 14, Cellphone
 10 statement, marked for identification, as
 11 of this date.)
 12 Q. I'm marking a page from cellphone
 13 records. It's marked as Plaintiffs' 14. For
 14 the record, I've highlighted so that you don't
 15 have to go searching on the page for the
 16 number I mean. Also, for the record, the
 17 document itself is Attorney Eyes Only.
 18 However, we will only be referring to the
 19 number that belongs to -- and when we show
 20 cellphone records --
 21 MR. CASTELLANO: A client who was
 22 once associated with the plaintiff.
 23 MS. JACOBSON: Right.
 24 MR. CASTELLANO: And those are the
 25 only numbers that we will be referring

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1 Harriff
 2 to on the cellphone records, just to be
 3 clear.
 4 Q. And you can check by comparing
 5 Plaintiffs' 12 to Plaintiffs' 14 and that the
 6 phone number that's highlighted on Plaintiffs'
 7 14 is in fact the Mallygirl phone number.
 8 Does that represent a call you made
 9 to that phone number on July 20, the one
 10 that's highlighted?
 11 A. It would appear to, yes.
 12 Q. Does that refresh your recollection
 13 as to the fact that you called them and that
 14 led to the appointment on July 21?
 15 A. Not likely. More likely they would
 16 have sent an e-mail first.
 17 Q. You've produced your e-mails in this
 18 action, have you not?
 19 A. Yes.
 20 Q. What did you do to search for
 21 e-mails?
 22 A. I sent all the e-mails essentially.
 23 Q. Is there a reason there's no e-mail
 24 from Mallygirls asking for an appointment?
 25 A. I can't recall, to be honest. Quite

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1 Harriff
 2 a while ago.
 3 Q. So this is the first evidence of any
 4 kind of communication you can explain then.
 5 And you can't explain that?
 6 A. It's possible I called them. I
 7 don't know.
 8 I mean, I obviously called them.
 9 Whether that was first, I couldn't say for
 10 sure.
 11 Q. What other customers, besides
 12 Mallygirl, did you give your personal contact
 13 information to before or say Lauri Romanzi,
 14 you had also discussed with her that you were
 15 leaving?
 16 A. Yes.
 17 Q. And did you give her your personal
 18 contact information?
 19 A. Actually, that's not correct. I
 20 discussed it with her assistant at the time.
 21 Q. And her assistant's name?
 22 A. Deb, D-e-b, Carbonell,
 23 C-a-r-b-o-n-e-l-l.
 24 Q. Do you know which one of them called
 25 to make the appointments with plaintiffs?

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1 Harriff
2 A. It varied. It depended on what was
3 needed and when.
4 Q. So what did you discuss with Deb
5 Carbonell?
6 A. When? I'm sorry.
7 Q. You said you discussed leaving with
8 her.
9 When did that conversation take
10 place?
11 A. I don't recall.
12 Q. A year before you left, five months
13 before you left, a month before you left, two
14 months before you left?
15 A. I don't have a recollection,
16 honestly.
17 Q. Do you recall what you said in that
18 conversation?
19 A. Just primarily that I was wanting to
20 get out. I was unhappy and wanted to try and
21 do something on my own.
22 Q. Do you recall what she said?
23 A. She said that was exciting and that
24 I should give it a shot.
25 Q. Did you give her your personal

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1 Harriff
2 contact information?
3 A. She had it long before.
4 Q. Why did she have your personal
5 contact information?
6 A. We kept in touch when I went to work
7 on the farm in 2003, e-mailed photographs,
8 that sort of thing.
9 Q. Anyone else you gave your contact
10 information to other than Mallygirls for the
11 purpose of getting in touch with you after you
12 left?
13 A. I'm just trying to recall.
14 Q. No problem.
15 A. Not that I can recall still.
16 Q. What about David Scribner where you
17 talked to him about leaving?
18 A. When did I talk to him?
19 Q. No.
20 Did you give him personal contact
21 information so he could reach you after you
22 left?
23 A. Again, he would presumably have had
24 my e-mail address from testing anyway.
25 Q. So the only one you can recall that

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1 Harriff
2 you gave your personal contact information to
3 was Mallygirls for the purpose of contacting
4 you after you left?
5 A. Yes.
6 Q. Didn't you tell David Campbell that
7 you had given some customers your personal
8 phone numbers so that they could call you
9 after you left?
10 A. I don't recall.
11 Q. What other information from
12 plaintiffs did you use after you left
13 plaintiffs for your own personal business?
14 A. Again?
15 Q. What other information from
16 plaintiffs did you use for your own personal
17 business after you left?
18 A. In what kind of information? I'm
19 not sure what you're asking.
20 Q. Information about clients,
21 information about prices, information about
22 work being done.
23 A. None.
24 Q. You never used the prices being
25 billed by plaintiffs to compare yourself and

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1 Harriff
2 charge less?
3 A. No.
4 MS. JACOBSON: Plaintiffs' 15.
5 (Plaintiffs' Exhibit 15, e-mail
6 stamped HARRIFF 00221, marked for
7 identification, as of this date.)
8 Q. I'm handing you what's been marked
9 as Plaintiffs' 15, which is one page of the
10 e-mails that were produced, and I'm asking you
11 to look at the first full e-mail, one from you
12 to Connie Kaplan. And it says, "not to play
13 the comparison game, but the competition is
14 charging \$135 an hour." You quote that.
15 A. It would appear so, yes.
16 Q. Who was the competition you were
17 referring to?
18 A. Ingenuit.
19 Q. So you did use your knowledge of the
20 billing rate?
21 A. Well, I guess from a general
22 standpoint, yes. It's inevitable.
23 Q. Now, you testified earlier in
24 looking at your affidavit that the number of
25 clients was now different. And I don't know

24 (Pages 90 to 93)

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1 Harriff
 2 where this -- it's Exhibit 2, and I didn't ask
 3 you at the time which part of the numbers are
 4 wrong and are you referring to paragraph 17?
 5 A. Yes.
 6 Q. So is -- how many clients do you
 7 have today?
 8 A. I don't know exactly. Probably in
 9 the nineties.
 10 Q. Back then you said that plaintiffs'
 11 clients made up approximately 58 percent of
 12 your business.
 13 What would that percentage be today?
 14 MR. CASTELLANO: Objection.
 15 The witness may answer.
 16 A. As defined -- clients as defined by
 17 what?
 18 Q. Well, you used the term 58 back
 19 then.
 20 What would you -- what were you
 21 defining it as?
 22 A. Of the clients that were considered
 23 in dispute at the time between July 15, 2005
 24 and 2006.
 25 Q. What clients did you consider in

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1 Harriff
 2 dispute at that time?
 3 A. The ones that we named at the time.
 4 Q. So just the ones you named made up
 5 58 percent?
 6 A. Right.
 7 Q. Talking about any client that had
 8 been seen by plaintiffs', lets say, in the
 9 year before July 15, 2005, what percentage
 10 would that have been in paragraph 15 at the
 11 time if you use that definition instead?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. I don't know. I would have to see.
 15 Q. How many clients today, what
 16 percentage of your clients, of the 90-ish
 17 clients today were plaintiffs' clients in the
 18 year before you left?
 19 MR. CASTELLANO: Objection.
 20 The witness may answer.
 21 A. I would have to check again.
 22 Q. Is it at least 50 percent?
 23 A. Probably not.
 24 Q. It's less than 50 percent?
 25 A. Probably.

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1 Harriff
 2 Q. Have you lost any of the clients
 3 that you had as of January 30, 2006?
 4 A. No. I don't believe so.
 5 One.
 6 Q. Which client did you lose?
 7 A. Patricia Michaels.
 8 Q. Do you know how many of -- in
 9 accurate numbers how many of your clients
 10 today were at any time clients of plaintiffs'?
 11 A. No. I would have to confirm it.
 12 Q. Can you name clients that you're
 13 seeing today that used to be clients of
 14 plaintiffs'?
 15 A. Do you want me to name them?
 16 Q. Yeah.
 17 A. Gloria Rometry, David Scribner.
 18 MR. CASTELLANO: Objection to the
 19 question, but the witness may answer.
 20 A. Presumably other people we've named
 21 so far.
 22 Q. Mallygirl?
 23 A. Yes. They no longer live in New
 24 York City, however.
 25 Q. Mary Link?

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1 Harriff
 2 A. Yes. Sandy Smith, Barking Dogs.
 3 Q. Jasper?
 4 A. Yes.
 5 Definitely others. I would have to
 6 look at a list to make sure.
 7 Q. Just looking at the first page of
 8 your calendar, Maggie Simmons?
 9 A. Yes.
 10 Q. And you should keep that out. We'll
 11 be referring to it frequently.
 12 A. Billy Gaus.
 13 Q. Nate Weber on page two?
 14 A. He might still be a client. He
 15 calls once every year or two so.
 16 Q. Elliott Zeisel, Z-e-i-s-e-l?
 17 A. Again, he calls very infrequently.
 18 I'm not sure.
 19 Q. Susan Farr?
 20 A. Yes.
 21 Q. Sharon Johnson?
 22 A. Yes.
 23 Q. DPNY or the Meltons?
 24 A. I haven't seen them in a year but.
 25 Q. Gale Simmons?

25 (Pages 94 to 97)

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1 Harriff
 2 A. I don't believe I've seen her in a
 3 year either. Any of these clients only once,
 4 once or twice a year typically.
 5 Q. Marjorie Maloney?
 6 A. I haven't seen her since I don't
 7 remember when.
 8 Q. I'm really bad at pronouncing names
 9 so. It's Asam --
 10 A. Asami Ishimaru, A-s-a-m-i
 11 I-s-h-i-m-a-r-u.
 12 Q. Is he still a client?
 13 A. She is.
 14 Q. Davida Goldman?
 15 A. No.
 16 Q. David Goldsmith?
 17 A. I have not seen him in a while. He
 18 did e-mail me recently with a question, but I
 19 have not seen him in many months.
 20 Q. Leigh Silber, L-e-i-g-h S-i-l-b-e-r?
 21 A. She too I have not seen in a very
 22 long time.
 23 Q. Wendy Newman?
 24 A. Yes.
 25 Q. Carnegie Hill?

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1 Harriff
 2 A. I haven't seen them in a very long
 3 time either.
 4 Q. Mary Salsilito?
 5 A. Who?
 6 Q. I'm sorry. Mary --
 7 A. Sussillo.
 8 Q. S-u-s-s-i-l-i-o?
 9 A. Yes. She is Elliot Zeisel's wife,
 10 but, again, I have not seen her in a long time
 11 either.
 12 Q. The Birbaums though it doesn't have
 13 their last name here?
 14 A. Yes. Well, again, I have not seen
 15 them in a long time either. They invited me
 16 to their house in the Catskills last summer,
 17 I'm sorry, two summers ago, and I think that
 18 may have been the last time I saw them.
 19 Q. Well, two summers ago was 2005?
 20 A. Yes.
 21 Q. And this is September 2005 that
 22 you're actually -- that they're on the
 23 calendar?
 24 A. Right. I'm saying here I think may
 25 have been the last time. I don't recall for

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1 Harriff
 2 sure.
 3 Q. Charles Mahlon, M-a-h-l-o-n?
 4 A. Yes.
 5 Again, infrequently, but.
 6 Q. Holly Schenck?
 7 A. Schenck.
 8 Q. S-c-h-e-n-c-k?
 9 A. I have not seen her in a very long
 10 time. I would say no at this point.
 11 Q. Lib Goss, G-o-s-s?
 12 A. Goss, yes.
 13 Q. Did we discuss Susan Senk, yes.
 14 S-e-n-k?
 15 A. Yes, she's a client.
 16 Q. Jan Markman?
 17 A. Yes.
 18 Q. Susan Brant, B-r-a-n-t?
 19 A. Yes.
 20 Q. Ashley Silverman?
 21 A. Yes.
 22 Q. Ronda Shaw?
 23 A. Yes.
 24 Q. Julia Prospero?
 25 A. Again, I haven't seen her in a very

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1 Harriff
 2 long time. I would say she is or is not.
 3 Q. Odessa Bourne?
 4 A. Yes.
 5 Q. Janet Stieg, S-t-i-e-g?
 6 A. I would say she's debatable as well.
 7 I haven't heard from her in a very long time.
 8 Q. Doris Pastore, P-a-s-t-o-r-e?
 9 A. Yes.
 10 Q. Donna Josephs?
 11 A. No.
 12 Q. When was the last time you saw her?
 13 A. That appointment.
 14 The check bounced.
 15 Q. Did we do David Phillips yet? David
 16 Phillips?
 17 A. Yes.
 18 Again, very infrequently and I don't
 19 know if they are or not, but I would think so.
 20 Q. Connie Kaplan?
 21 A. Yes.
 22 Sorry. Are you on 5 still.
 23 Q. I'm on 7 now.
 24 Mary Hilliard?
 25 A. Hilliard, yes. H-i-l-l-i-a-r-d.

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1 Harriff
2 Q. Newport Kids?
3 A. That's Donna Josephs.
4 Q. So you saw them again or?
5 A. I know I was doing work on the
6 website at that point.
7 Q. The check bounced?
8 A. It was 15 minutes as part of that
9 appointment.
10 Q. Ursula Muench --
11 A. Muench.
12 Q. -- is she still a client?
13 A. Yes.
14 Q. Victor?
15 A. Somogyi.
16 Q. S-o-m-o-g-y-i.
17 Stuart Woods?
18 A. Yes.
19 Q. Madelyn Miller?
20 A. I would say yes, probably.
21 Q. Charles Suisman, S-u-i-s-m-a-n?
22 A. Yes.
23 Q. At 10:00 a.m. on January 10, 2006 it
24 says Deb, is that the woman who works for
25 Lauri Romanzi?

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1 Harriff
2 A. It is. That didn't actually occur.
3 Q. Pat Finnegan?
4 A. Yes.
5 Q. Robin Singer. I'm on the next page.
6 No. Yeah, I'm in February. Unless there were
7 more names. Robin Singer?
8 A. Presumably. I haven't seen her in a
9 while, but I believe so.
10 Q. Joan Baldrige?
11 A. At this point I'm not sure.
12 Q. Kumiko Mack?
13 A. No.
14 Q. Bob Hoguet, H-o-g-u-e-t?
15 A. Yes.
16 Will we need this again?
17 Q. Yeah.
18 So you, by my calculations,
19 approximately 34 of those names are people
20 that definitely solicited clients with a small
21 number that you're not sure --
22 MR. CASTELLANO: Objection.
23 Q. -- of not -- of that 34 separate
24 group?
25 MR. CASTELLANO: Can we have the

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1 Harriff
2 question read back?
3 (Record read.)
4 Q. Of the names we just went through,
5 by my calculations 34 of them are still
6 definitely clients of yours?
7 MR. CASTELLANO: Objection.
8 The witness may answer.
9 A. I would not say that is accurate
10 necessarily. I have not heard from quite a
11 few of those people in a while. Sorry.
12 Q. I didn't count those in the 34.
13 Anyone you said not sure, haven't seen them in
14 a year, I didn't count them in the 34.
15 MR. CASTELLANO: Objection.
16 A. I'm not sure what's on your list.
17 Q. OK.
18 But when we've gone through the list
19 you've told me if you weren't sure if they
20 were still your client or if they definitely
21 weren't your client anymore.
22 A. I see Holly Schenck there.
23 Are you counting her, for instance?
24 MR. CASTELLANO: I was referring to
25 the question before we went through the

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1 Harriff
2 list. I think that would help, Jocelyn.
3 MS. JACOBSON: No. I didn't count
4 her. Not seen in a long time, so I
5 didn't count her.
6 A. I believe that that would be right
7 for the ones.
8 Q. We discussed some of them, but lets
9 take Barking Dogs, for instance. How did they
10 become a client of yours?
11 MR. CASTELLANO: Objection.
12 A. We stayed in touch for various
13 things. We were interested in cycling. Her
14 husband and I had discussed it a lot. I had
15 asked if they might have opportunities to do
16 design work for them as an additional source
17 of income for myself, that sort of thing.
18 Q. What kind of work have you done for
19 Barking Dogs?
20 A. The same.
21 Q. Do you know a Julia Zangrilli,
22 Z-a-n-g-r-i-l-l-i?
23 A. It sounds familiar. I'm not sure.
24 Q. Do you know she was a client of
25 plaintiffs?

Michael Harriff

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1 Harriff
2 A. I'm not sure.
3 Q. Do you remember that you called her
4 in October of 2005?
5 A. I can't recall. Maybe.
6 Q. Do you remember how you got her
7 phone number?
8 MR. CASTELLANO: Objection.
9 The witness may answer.
10 A. No.
11 Q. Didn't you get her phone number from
12 Carl Nelson who had actually been her
13 technical consultant while employed by
14 plaintiffs?
15 A. No.
16 Q. Did Ms. Zangrilli give you any
17 business?
18 A. Do you have an address maybe? That
19 would jog my memory.
20 Q. Do you know a Patricia Kusnick,
21 K-u-s-n-i-c-k?
22 A. Yes. I'm trying to remember who she
23 is.
24 Q. Do you recall that she was a client
25 of plaintiffs?

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1 Harriff
2 MR. CASTELLANO: Objection.
3 The witness may answer.
4 A. No.
5 She's a personal friend of Ursula
6 Muench actually.
7 Q. Do you know how you got her phone
8 number to call her in October of 2005?
9 A. From Ursula.
10 Q. What led you to calling her?
11 A. Ursula told me she would need help
12 with something.
13 Q. Did she in fact book services with
14 you?
15 A. Yes.
16 MS. JACOBSON: She's been redacted
17 and I don't see anything and she was a
18 client of plaintiffs.
19 MR. CASTELLANO: She was associated
20 with plaintiffs?
21 MS. JACOBSON: Yes.
22 THE WITNESS: I don't think I was
23 aware of that. I knew her as a friend
24 of Ursula's.
25 MR. CASTELLANO: What's the name?

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1 Harriff
2 MS. JACOBSON: Patricia Kusnick,
3 K-u-s-n-i-c-k.
4 Q. Is she still a client?
5 MR. CASTELLANO: Objection.
6 The witness may answer.
7 A. I think I've seen her twice in two
8 years, so possibly yes. I would say yes.
9 Q. How much income have you made from
10 Ms. Kusnick?
11 A. I don't recall specifically.
12 Q. What's your normal hourly rate?
13 A. \$80.
14 Q. Do you know how many hours you've
15 given her?
16 A. Not specifically. Very few.
17 Q. Do you recall when the last time you
18 saw her?
19 A. It actually wasn't that long ago I
20 believe. I don't recall specifically, but it
21 was this year sometime.
22 Q. Do you know an Alise Van Hecke?
23 A. Yeah. She has several names.
24 Q. Alice Sand also is another name?
25 A. Yeah.

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1 Harriff
2 Q. Do you know her?
3 A. Not that well, no.
4 Q. Have you seen her while you worked
5 for plaintiffs?
6 A. Yes.
7 Q. So you knew she was a client of
8 plaintiffs?
9 A. Yes.
10 Q. You called her while you were still
11 employed by plaintiffs, but they hadn't had a
12 service call with her in a while.
13 Do you know why you called her?
14 MR. CASTELLANO: Objection.
15 The witness may answer.
16 A. I don't recall actually.
17 Q. How did you have her phone number?
18 A. How did I?
19 Q. Yes.
20 A. It was in my phone.
21 Q. Why was her phone number in your
22 phone?
23 A. Any client I had ever called or seen
24 was in my phone essentially.
25 Q. Your phone retains every phone

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1 Harriff
2 number or do you save every phone number?
3 A. No. I have a list of my clients in
4 my contacts.
5 Q. So any client you saw while employed
6 by plaintiffs you put into your personal
7 contacts?
8 A. Not all, but the vast majority, yes.
9 Q. And you kept that when you left
10 plaintiffs' employment?
11 A. It was my personal phone.
12 Q. I don't mean did you keep the
13 personal phone. I mean did you keep the
14 personal phone numbers?
15 A. Yes.
16 Q. Did you keep the client's phone
17 numbers in there?
18 A. Yes.
19 Q. And you used those phone numbers to
20 contact some of plaintiffs' clients after you
21 left?
22 MR. CASTELLANO: Asked and
23 answered.
24 A. No. They contacted me first.
25 Q. You can't recall any clients who

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1 Harriff
2 hadn't contacted you first?
3 A. Not that I recall, no.
4 Other than maybe Mally, but I don't
5 know. There could have been an e-mail from
6 them that was deleted. I mean, I don't keep
7 everything.
8 Q. How did all of these clients have
9 your phone number to call you?
10 A. Well, a lot of them got me through
11 e-mail again. I was published in information.
12 You could find some things on Google.
13 Q. And they were sent a solicitation
14 letter?
15 MR. CASTELLANO: Objection.
16 The witness may answer.
17 A. They who?
18 Q. The clients who had your phone
19 number, some of them had gotten it from your
20 letter that had your phone number and e-mail
21 address?
22 A. You'd have to ask them.
23 MR. CASTELLANO: Objection.
24 Q. Didn't some of your clients tell you
25 that's how they knew how to find you was

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1 Harriff
2 through your letter?
3 A. I recall a couple clients saying
4 something to the effect of thank you for
5 sending a letter, I got your letter, that sort
6 of thing. Most of them found me through
7 information or other means, had my e-mail
8 address as I mentioned.
9 Q. They knew you were in business
10 because they had gotten your letter?
11 MR. CASTELLANO: Objection.
12 The witness may answer.
13 A. They who?
14 Q. The clients who told you they
15 received your letter knew you had your own
16 business because they received your letter?
17 MR. CASTELLANO: Objection.
18 The witness may answer.
19 A. I couldn't say for sure.
20 Q. Well, you had left plaintiffs before
21 to go work on a farm, not to do any competing
22 business; isn't that true?
23 A. Correct.
24 Q. And clients haven't come and found
25 you on the farm thinking you were going to

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1 Harriff
2 provide them services, have they?
3 A. Not particularly, no.
4 Q. And yet the reason these clients
5 found you after you left plaintiffs, knew that
6 you were out there to be found doing computer
7 consulting business was because you had sent
8 them the letter in or about August 1 of 2005?
9 MR. CASTELLANO: Objection.
10 The witness may answer.
11 A. If you back up, actually, a second
12 to your last question those people weren't,
13 wouldn't have bothered me to the farm because
14 they knew I was going there for the most part.
15 Q. So you had told people you were
16 going to a farm?
17 A. Some. Clearly not all but.
18 Q. Yet, if it was to come out that lots
19 of clients called asking for you after you
20 left for the farm, clearly not knowing you had
21 left for the farm and no, almost no clients
22 called asking for you after you left in July
23 of 2005, would that change your answer as to
24 why clients may have known you had started a
25 competing business in 2005?

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1 Harriff
 2 MR. CASTELLANO: Objection.
 3 The witness may answer.
 4 A. I'm sorry. Can you word that
 5 differently?
 6 Q. You said that one of the reasons
 7 people didn't come tracking you down at the
 8 farm is they knew you were going to the farm.
 9 A. Right.
 10 Q. Yet I'll represent to you, and take
 11 it as a hypothetical that there were numbers
 12 of clients who called looking for you when you
 13 left for the farm, asking for you, as their
 14 consultant, not knowing you had left for a
 15 farm, clearly. And a total of three clients
 16 called looking for you after you left on July
 17 15, 2005.
 18 Doesn't it indicate to you that in
 19 fact it's not that you told people you were
 20 going to a farm in 2003, but that you told
 21 them that you were starting a competing
 22 business in 2005?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. Possibly in a few cases that's true,

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1 Harriff
 2 yeah.
 3 Q. And the ones you hadn't told you
 4 sent the paperwork to so they knew you had a
 5 competing business?
 6 MR. CASTELLANO: Objection.
 7 The witness may answer.
 8 A. In some cases that would be true,
 9 yes.
 10 Q. Do you know a Brenda Seldin,
 11 S-e-l-d-i-n?
 12 A. The name is familiar. I can't
 13 recall who she is at the moment.
 14 Q. She was a client of plaintiffs who
 15 you saw in April of 2005. Does that refresh
 16 your recollection?
 17 A. Not particularly, but I saw hundreds
 18 of people every year.
 19 Q. You also, your phone records also
 20 indicated that you called her on October 12,
 21 2005.
 22 Do you know how you had her phone
 23 number? Was her phone number in your
 24 cellphone?
 25 A. Yes, it would have been if I had

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1 Harriff
 2 seen her.
 3 Q. Would her phone number still be in
 4 your cellphone today?
 5 A. Possibly.
 6 Q. Can you explain why you called her
 7 in October of 2005?
 8 A. She probably called me.
 9 Q. I can tell you that we have gone
 10 through your cellphone records and the first
 11 phone call is you calling her on October of
 12 2005.
 13 A. People have a lot of phone numbers.
 14 They call from work, they call from their
 15 husband's phones. There's all sorts of
 16 reasons.
 17 Q. Did you ever see Ms. Seldin once you
 18 left the plaintiffs' employment?
 19 A. I honestly don't recall.
 20 Q. Would you have records that show
 21 that?
 22 A. I might.
 23 Q. Do you still have these calendars in
 24 your system?
 25 A. I believe.

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1 Harriff
 2 Q. Unredacted, obviously?
 3 A. I believe so.
 4 MS. JACOBSON: I would ask that you
 5 go back and see if Ms. Seldin is in the
 6 unredacted version of the calendar.
 7 MR. CASTELLANO: OK. I'll take it
 8 as, if you put it in a letter, send me
 9 an e-mail and I'll take it under
 10 advisement. It seems like a reasonable
 11 request.
 12 A. A phone call doesn't equal
 13 employment. She may have asked if I could do
 14 something and I would have said no or.
 15 Q. I understand, but since I have a
 16 redacted version of your calendar, I don't
 17 really know who you saw.
 18 A. Yeah.
 19 Q. Do you know a Chris Jordan?
 20 A. Yes.
 21 Q. Who is he?
 22 A. He's a client of plaintiffs.
 23 Q. Had you seen him when you worked for
 24 plaintiffs?
 25 A. Yes.

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1 Harriff
 2 Q. So you knew he was a client of
 3 plaintiffs?
 4 A. Yes.
 5 Q. Did you contact him after you left
 6 plaintiffs?
 7 A. Yes.
 8 Q. How did you first contact him?
 9 A. The letter.
 10 Q. How did you still have his address?
 11 A. As I answered before, it was in my
 12 phone.
 13 Q. Because you said phone numbers
 14 before --
 15 A. I said any client I had seen I put
 16 their information in my phone.
 17 Q. So you put phone numbers and
 18 addresses in your phone?
 19 A. The address was the most important
 20 thing. That's how I knew where I was going.
 21 Q. Is your cellphone a cellphone or a
 22 Blackberry or a Palm?
 23 A. It was actually a Trio.
 24 Q. So you put all the information when
 25 you're going to an appointment in that?

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1 Harriff
 2 MR. CASTELLANO: Objection.
 3 The witness may answer.
 4 A. Normally, yes.
 5 Q. And you didn't delete it after the
 6 appointment?
 7 A. No, because I would see most clients
 8 repeatedly.
 9 Q. And so any client that you saw while
 10 you worked for plaintiffs would have been in
 11 your Palm after you left their employment?
 12 A. Not all of them, but.
 13 Q. A lot?
 14 A. A fair amount, yes.
 15 Q. Well, more than half?
 16 A. No.
 17 Q. Not more than half?
 18 A. No.
 19 Q. Approximately how many?
 20 A. I couldn't say for sure. I think
 21 hundreds certainly.
 22 Q. So in absolute numbers it was more
 23 than a hundred?
 24 A. Yeah.
 25 Q. Did you use that, what you had in

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1 Harriff
 2 your Palm to create your mailing list or
 3 August 1 letter?
 4 A. Yes.
 5 Q. So when asked the question who did
 6 you send the letter to, how is it that I have
 7 been told that you couldn't possibly tell me,
 8 and that you don't have that. And I can pull
 9 out the letters, but you can't reconstruct the
 10 letters?
 11 A. Because it wasn't sent to everyone
 12 in my database. My database contains
 13 companies in New York, restaurants in New
 14 York, places in San Francisco, my friends,
 15 trips.
 16 The list I had of work contacts I
 17 sorted through and withdrew many of the names
 18 that I didn't feel I had a personal rapport
 19 with the client or something of that nature
 20 where it seemed appropriate to let them know I
 21 had moved on. There were a handful that
 22 slipped through the cracks.
 23 Q. I was going to ask you, what about
 24 Cass Adelman?
 25 A. She was one.

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1 Harriff
 2 Q. Did you have her address in your
 3 Palm because you had seen her at once?
 4 A. I believe I had seen her once, yes.
 5 Q. But you didn't have a personal
 6 relationship with her?
 7 A. Correct.
 8 Q. But you acknowledge that you sent
 9 her a letter?
 10 A. Yes.
 11 Q. Now, you said not every client you
 12 saw when you were with plaintiffs you had in
 13 your Palm, just some?
 14 A. The vast majority of the clients,
 15 yes.
 16 Q. How did it come about that you
 17 didn't have all of them?
 18 A. I would get a call in the field once
 19 in a while from somebody and wouldn't record
 20 it. And if I didn't go see them again, there
 21 wouldn't have been a reason to add them at
 22 that point.
 23 Q. So you didn't weed out, for
 24 instance? It was anybody who sort of knew in
 25 advance was in your Palm?

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1 Harriff
 2 MR. CASTELLANO: Objection.
 3 The witness may answer.
 4 A. I'm sorry. Weed out. Say it again.
 5 Q. It's not like you went through your
 6 Palm and deleted ones that you had already
 7 entered, is it?
 8 A. When?
 9 Q. While you worked for plaintiffs, did
 10 you go through and delete some of them?
 11 A. Not usually.
 12 Q. When you left plaintiffs, did you go
 13 through and delete some?
 14 A. Maybe a few. People that I maybe
 15 didn't like or something.
 16 Q. So any client of plaintiffs who you
 17 were sent to see where it wasn't a call in the
 18 field, their name and address would end up in
 19 your Palm?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. Typically, yes.
 23 Q. Now, did you end up seeing Chris
 24 Jordan?
 25 A. He asked me to do some work for him

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1 Harriff
 2 via I believe e-mail. I did not end up seeing
 3 him, no. He asked me to do work. I did work
 4 for him. He never paid me. He disappeared.
 5 Q. Now, did you have a personal
 6 relationship with Chris Jordan?
 7 A. We had a rapport.
 8 Q. You haven't seen him since 2002 --
 9 MR. CASTELLANO: Objection.
 10 Q. -- while with plaintiffs?
 11 How do you know you had a rapport
 12 three years later?
 13 A. That's not correct. I'm fairly
 14 certain I saw him in 2004 or 2005 at some
 15 point. Probably 2004.
 16 Q. Do you know the Institute of
 17 Religion and Public Life?
 18 A. Yes.
 19 Q. And you saw them while you were
 20 consulting with plaintiffs?
 21 A. Yes.
 22 Q. In fact, you saw them in your last
 23 week of employment, didn't you?
 24 A. Possibly.
 25 MS. JACOBSON: Plaintiffs' 16.

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 2 (Plaintiffs' Exhibit 16, Client
 3 service record, P0562-P0566, marked for
 4 identification, as of this date.)
 5 MR. CASTELLANO: Take five minutes.
 6 (Recess taken.)
 7 Q. Just before the break I was about to
 8 hand you what's been marked Plaintiffs' 16,
 9 which is a copy of the client page on the
 10 Institute of Religion and Public Life.
 11 Do you recognize this document?
 12 A. Yes.
 13 Q. Does it refresh your recollection as
 14 to the last time you saw them while you worked
 15 for plaintiffs?
 16 A. Yes.
 17 Q. When was that?
 18 A. July 12, 2005.
 19 Q. Wasn't that the last week of your
 20 employment?
 21 A. Yes, it was.
 22 Q. So when you left you knew they were
 23 an active client of plaintiffs', didn't you?
 24 A. As I guess that's been defined, yes.
 25 Q. Did you discuss with them that you

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1 Harriff
 2 were leaving?
 3 A. I discussed it with Davida, yes.
 4 Q. I'm sorry?
 5 A. I discussed it with Davida Goldman.
 6 Q. When did you discuss it, on your
 7 visit on the 12th?
 8 A. Presumably. I believe so, yes.
 9 Q. What did you tell her?
 10 A. That I enjoyed working with her and
 11 that I would be on my own shortly.
 12 Q. So you told her you were starting
 13 your own business not just that you were
 14 leaving plaintiffs?
 15 A. I don't recall.
 16 Q. Did you give her your contact
 17 information?
 18 A. I don't believe so.
 19 Q. Sent them a solicitation letter?
 20 A. They received a letter, yes.
 21 Q. And you had their address because it
 22 was on your Palm?
 23 A. Correct.
 24 Q. Let me ask you this.
 25 How did you input things onto your

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 2 Palm, the client information onto your Palm?
 3 A. Physically you mean?
 4 Q. Well, I mean, physically where were
 5 you when you would do it?
 6 A. Home, the office. I could have been
 7 anywhere.
 8 MR. CASTELLANO: Objection.
 9 Q. If you were going to --
 10 MS. JACOBSON: Withdrawn.
 11 Q. How would the company tell you you
 12 had an appointment at, lets say, the Institute
 13 on Religion and Public Life?
 14 A. Any number of ways. Could be told
 15 over the phone, via e-mails. On rare
 16 occasions we logged into the extranet to look
 17 at our calendar. Prior to that we used to use
 18 Outlook. There were many times where we were
 19 still utilizing both systems, Outlook and the
 20 extranet, because things were not always added
 21 to one or the other necessarily. At some
 22 point we set up an automated function, but it
 23 was not always utilized, especially when you
 24 were in a hurry.
 25 Q. When you say you have an

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 2 appointment, whether they called you or
 3 e-mailed you or you saw it on the extranet,
 4 was it your practice to immediately input the
 5 name and address into your Palm if you had not
 6 been to that client before?
 7 MR. CASTELLANO: Objection.
 8 The witness may answer.
 9 A. I'm sorry. You're saying to -- can
 10 you rephrase that. I'm sorry.
 11 Q. Sure.
 12 When you were told you had an
 13 appointment with a client who you had not seen
 14 before, lets start with that, was it your
 15 standard practice to immediately input that
 16 client's name and address into your Palm?
 17 MR. CASTELLANO: Objection.
 18 The witness may answer.
 19 A. Normally, yes.
 20 Q. And then to save it after the visit?
 21 A. It's saved as soon as it's entered.
 22 Q. You wouldn't delete it after the
 23 visit?
 24 A. Yes. That was asked before, yes.
 25 Q. And so did you ever sort of take it

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 2 from the extranet and put it into your Palm or
 3 did you have to manually put it into your
 4 Palm?
 5 A. It was manually entered.
 6 Q. And if you got a call from the
 7 office to go see the Institute and you'd been
 8 there, if you look at your service records,
 9 you'd been there in April of '05 and then July
 10 12 of '05.
 11 A. Yes.
 12 Q. Do you recall whether on July 12 you
 13 already had them on your Palm from the April
 14 appointment?
 15 A. I don't recall.
 16 Q. Did you ever go through and weed out
 17 your Palm for addresses and names that you
 18 haven't seen in two or three years?
 19 A. Not really, because there's no date
 20 on when you enter a client into the database.
 21 So there's no way to really know who was put
 22 in when.
 23 Q. Did you label them when you put them
 24 in that they were a client so you'd know them
 25 differently from any other name and number in

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 2 your Palm?
 3 A. For the most part. Originally, no.
 4 I started doing that much later on.
 5 Q. When did you start doing that?
 6 A. I don't recall exactly. 2004 maybe.
 7 Q. While you were still employed by
 8 plaintiffs?
 9 A. Yes.
 10 Q. So when you left plaintiffs, you
 11 could pretty much tell who on your Palm had
 12 been clients of plaintiffs that you had seen
 13 while you were at plaintiffs?
 14 A. For the most part, yes.
 15 Q. And you used that in doing your
 16 solicitation letter if you thought there was a
 17 rapport?
 18 A. Yes.
 19 Q. With a few slips through the cracks?
 20 A. Yes.
 21 Q. Did the Institute on Religion and
 22 Public Life actually give you any business?
 23 A. I did go there, yes.
 24 Q. You did?
 25 A. Yes.

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1 Harriff
 2 Q. Submitted an invoice?
 3 A. I really didn't have an invoice to
 4 set up at the beginning.
 5 Q. How did they pay you?
 6 A. It would have been by check.
 7 Q. Listed that anywhere?
 8 A. I'm sorry?
 9 Q. Listed that anywhere?
 10 A. I don't know honestly. I don't
 11 think so.
 12 Q. So do you have any evidence of how
 13 much you were paid by them?
 14 A. At this point in time, no.
 15 Q. Now, they're not on your unredacted
 16 calendar --
 17 A. They are.
 18 Q. -- redacted calendar?
 19 A. They are. Davida Goldman is.
 20 Q. Where Davida Goldman is listed, is
 21 that your appointment with the Institute or is
 22 that with her personally?
 23 A. No, never personally.
 24 Q. OK. So that would have been the
 25 Institute?

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 2 A. It would have been and also followup
 3 phone calls or e-mails. A lot of what you see
 4 on here isn't necessarily an appointment at
 5 all. Sometimes it's a reminder to call
 6 someone or to e-mail or send them something or
 7 order something for them. Something along
 8 those lines.
 9 Q. Do you know a Jack Raymond?
 10 A. Not that I can recall at the moment.
 11 Q. Do you recall that you called him in
 12 September of 2005?
 13 A. I believe he called me for help with
 14 something, but I didn't end up working with
 15 him that I can recall at all.
 16 Q. Do you know he is a client of
 17 plaintiffs?
 18 MR. CASTELLANO: Objection.
 19 The witness may answer.
 20 A. I honestly don't recall.
 21 Q. So it's your testimony that he
 22 called you first?
 23 A. Yeah. I didn't call anyone
 24 proactively. There would have been some kind
 25 of contact prior to that.

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1 Harriff
 2 Q. So the only proactive thing you did,
 3 according to you, was the letter you sent on
 4 or about August 1?
 5 A. Correct.
 6 MR. CASTELLANO: Asked and
 7 answered.
 8 Q. Do you know a Julius Brown?
 9 A. I can't recall at the moment.
 10 Q. Are you aware that Julius
 11 Brown was a client of plaintiffs?
 12 A. I can't recall.
 13 Q. Do you recall calling him on
 14 September 20, 2005, September 2005?
 15 A. No, but I had a lot of people call
 16 me back or call about the letter. Not a lot,
 17 but some people that I -- that called to see
 18 what it meant.
 19 Q. Let me ask you a question.
 20 Mr. Brown and Mr. Raymond, at least
 21 the phone number you called and the phone
 22 number plaintiffs have is their phone numbers
 23 on their records. There's no incoming phone
 24 number from there prior to your call.
 25 Can you explain that?

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 2 MR. CASTELLANO: Objection.
 3 The witness may answer.
 4 A. As I said before, people often would
 5 call from work, other numbers. Most people
 6 here have two phone numbers. I don't log them
 7 all. So it was actually their local numbers
 8 here as well as some e-mails. Often, if I get
 9 an e-mail that's simple, I'd just delete it if
 10 they called me about something.
 11 Q. You said that people called you
 12 about the letter, to ask you about it.
 13 What was that kind of conversation
 14 that you'd have?
 15 A. A handful of people did. It was
 16 essentially some to say congratulations.
 17 Others to say, wanting to know more in terms
 18 of rates, that sort of thing. How often my
 19 hours, you know, business specific details.
 20 Q. Do you remember who called asking
 21 about your rates?
 22 A. No.
 23 Q. Did you send a letter to anyone who
 24 wasn't a client of plaintiffs?
 25 MR. CASTELLANO: Objection.

34 (Pages 130 to 133)

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 2 The witness may answer.
 3 A. Not that I can recall. Mostly
 4 friends and family. I mean, I did send it to
 5 some.
 6 Q. So clients, friends and family
 7 basically?
 8 A. Uh-huh.
 9 Q. Do you remember the percentage to
 10 clients versus friends and family?
 11 A. No. It would have been a large
 12 difference, obviously.
 13 Q. Mostly clients?
 14 A. Correct.
 15 Q. Do you know a Linda Chase?
 16 A. Yes.
 17 Q. And who is Linda Chase?
 18 A. She's a woman in Manhattan.
 19 Q. Is she a client of yours?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. I'm not sure at this point.
 23 Q. Have you seen her ever as a client
 24 on your own?
 25 MR. CASTELLANO: Objection.

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 2 Whose client?
 3 Q. Since you left plaintiffs, have you
 4 ever seen her as a client?
 5 A. Not her specifically.
 6 Q. What do you mean not her?
 7 A. Her husband's business in The Bronx
 8 I've done work for.
 9 Q. Do you still see her husband's
 10 business in The Bronx?
 11 MR. CASTELLANO: Objection.
 12 The witness may answer.
 13 A. I have not in a long time but.
 14 Q. Do you recall that she was a client
 15 of the plaintiffs?
 16 A. Yes.
 17 Q. Did you send her a solicitation
 18 letter?
 19 A. I don't recall.
 20 Q. Do you know how she had your phone
 21 number?
 22 A. You'd have to ask her. I don't
 23 know.
 24 Q. Well, she'd have it if you sent her
 25 a solicitation letter, wouldn't she?

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 2 A. Logic would dictate that, yes.
 3 Q. Well, your phone number was on the
 4 solicitation letter.
 5 MR. CASTELLANO: That's what he
 6 meant.
 7 MS. JACOBSON: OK.
 8 Q. And you knew she was a client of
 9 plaintiffs?
 10 MR. CASTELLANO: Objection.
 11 Q. Do you know a company called Lupa,
 12 L-u-p-a?
 13 A. It's not ringing a bell at the
 14 moment.
 15 Q. How about a Mark Cantu, C-a-n-t-u?
 16 A. C-a-n-t-u?
 17 Q. Yeah.
 18 A. I can't recall at the moment. No.
 19 Q. You provided a service call to the
 20 company or the person on May 20, 2005, does
 21 that refresh your recollection?
 22 A. It doesn't actually.
 23 Q. And you called the company on
 24 October 13, 2005, does that refresh your
 25 recollection?

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1 Harriff
 2 A. No.
 3 Q. Do you know whether you got any
 4 business from Lupa?
 5 A. They're a restaurant.
 6 I believe I did see them once.
 7 Q. Do you recall when you saw them?
 8 A. I can't recall exactly, no.
 9 Q. Would it have been around the time
 10 you called them in October of 2005?
 11 A. I believe so. I don't recall
 12 though.
 13 Q. Do you recall now that you actually
 14 had seen them while you still worked for
 15 plaintiffs?
 16 A. Yes.
 17 Q. So you knew they were a client of
 18 plaintiffs?
 19 MR. CASTELLANO: Objection.
 20 The witness can answer.
 21 A. Yes.
 22 Q. What led you to calling them in
 23 October of 2005?
 24 A. I'm not sure.
 25 Q. Had you sent them a solicitation

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 2 letter?
 3 A. I believe -- I don't know. I can't
 4 remember.
 5 Q. Are they on your Palm?
 6 A. Yes.
 7 Q. Any reason you wouldn't have sent
 8 them a solicitation letter?
 9 A. No.
 10 Q. And do you have a record of -- I'm
 11 sorry.
 12 MS. JACOBSON: Withdrawn.
 13 Q. How did they pay you?
 14 A. I believe it was cash in that case.
 15 Q. Did you keep a record of it?
 16 A. I don't have to. I'd have to double
 17 check. I don't believe so, no.
 18 Q. Do you have a different charge for a
 19 company versus a business versus personal?
 20 A. Depends on the business.
 21 Q. Do you know what you charge them?
 22 A. I don't.
 23 Q. Did you only see them once?
 24 A. As far as I recall, yes.
 25 Q. Do you know a Philip Galinsky,

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 2 G-a-l-i-n-s-k-y?
 3 A. Yes.
 4 Q. And how do you know Mr. Galinsky?
 5 A. Originally through work.
 6 Q. Through work for plaintiffs?
 7 A. Yes. But we stayed in touch over,
 8 through the years and he's invited me to his
 9 shows and.
 10 Q. Did you provide him services while
 11 you were still employed by plaintiffs?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. I don't recall doing so. I don't
 15 believe so, no.
 16 Q. Is it possible?
 17 A. Again, I mean, a lot of this was
 18 going on towards the end. There was a lot of
 19 chaos so -- and my records were very poor so.
 20 Q. So you could have been providing
 21 services to people the last month or so you
 22 were with plaintiffs and not really remember
 23 it now?
 24 A. It wouldn't have been very many.
 25 Q. But you knew Mr. Galinsky was a

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 2 client of plaintiffs?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 A. Yes.
 6 Q. And did you send him a solicitation
 7 letter?
 8 A. I think I sent him one as a
 9 formality, yes. We had been staying in touch,
 10 and I believe he received one just for the
 11 sake of having it.
 12 Q. Have you provided him services since
 13 you left plaintiffs' employment?
 14 A. I provided his entertainment company
 15 with those services.
 16 Q. What's his entertainment company?
 17 A. I would have to look up the name. I
 18 don't recall.
 19 MS. JACOBSON: I'm just going to
 20 put these questions like the name of the
 21 company and invoices to them after the
 22 deposition.
 23 MR. CASTELLANO: Same response.
 24 Same request.
 25 Q. Do you recall how much that

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1 Harriff
 2 entertainment company has paid you for
 3 services?
 4 A. Not specifically.
 5 Q. Did you invoice them?
 6 A. Yes.
 7 Q. Did they pay you in cash, check?
 8 A. Both. Depends.
 9 Q. Would you have records of those
 10 payments?
 11 A. Typically, yes.
 12 Q. Do you know the last time you saw
 13 the entertainment company?
 14 A. I don't.
 15 Q. Do you want to take a break now?
 16 A. How many more names do you have?
 17 MS. JACOBSON: Off the record.
 18 (Discussion off the record.)
 19 (Lunch recess taken at 12:45 p.m.)
 20
 21
 22
 23
 24
 25

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 2 AFTERNOON SESSION
 3 (Time noted: 1:48 p.m.)
 4 MICHAEL HARRIFF, resumed and
 5 testified as follows:
 6 EXAMINATION BY
 7 MS. JACOBSON: (Continued)
 8 Q. Just to go back over a couple of
 9 things from this morning that I just want
 10 to -- I had asked you about a Julia Zangrilli
 11 this morning, and you said if you had her
 12 address that might refresh your recollection.
 13 So let me tell you her address is 525 East
 14 14th Street.
 15 Does that help in any way refresh
 16 your recollection?
 17 A. Do you know if that's in Stuyvesant
 18 Town?
 19 Q. It would seem to me it would have to
 20 be in Peter Cooper or Stuy Town giving how
 21 east it is.
 22 A. Yeah, I think so. Yeah, I remember
 23 her. She lived with a bunch of roommates and
 24 I don't remember much about her but.
 25 Q. Did you provide computer consulting

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1 Harriff
 2 services to her since you've been on your own?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 A. I would have to check.
 6 Q. How do you recall her then?
 7 MR. CASTELLANO: Objection.
 8 The witness may answer.
 9 A. I think I provided a service to her
 10 at some point. I don't recall when
 11 specifically, I mean.
 12 Q. When you say you don't recall when,
 13 do you recall -- you don't recall whether it
 14 was while you were employed by plaintiffs or
 15 while you were on your own or you just don't
 16 remember when in time when you were on your
 17 own?
 18 A. I don't remember when in time
 19 period.
 20 Q. And if I told you that you never
 21 were sent to her from plaintiffs, would that
 22 refresh your recollection as to whether you
 23 ever did work for her on your own?
 24 MR. CASTELLANO: Objection.
 25 The witness may answer.

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 2 A. If I -- I really don't know.
 3 Presumably. I don't know.
 4 Q. And if you had never been sent to
 5 her by plaintiffs, do you know how it is that
 6 you got in touch with her or she got in touch
 7 with you?
 8 A. I don't recall.
 9 Q. If I told you that you had called
 10 her on October 6 of 2005, would that refresh
 11 your recollection?
 12 A. I, obviously, had her information
 13 somehow. I don't remember how.
 14 Q. If I told you that although you
 15 hadn't, Mr. Nelson had seen her while employed
 16 by plaintiffs as a computer consultant, would
 17 that refresh your recollection as to how you
 18 got her name, number, address?
 19 A. No.
 20 MR. CASTELLANO: These are just
 21 your representations.
 22 MS. JACOBSON: Yes.
 23 Q. Did Mr. Nelson give you Ms.
 24 Zangrilli's name and number?
 25 A. No.

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 2 Q. Give you Ms. Zangrilli's address?
 3 A. No.
 4 Q. Did he give Ms. Zangrilli your name
 5 or number?
 6 A. I don't believe so.
 7 MR. CASTELLANO: Objection.
 8 The witness may answer.
 9 Q. Did you ever discuss Ms. Zangrilli
 10 with Mr. Nelson?
 11 A. No.
 12 Q. You testified earlier today I had
 13 asked you about what computer certifications
 14 you had.
 15 Do you recall that?
 16 A. Yes.
 17 Q. And you said that you had your MCSE.
 18 A. Yes.
 19 Q. And that you had it while employed
 20 by Computer Guys?
 21 A. Yes.
 22 Q. You also testified that you're not
 23 sure if there's a document that shows that.
 24 A. I never saw one.
 25 We receive printouts after tests but

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 2 those aren't certificates.
 3 Q. They don't mail a certificate to
 4 your home?
 5 A. I've never received a certificate of
 6 any kind.
 7 Q. And when you got printouts from
 8 tests, did you give it to your employer,
 9 Computer Guys at the time?
 10 A. Normally.
 11 MS. JACOBSON: So why don't we mark
 12 this as Plaintiffs' 17.
 13 (Plaintiffs' Exhibit 17, Microsoft
 14 Implementing and Administering a
 15 Microsoft Windows 2000 Network
 16 Infrastructure, marked for
 17 identification, as of this date.)
 18 Q. I'm handing you what's been marked
 19 as Plaintiffs' Exhibit 17, which I'll
 20 represent is a document, a Microsoft
 21 letterhead concerning you that was in your
 22 personnel file at plaintiffs.
 23 Do you recognize that document?
 24 A. Yes.
 25 Q. And what is it?

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 2 A. It's an exam results.
 3 Q. And what exam result is it?
 4 A. I don't know. It was exam 70216.
 5 Here, I'm sorry, Implementing and
 6 Administering a Microsoft Windows 2000 Network
 7 Infrastructure.
 8 Q. Do you have any exam results like
 9 this reflecting the MCSE?
 10 A. The MCSE is a collection of seven
 11 tests, of which this is one.
 12 Q. Do you have exam results for the
 13 other six tests?
 14 A. Do I?
 15 Q. Yes.
 16 A. No.
 17 I could --
 18 MR. CASTELLANO: Answer the
 19 question.
 20 MS. JACOBSON: Off the record.
 21 (Discussion off the record.)
 22 Q. Now, you testified this morning also
 23 that it was your practice while employed by
 24 plaintiffs to input into your Palm names and
 25 address of anyone you went to see basically.

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 2 A. Uh-huh.
 3 Q. And you would do that even if it was
 4 the first time you were seeing a client and
 5 never going to see them again; is that
 6 correct?
 7 MR. CASTELLANO: Asked and
 8 answered.
 9 MS. JACOBSON: You can answer it.
 10 MR. CASTELLANO: You can answer.
 11 A. Like I said earlier, normally yes.
 12 Q. Do you recall stating in your
 13 affidavit, which is Exhibit 2, I would
 14 casually note some customer names based upon
 15 my experience and friendship in dealing with
 16 them?
 17 A. Yes.
 18 Q. You didn't casually note some
 19 customer names. You wrote in your Palm
 20 basically all customer names; isn't that true?
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 A. In what context?
 24 Q. Well, the context that you put down
 25 that you would casually note some customer

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 2 names. In fact, your testimony is that it
 3 wasn't that you casually note some customer
 4 names. You would, in fact, input into your
 5 Palm all customer names that you were sent to;
 6 isn't that true?
 7 A. For the purpose of seeing the
 8 client, yes.
 9 Q. But that's not what you put in your
 10 affidavit back in January of 2005. You put a
 11 different statement in your affidavit and you
 12 said you casually noted some clients' names.
 13 A. Those would be the clients that I
 14 would keep track of. Clients that I would
 15 keep in touch with, that sort of thing.
 16 Q. But in doing the solicitation letter
 17 you didn't do it just based on the some casual
 18 names. You did it based on what you inputted
 19 into your Palm, hadn't you?
 20 MR. CASTELLANO: That wasn't his
 21 testimony.
 22 A. Not entirely, no.
 23 Q. Well, you used what was in your Palm
 24 and then weeded in deciding who to send your
 25 solicitation to.

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1 Harriff
 2 A. Right.
 3 Q. So it wasn't based on casual notes
 4 on clients' names. It was based on your
 5 review of everything you had inputted into
 6 your Palm?
 7 MR. CASTELLANO: Can I have that
 8 again.
 9 (Record read.)
 10 MS. JACOBSON: Let me rephrase
 11 that.
 12 Q. Your sending out a solicitation
 13 letter was based on your review of everything
 14 you put in the Palm, not based on just you
 15 casually noting some customers' names?
 16 A. The determinant for sending was
 17 based on who I noted.
 18 Q. Well, did your Palm note this is a
 19 friend, this is a relationship?
 20 A. My brain handles that part.
 21 Q. Your letter was not based on you
 22 casually noting some customers' names. It was
 23 based on your review of your Palm?
 24 A. Well, as I stated earlier, my Palm
 25 contained all names of everyone I've ever

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 2 contacted including friends, family, etcetera,
 3 so I would have had to have chosen which names
 4 the letter would go to.
 5 Q. Right.
 6 But you actually had at your
 7 disposal when you did the letter all customer
 8 names that you had been to?
 9 A. No.
 10 Q. Almost all customer names you had
 11 been to?
 12 A. Most, yes.
 13 Q. Not just some customer names?
 14 A. Some, yes.
 15 Q. Well, most is not some.
 16 A. OK.
 17 Q. I mean, wouldn't you agree that most
 18 is not some?
 19 MR. CASTELLANO: Objection. Wait.
 20 Q. What did you mean by some when you
 21 wrote your affidavit in January of 2005?
 22 MR. CASTELLANO: Objection.
 23 The witness may answer.
 24 A. I'm not sure how to answer it,
 25 honestly.

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 2 Q. What did you think the word "some"
 3 meant when you read and signed your affidavit
 4 in January of 2005?
 5 MR. CASTELLANO: Objection.
 6 A. A portion.
 7 Q. A portion less than half or a
 8 portion more than half?
 9 A. I didn't think of it in those terms.
 10 Q. Didn't you think the implication of
 11 that was not that you had almost all customer
 12 names sitting in your Palm when you prepared
 13 the solicitation letter?
 14 MR. CASTELLANO: Objection.
 15 The witness may answer.
 16 A. Can you clarify?
 17 Q. Don't you think that the implication
 18 of what you read and signed in January of
 19 2005, I would casually note some customers'
 20 names in referring to basically sending out
 21 the solicitation letter implies that it was
 22 less than the fact that you wrote almost all
 23 customer names in your Palm?
 24 A. The two things.
 25 MR. CASTELLANO: I'm going to

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 2 object and direct the witness to answer,
 3 if you can.
 4 A. The two things you're talking about
 5 I believe are separate.
 6 Q. How are they separate?
 7 A. In terms of noting who to send the
 8 letter to versus who was in my Palm. The
 9 people in my Palm are just there.
 10 Q. Yes, but the rest of your affidavit
 11 went on to talk about how you didn't memorize
 12 the proper names in the database, you didn't
 13 memorize or copy the scope of work from the
 14 database.
 15 Wasn't the implication you were
 16 giving to the court in January 2005 that you
 17 didn't have the names and addresses of any
 18 client you had ever seen while you worked for
 19 plaintiffs?
 20 MR. CASTELLANO: Objection.
 21 I'm going to direct the witness to
 22 answer.
 23 A. I'm not even sure what you're asking
 24 at this point.
 25 Q. You did not anywhere in your

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 2 affidavit --
 3 MR. CASTELLANO: If I can.
 4 You're asking him to tell you what
 5 he meant, what he meant, what he was
 6 implying to the court by that statement.
 7 MS. JACOBSON: What he was trying
 8 to tell the court by making these
 9 statements.
 10 MR. CASTELLANO: If I may.
 11 What is the relevance of this
 12 statement in your affidavit, is that it?
 13 MS. JACOBSON: No.
 14 Q. Well, what was the purpose of those
 15 three paragraphs of your affidavit, that you
 16 would casually note some customers' names and
 17 that you never memorized or copied any
 18 clients' names or information.
 19 What were you trying to convey to
 20 the court?
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 A. That I hadn't duplicated the
 24 database in some fashion or somehow taken
 25 information from the extranet to utilize for

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1 Harriff
 2 this purpose.
 3 Q. But you no where let the court know
 4 that you had actually, in fact, over the
 5 course of your employment written down the
 6 names and addresses of almost any client you
 7 ever visited, did you?
 8 MR. CASTELLANO: Objection.
 9 The witness may answer.
 10 A. Not that I'm aware of, no.
 11 Q. I know you don't agree with this
 12 definition, but, if, in fact, clients --
 13 MS. JACOBSON: Withdrawn.
 14 Q. If, in fact, plaintiffs' clients'
 15 information, addresses, phone numbers, names,
 16 was found to be proprietary information, would
 17 you agree that you were not supposed to use
 18 that information for any purposes other than
 19 the plaintiffs?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. I'm not sure of the definition of
 23 proprietary information.
 24 Q. If it's found that proprietary
 25 information of the plaintiffs includes the

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 2 clients' names, addresses and phone numbers,
 3 would you agree if that definition, it's a
 4 hypothetical, and I'm allowed to ask a
 5 hypothetical.
 6 MR. CASTELLANO: I'm sorry.
 7 Q. If it's found to be proprietary
 8 information, would you agree that you were not
 9 allowed to use it?
 10 MR. CASTELLANO: I'm going to
 11 direct the witness not to answer.
 12 You're asking if the court finds
 13 that its proprietary information, would
 14 he agree with the court?
 15 MS. JACOBSON: No. Not would he
 16 agree with the definition of the court.
 17 Would he agree that he was not allowed
 18 to use it.
 19 MR. CASTELLANO: If the court finds
 20 that it's --
 21 MS. JACOBSON: It's not proprietary
 22 information.
 23 MR. CASTELLANO: So you're asking
 24 him to break the law if he doesn't
 25 believe in the court's finding?

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1 Harriff
 2 MS. JACOBSON: OK. Put that aside.
 3 Q. If client information, proprietary
 4 information, plaintiff client information,
 5 which is a hypothetical, if plaintiff client
 6 information -- if plaintiffs' clients'
 7 information is proprietary information, that's
 8 names, addresses, phone numbers, would you
 9 agree that you are -- you were not allowed to
 10 use it except in the context of your
 11 employment with plaintiffs?
 12 MR. CASTELLANO: I'm going to
 13 object.
 14 MS. JACOBSON: It's a hypothetical.
 15 MR. CASTELLANO: In what context?
 16 A. I don't know how to answer it
 17 without --
 18 MR. CASTELLANO: You're saying if
 19 this information is proprietary, but if
 20 the court finds --
 21 MS. JACOBSON: No. If the
 22 information is proprietary.
 23 MR. CASTELLANO: According to who?
 24 MS. JACOBSON: It doesn't matter.
 25 It's my hypothetical. It's my

40 (Pages 154 to 157)

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 2 hypothetical.
 3 If you want to ask a question at
 4 the end, you can do so, but it's my
 5 hypothetical.
 6 Q. If client information of
 7 plaintiffs', including names, addresses and
 8 phone numbers are proprietary information,
 9 would you agree that, other than in connection
 10 with your employment by plaintiffs, you were
 11 not allowed to use that information?
 12 MR. CASTELLANO: I'm going to
 13 object.
 14 Are you asking him to draw a legal
 15 conclusion?
 16 MS. JACOBSON: I'm asking him
 17 whether he would agree with a statement.
 18 A. I don't know.
 19 Q. Putting aside -- do you agree that
 20 any proprietary information of plaintiffs you
 21 could not use for your personal purposes?
 22 MR. CASTELLANO: I'm going to
 23 object.
 24 A. Again, without a definition, I'm not
 25 sure how to answer the question.

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1 Harriff
 2 Q. Earlier you said you thought the
 3 information about like the servers that you
 4 guys put together for your clients was
 5 proprietary. Do you remember that?
 6 A. I said if we wrote software for
 7 them, because software is protected. It's
 8 created by the company.
 9 Q. So lets go with that.
 10 So you'd consider that proprietary
 11 information?
 12 A. Yes.
 13 Q. Would you agree with the statement
 14 that you could not use that information for
 15 your personal purposes?
 16 A. Yes.
 17 MR. CASTELLANO: Objection.
 18 The witness may answer.
 19 Q. So if anything else, is, in fact,
 20 proprietary information, regardless of who
 21 makes the determination, if something else is,
 22 in fact, proprietary information, would you
 23 agree that similar to the software that the
 24 company wrote, you could not use it for your
 25 personal purposes?

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1 Harriff
 2 MR. CASTELLANO: Objection.
 3 A. The only way I could answer would be
 4 to say essentially if the court found that
 5 proprietary information was defined in a
 6 specific way in terms of a legal definition I
 7 would abide by that.
 8 Q. But you would agree that something
 9 that is proprietary information of the
 10 plaintiffs you could not use?
 11 MR. CASTELLANO: I'm going to
 12 object and direct the witness not to
 13 answer. Asked and answered.
 14 MS. JACOBSON: He hasn't answered.
 15 It's a yes or no question.
 16 MR. CASTELLANO: If you want to
 17 read the testimony back. He's asked and
 18 answered. He doesn't know.
 19 MS. JACOBSON: He doesn't know if
 20 he could use proprietary information of
 21 the plaintiffs?
 22 MR. CASTELLANO: Yes.
 23 Who's interpreting?
 24 MS. JACOBSON: It's a hypothetical.
 25 If it's proprietary information, can he

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 2 use it?
 3 MR. CASTELLANO: I'm directing the
 4 witness not to answer.
 5 MS. JACOBSON: You can't direct the
 6 witness not to answer.
 7 MR. CASTELLANO: He's answered the
 8 question.
 9 MS. JACOBSON: I've got no yes or
 10 no answer out of him. That's the answer
 11 to the question. Either, yes, he could
 12 use information that's proprietary or,
 13 no, he couldn't.
 14 MR. CASTELLANO: I don't think the
 15 witness understands the question, but I
 16 don't really understand the question.
 17 If the information is proprietary, can
 18 you use it? OK?
 19 MS. JACOBSON: Can he use it for
 20 personal purposes if it was proprietary
 21 to the plaintiffs?
 22 MR. CASTELLANO: Objection. I
 23 still don't know.
 24 MS. JACOBSON: Because you don't
 25 want him to answer, you can't direct him

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1 Harriff
 2 not to answer.
 3 MR. CASTELLANO: That's not why I'm
 4 not, because I don't think the question
 5 is not -- according to who? According
 6 to you? According to your hypothetical,
 7 in your world the hypothetical that if
 8 the information is proprietary in your
 9 world you can't use it, is that the
 10 question?
 11 MS. JACOBSON: No. I'm not asking
 12 that.
 13 He has defined the software of the
 14 company that that is proprietary
 15 information and agreed he could not use
 16 that for personal use. Therefore, I'm
 17 asking him --
 18 MR. CASTELLANO: He never testified
 19 he agreed to --
 20 MS. JACOBSON: Yeah, he did. I got
 21 a direct quote in the middle of your
 22 objection.
 23 MR. CASTELLANO: He didn't agree
 24 that he wouldn't disclose or use --
 25 MS. JACOBSON: The yes was that he

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1 Harriff
 2 wouldn't use the software because it was
 3 proprietary information of the
 4 plaintiffs.
 5 And I'm asking him if anything else
 6 was proprietary information, would you
 7 agree that you also couldn't use that
 8 for personal use just like you couldn't
 9 use software to designed by the
 10 plaintiff.
 11 A. It seems you're presenting a case
 12 where the only answer would be yes, following
 13 strict logic points that you've set out, but
 14 in the terms of the relevance to our issue
 15 here, I don't think I can say yes directly to
 16 the question.
 17 Q. So if you considered something
 18 proprietary information of the plaintiffs' --
 19 you can't answer the question? It's a
 20 hypothetical. It's a yes or no question.
 21 If you considered something
 22 proprietary information, do you think you
 23 could use it for your personal use?
 24 MR. CASTELLANO: Objection.
 25 The witness can answer.

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1 Harriff
 2 A. I'm sorry. Would you please say the
 3 question again.
 4 Q. If you considered information of the
 5 plaintiffs to be their proprietary
 6 information, would you think you could use it
 7 for your personal use?
 8 A. No.
 9 MS. JACOBSON: Moving on. Lets
 10 mark this as Plaintiffs' 18.
 11 (Plaintiffs' Exhibit 18, letter
 12 dated 8/1/05, marked for identification,
 13 as of this date.)
 14 Q. I'm handing you what's been marked
 15 as Plaintiffs' 18, which is a one-page letter
 16 on your letterhead dated August 1, 2005 and
 17 ask if you can identify that document for me.
 18 A. It was a letter I sent when I left
 19 notifying clients that I had moved on.
 20 Q. This is the letter that you've
 21 testified went to clients, friends and family?
 22 A. Yes.
 23 Q. But mostly to clients?
 24 A. Yes.
 25 Q. Did you do printed labels or did you

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1 Harriff
 2 handwrite the envelopes?
 3 A. I printed on the envelopes directly,
 4 I believe.
 5 Q. Did anyone help you?
 6 A. No.
 7 Q. Do you recall how many you sent?
 8 A. No.
 9 Q. Do you remember how many letters you
 10 printed?
 11 A. No.
 12 Q. Do you remember how many envelopes
 13 you bought?
 14 A. I bought envelopes and postage both
 15 in excess of what I sent. I had boxes of
 16 envelopes.
 17 Q. Well, you bought almost, would you
 18 agree that you bought almost 300 stamps on
 19 August 1, if you look back at Exhibit 8 which
 20 is your expenses?
 21 A. I'd have to do the math, but that
 22 sounds about right.
 23 Q. How many stamps did you have left
 24 after you sent out the mailing?
 25 A. I can't remember that.

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1 Harriff
 2 Q. Could you have sent out 300 letters?
 3 A. I really don't recall.
 4 Q. Now, to prepare the letters, what
 5 exactly did you do?
 6 Did you start with your Palm, is
 7 that how you did it to prepare the mailing?
 8 A. Yes.
 9 Q. And could you just describe exactly
 10 what you did.
 11 A. As I mentioned before, I went
 12 through the list and I looked at the clients
 13 who I had worked with. I had isolated all
 14 work contacts into one place and I made a
 15 separate list and I started deleting names out
 16 where I didn't feel comfortable or remember
 17 the person well enough. So whatever I had
 18 left at that point is what determined.
 19 Q. And when you stated you weeded out,
 20 what did you do? Did you like start
 21 handwriting out what you were reading in your
 22 Palm or did you do something else?
 23 A. At that point I had moved into
 24 Outlook to get ready to print it. So the
 25 secondary list I created was in my Outlook.

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1 Harriff
 2 Q. So you basically took everything in
 3 your Palm, dumped it into Outlook and then
 4 weeded on Outlook?
 5 A. It was an automatic process, but,
 6 yeah, it was done through there.
 7 Q. Do you still have that list in your
 8 Outlook?
 9 A. No.
 10 Q. Why not?
 11 A. As soon as the mailing was completed
 12 it was deleted.
 13 Q. Why did you delete it?
 14 A. Because I had the names within my
 15 main database. I didn't need to keep a second
 16 copy for no reason.
 17 Q. But the names in your main database
 18 included people you didn't send the letter to;
 19 is that correct?
 20 A. Yes.
 21 Q. So wouldn't you want a list of who
 22 you did send the letter to?
 23 A. I don't know.
 24 Q. And you don't remember how long that
 25 list was in Outlook, how many names?

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1 Harriff
 2 A. Not specifically, no.
 3 Q. More than a hundred?
 4 A. Yes.
 5 Q. More than 200?
 6 A. I believe so.
 7 Q. Three hundred?
 8 A. I don't recall specifically.
 9 Q. And the more than 200 names, was
 10 that list all client names?
 11 A. Yes.
 12 Q. So you sent the letter to
 13 significantly more clients than you and I have
 14 discussed today?
 15 A. Yes.
 16 Q. And you don't remember the names of
 17 any of the ones other than the ones that we've
 18 discussed so far?
 19 A. Drew Toll is one. I have been
 20 pouring over it but.
 21 Q. When you said earlier when we were
 22 talking about a client, that you were pretty
 23 sure you hadn't sent Sanford Rosen a letter,
 24 how is it that you recall you probably didn't
 25 send him a letter?

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1 Harriff
 2 A. If I had, I wouldn't have meant to
 3 is what, I guess, I should have said. I
 4 didn't feel I had the kind of rapport that I
 5 had with him that I did with some other
 6 clients.
 7 Q. And you thought that you had a
 8 rapport with over 200 of plaintiffs' clients?
 9 A. Absolutely. It's a very personal
 10 job that we do, so it's just natural to build
 11 up close relationships.
 12 Q. How many of the 200 clients, over
 13 200 clients you sent the letter to ended up
 14 contacting you for work?
 15 A. I couldn't say exactly. I mean,
 16 it's --
 17 Q. Ten, fifty, a hundred?
 18 A. I would say less than 50.
 19 Q. Now, your expenses for 2005, and
 20 that's Exhibit 8, if you look at the one
 21 that's page 3, I guess it is. August, top of
 22 the page, August 1 it shows \$117. That's a
 23 shipping for mailing?
 24 A. Yes.
 25 MS. JACOBSON: And you've produced

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1 Harriff
 2 in this case some post office receipts,
 3 and I'm going to mark that as Exhibit
 4 19.
 5 (Plaintiffs' Exhibit 19, copy of
 6 receipts, marked for identification, as
 7 of this date.)
 8 Q. I'm handing you what's been marked
 9 as Plaintiffs' 19 which is -- it's three
 10 different receipts, but I am looking at the
 11 one that's dated August 12, 2005 which is on
 12 the -- it's facing right side up. That one
 13 there. And you see that's August 12 and it
 14 shows \$111 worth of stamps being purchased.
 15 Was that an additional 300 stamps
 16 you bought on August 12, in addition to the
 17 more than 300 you bought on August 1?
 18 A. I'm actually not sure.
 19 Q. Is it possible you sent out closer
 20 to 600?
 21 A. I don't believe so.
 22 Q. And looking back at the expense,
 23 Exhibit A, Exhibit A, if you go to the page
 24 before, that's still August 1 though, it says
 25 food, working meal for two. Letter mailing.

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1 Harriff
 2 You had testified that no one helped you with
 3 the letter mailing.
 4 Does that refresh your recollection
 5 that you were feeding two people during the
 6 letter mailing?
 7 A. My girlfriend helped me fold some of
 8 the letter mailings one day.
 9 Q. Now, the letter itself, Exhibit 18,
 10 it starts out with you're getting this letter
 11 basically quote "because I have worked with
 12 you in the past or your name was given to me
 13 with a suggestion that I contact you."
 14 Did you write that?
 15 A. I wrote the letter, yes.
 16 Q. Well, you already testified that the
 17 majority went to clients who you'd seen at
 18 plaintiffs.
 19 Did any go to people whose names
 20 were given to you suggesting that you contact
 21 them?
 22 A. A handful of referrals, yes.
 23 Q. Who were the referrals from?
 24 A. Other clients.
 25 Q. Well, you were sending this two

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1 Harriff
 2 weeks after you started the business. Were
 3 they new clients or?
 4 A. The referrals would have been new
 5 clients.
 6 Q. The people who gave you the
 7 referrals, who gave you the names as
 8 referrals, would those, were those people you
 9 knew as clients at the plaintiffs?
 10 A. Some of them, yes.
 11 Q. And who gave you referrals?
 12 A. What are you asking?
 13 Q. Names of the people who gave you
 14 the -- not the names of the referrals, but the
 15 names of the people who gave you the
 16 referrals.
 17 A. To send letters to or that came to
 18 me later?
 19 Q. No. This letter says you were
 20 sending this to some people who had been given
 21 to you as referrals. The people who gave you
 22 the referral names.
 23 A. I don't recall that now.
 24 Q. And then the sentence, the second
 25 paragraph, the second sentence, I've met a lot

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1 Harriff
 2 of great clients. The great clients you're
 3 referring to there were clients of plaintiffs?
 4 MR. CASTELLANO: Objection.
 5 The witness may answer.
 6 A. Yes.
 7 Q. And you sent this letter out to
 8 generate business for your new company, right,
 9 for yourself and your company?
 10 MR. CASTELLANO: Objection.
 11 The witness may answer.
 12 A. Partially.
 13 Q. Why else did you send it out?
 14 A. I'm sorry.
 15 Ask the question again. I'm sorry.
 16 Q. Didn't you send this letter out to
 17 generate business for your new consulting --
 18 A. Partially and to let people know
 19 where I would be also.
 20 Q. And they need to know where you were
 21 so they could send business to you; isn't that
 22 true?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. Sometimes. Sometimes them.

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1 Harriff
 2 Sometimes their friends. As it says in the
 3 letter, I request referrals so.
 4 Q. But you knew this was going to
 5 generate business directly from the people you
 6 sent it to as well, didn't you?
 7 MR. CASTELLANO: Objection.
 8 The witness may answer.
 9 A. I couldn't know that.
 10 Q. Did you think that no one who got
 11 this letter would contact you for business?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. No.
 15 Q. You knew that people reading this
 16 would think that you were looking for business
 17 from them, didn't you?
 18 MR. CASTELLANO: Objection.
 19 The witness may answer.
 20 A. You'd have to ask them.
 21 Q. Well, did you see Mr. Adelman's
 22 affidavit in this case?
 23 A. I did.
 24 MS. JACOBSON: Well, we'll mark it
 25 so we're not talking about it in the

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1 Harriff
 2 abstract. Plaintiffs' 20.
 3 (Plaintiffs' Exhibit 20, Affidavit
 4 of Cass Adelman, marked for
 5 identification, as of this date.)
 6 Q. I'm handing you what's been marked
 7 as Plaintiffs' Exhibit 20 which is the
 8 Affidavit of Cass Adelman in this action that
 9 was submitted in support of the Temporary
 10 Restraining Order. No, actually, in support
 11 of the preliminary injunction. Sorry.
 12 Have you seen that? Were you shown
 13 that?
 14 A. I was.
 15 Q. And do you see paragraph 11 where
 16 she said it was clear to me -- to me it was
 17 clear that Mr. Harriff was trying to solicit
 18 clients of Computer Guys with the letter.
 19 A. I see it, yeah.
 20 Q. So at least one client saw the
 21 letter as a solicitation.
 22 MR. CASTELLANO: Objection.
 23 The witness may answer.
 24 A. Is that a question?
 25 Q. Yes.

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1 Harriff
 2 A. What is the question?
 3 Q. Didn't at least one client who
 4 received your letter see it as a solicitation?
 5 MR. CASTELLANO: Objection.
 6 The witness may answer.
 7 A. She says so here.
 8 MR. CASTELLANO: We'll stipulate to
 9 what it says, I mean.
 10 Q. Would it surprise you if other
 11 clients saw the letter as a solicitation?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. I can't speak for them.
 15 Q. Didn't you actually state to other
 16 people that you had sent the letter to
 17 generate business?
 18 A. I don't recall saying those exact
 19 words but.
 20 Q. You never said that to David
 21 Campbell?
 22 A. I don't recall saying that exactly.
 23 No.
 24 Q. Did you say something like that to
 25 him?

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1 Harriff
 2 A. It's possible. I don't recall my
 3 exact words with him.
 4 Q. Is it your testimony that you
 5 expected no client you sent that letter to to
 6 come to you with business after they received
 7 it?
 8 MR. CASTELLANO: Objection.
 9 The witness may answer.
 10 A. Is it my testimony that what?
 11 Q. That you didn't expect any clients
 12 to come to you after they received that letter
 13 to give you business?
 14 MR. CASTELLANO: Objection.
 15 The witness may answer the
 16 question.
 17 A. Not necessarily.
 18 Q. You expected -- you did expect some
 19 to come to you with business?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. Yes.
 23 Q. Do you recall that you sent the
 24 letter to Madelyn Miller?
 25 A. Yes, I believe so. I did send it to

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1 Harriff
 2 her, but she had already been in touch with me
 3 before receiving it.
 4 MS. JACOBSON: Really? OK. Why
 5 don't we mark this as Exhibit 21.
 6 (Plaintiffs' Exhibit 21, e-mail
 7 stamped HARRIFF 00155, marked for
 8 identification, as of this date.)
 9 Q. Look at the top e-mail from Madelyn
 10 Miller, third sentence, "Since then I found
 11 your note from August carefully put aside for
 12 my next call to you with this address."
 13 A. And the sentence before it says I
 14 found your number through information.
 15 MR. CASTELLANO: Just let her ask
 16 the question. You answer the question.
 17 Q. Doesn't this indicate that you sent
 18 her the letter before she contacted you?
 19 MR. CASTELLANO: Objection.
 20 The witness may answer.
 21 A. Yes.
 22 Q. And you knew she was a client of
 23 plaintiffs, didn't you?
 24 MR. CASTELLANO: Objection.
 25 The witness may answer.

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1 Harriff
 2 A. Yes.
 3 Q. Had you serviced her before you left
 4 plaintiffs outside of your employment with
 5 them?
 6 A. Not that I recall, no.
 7 Q. Did you send the letter to Charles
 8 Mahlon?
 9 A. Mahlon, I believe he too was a
 10 similar sort of sequence. I believe I sent
 11 him a letter, but I believe he found me on his
 12 own and then retrieved the letter. I don't
 13 recall the details. I'm sorry.
 14 Q. Well, you left plaintiffs on July
 15 15, right?
 16 A. Yes.
 17 Q. And you sent out the letter on or
 18 about August 1?
 19 A. It was a little bit later, I think.
 20 Q. Well, if you look at your -- if you
 21 look at Plaintiffs' Exhibit 8, which is a
 22 listing of your expenses, it shows on August
 23 1, that was your working mail -- working meal,
 24 working on the letter mailing, so doesn't that
 25 show that the letter did go out on or about

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1 Harriff
 2 August 1, not later?
 3 A. No. That's when we would have been
 4 folding letters and prepping envelopes. That
 5 sort of thing.
 6 Q. How late did the letters go out?
 7 A. I can't recall exactly.
 8 Q. It was August though?
 9 A. Yes.
 10 Q. Early August?
 11 A. I believe so. Early-to-mid.
 12 Q. Did they all go out in one batch or
 13 did you send them out on two days?
 14 A. I believe it was two batches sent
 15 over a couple days.
 16 Q. Completely done by a month after you
 17 left plaintiffs, would you say?
 18 A. I don't recall.
 19 Q. So is it your testimony that he may
 20 have contacted you prior to you sending out a
 21 letter to him?
 22 MR. CASTELLANO: Objection.
 23 The witness may answer.
 24 A. That he may have contacted me?
 25 Q. Yes.

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1 Harriff
 2 A. That's possible, yes.
 3 Q. How would he have been able to do
 4 that without the letter?
 5 A. E-mail, information.
 6 Q. How did he know you'd left
 7 plaintiffs' employment?
 8 A. We stayed in touch.
 9 MR. CASTELLANO: Objection.
 10 A. Actually, I can tell you. I ran
 11 into his son on his bike. He's a messenger.
 12 I still see him frequently and I also ride my
 13 bike.
 14 Q. Did you send Ursula Muench the
 15 letter?
 16 A. I would think so.
 17 Q. Is that how she learned you were
 18 starting your own business?
 19 MR. CASTELLANO: Objection.
 20 The witness may answer.
 21 A. I'm not sure. You'd have to ask
 22 her.
 23 Q. Do you remember receiving an e-mail
 24 from her after she received the letter?
 25 A. I remember receiving an e-mail. I

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1 Harriff
 2 don't remember the details of it.
 3 Q. Do you know how she learned you
 4 started a new business other than getting your
 5 letter?
 6 A. I don't know.
 7 MS. JACOBSON: Why don't we mark
 8 this as Plaintiffs' 22.
 9 (Plaintiffs' Exhibit 22, e-mail
 10 stamped HARRIFF 00318, marked for
 11 identification, as of this date.)
 12 Q. I'm handing you what's been marked
 13 as Plaintiffs' Exhibit 22, which is one page
 14 of an e-mail you produced. The bottom e-mail
 15 is from her to you dated September 1, 2005 and
 16 the first sentence is "I was pleasantly
 17 surprised to see that you've made it on your
 18 own."
 19 Do you know how she knew you had
 20 made it on your own?
 21 A. I don't know. You'd have to ask
 22 her.
 23 Q. But you had sent her the letter?
 24 A. I don't recall specifically but.
 25 Q. Is she someone who's on your Palm?

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1 Harriff
 2 A. Yes.
 3 Q. Is she someone you consider you had
 4 a rapport with?
 5 A. Yes.
 6 Q. Therefore, based on that criteria,
 7 it's likely you sent her the letter?
 8 A. Yes.
 9 Q. And you knew she was a client of
 10 plaintiffs?
 11 MR. CASTELLANO: Objection.
 12 The witness may answer.
 13 A. Yes.
 14 Q. Do you recall that you sent Susan
 15 Senk the letter?
 16 A. Yes.
 17 Q. And she actually sent you an e-mail
 18 that she had received the letter?
 19 A. I don't recall.
 20 MS. JACOBSON: Plaintiffs' 23.
 21 (Plaintiffs' Exhibit 23, e-mail
 22 stamped HARRIFF 00325, marked for
 23 identification, as of this date.)
 24 Q. I'm handing you what's been marked
 25 Plaintiffs' Exhibit 23, which is two pages of

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1 Harriff
 2 your production and it's the bottom e-mail on
 3 that first page that goes on to the next page.
 4 That shows it's from Susan to you on August
 5 23. "Hi, Michael. Got your letter. Will
 6 call for sure if I need tech support."
 7 Does that refresh your recollection
 8 as to whether you sent her the letter?
 9 A. Yes. I said yes already.
 10 Q. You knew she was a client of
 11 plaintiffs?
 12 A. Yes.
 13 MR. CASTELLANO: Objection.
 14 Q. And you had been there only two
 15 months before you left plaintiffs as a
 16 consultant, do you recall that?
 17 A. I don't recall that specifically,
 18 no.
 19 MS. JACOBSON: Plaintiffs' 24.
 20 (Plaintiffs' Exhibit 24, Client
 21 information sheet, P0619-P0622, marked
 22 for identification, as of this date.)
 23 Q. I'm handing you what's been marked
 24 as Plaintiffs' Exhibit 24, which is the client
 25 pages, client statement for Susan Senk, and

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 2 ask if that refreshes your recollection as to
 3 your last visit to her while employed by
 4 plaintiffs?
 5 A. Yes.
 6 Q. When was your last visit?
 7 A. May 18.
 8 Q. 2005?
 9 A. Yes.
 10 Q. So she was still a client of
 11 plaintiffs when you left in July?
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. Yes.
 15 Q. And you sent her a solicitation
 16 letter because you had her on your Palm?
 17 MR. CASTELLANO: Objection.
 18 The witness may answer.
 19 A. Yes.
 20 Q. And her response indicated that she
 21 saw it as, you know, you asking her for
 22 business, and she writes will call for sure if
 23 I need tech support?
 24 MR. CASTELLANO: Objection.
 25 The witness may answer.

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 2 A. I can't say how she interpreted it,
 3 but it would appear that way, yes.
 4 Q. And you didn't write back I wasn't
 5 looking for your business. I was only looking
 6 for you to send referrals, did you?
 7 MR. CASTELLANO: Objection.
 8 The witness may answer.
 9 A. Not specifically.
 10 Q. Did you tell anyone who had
 11 contacted you that I wasn't looking for your
 12 business. I just wanted referrals?
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 A. Not specifically.
 16 Q. Generally, did you ever tell anyone
 17 I wasn't wanting your business. I was only
 18 wanting referrals?
 19 MR. CASTELLANO: Objection.
 20 The witness may answer.
 21 A. No.
 22 Q. But you were happy to get the
 23 business, right?
 24 MR. CASTELLANO: Objection.
 25 The witness may answer.

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 2 A. Yes.
 3 Q. Did you send the letter to Joan
 4 Baldrige?
 5 A. Yes, I believe I did.
 6 Q. Actually, if you go back to
 7 Plaintiffs' 23, her e-mail is on the same page
 8 as Susan Senk at the bottom of that page. "I
 9 was glad to find your letter waiting for me
 10 when I came back to New York on Tuesday."
 11 That indicates she got your letter.
 12 A. It does.
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 Q. And if you read the next sentence,
 16 "I was afraid I'd lost you."
 17 Does that indicate that is how come
 18 she knew how to find you?
 19 MR. CASTELLANO: Objection.
 20 You're asking how it indicates to
 21 him?
 22 MS. JACOBSON: Yes.
 23 MR. CASTELLANO: So it's his
 24 opinion.
 25 MS. JACOBSON: Yes. How he

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 2 interprets what he received.
 3 A. I don't know. Lost is in quotes so
 4 I'm not sure.
 5 Q. Then she goes on to say, "You know
 6 I'll be contacting you when I need help and
 7 you know that is a frequent occurrence."
 8 Did you know that it was a frequent
 9 occurrence for Ms. Baldrige to use computer
 10 consulting services?
 11 MR. CASTELLANO: Objection.
 12 The witness may answer.
 13 A. Frequent is obviously relative. If
 14 in her mind it was frequent, that's possible,
 15 but relative to the business and the revenue,
 16 it was not frequent at all.
 17 Q. And she also was indicating that she
 18 was now going to contact you now that she had
 19 your information; isn't that true?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. It would appear so, yes.
 23 Q. And you did not respond back to her
 24 that, oh, no, I was only looking for
 25 referrals. In fact, your response said I'll

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 2 see you sometime, I'm sure.
 3 MR. CASTELLANO: Objection.
 4 The witness may answer.
 5 A. Yes, that's what I wrote.
 6 Q. And you had seen Ms. Baldrige just
 7 about a month before you left plaintiffs'
 8 employment?
 9 A. That's possible. I don't recall.
 10 MS. JACOBSON: Plaintiffs' Exhibit
 11 25.
 12 (Plaintiffs' Exhibit 25, Client
 13 information sheet, P0511-P0517, marked
 14 for identification, as of this date.)
 15 Q. I'm handing you what's been marked
 16 as Plaintiffs' 25, which is the client page
 17 for Joan Baldrige and asking if that
 18 refreshes your recollection as to your last
 19 visit to her.
 20 A. Yes.
 21 Q. And when was your last visit?
 22 A. June 14, 2005.
 23 Q. That was about almost exactly a
 24 month before you left plaintiffs'?
 25 A. Yes.

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 2 Q. So you knew she was a client of
 3 plaintiffs?
 4 MR. CASTELLANO: Objection.
 5 The witness may answer.
 6 A. Yes.
 7 Q. Did you send a solicitation letter
 8 to Carnegie Hill Neighbors?
 9 A. I believe so, yes.
 10 Q. And do you recall receiving an
 11 e-mail from them after they received your
 12 letter?
 13 A. Not specifically.
 14 MS. JACOBSON: OK. We'll mark this
 15 as Plaintiffs' 26.
 16 (Plaintiffs' Exhibit 26, e-mail
 17 stamped HARRIFF 00327, marked for
 18 identification, as of this date.)
 19 Q. I'm handing you what's been marked
 20 Plaintiffs' 26, which is two pages of the
 21 e-mails you produced, and if you look at the
 22 bottom of the first page where the text is on
 23 the second page, that's the one from Carnegie
 24 Hill Neighbors.
 25 Does that refresh your recollection

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 2 that they sent you an e-mail when they got
 3 your letter?
 4 A. Yes.
 5 Q. And that, in fact, it was your
 6 letter that let Carnegie Hill Neighbors know
 7 that you had left plaintiffs' employment?
 8 A. Yes.
 9 Q. And letting them know that you had
 10 started your own business?
 11 MR. CASTELLANO: Objection.
 12 The witness may answer.
 13 A. Yes.
 14 Q. And Ms. Graham at Carnegie Hill
 15 Neighbors writes, "Please let us know what
 16 your hourly rate is."
 17 A. Yes. She and I had stayed in touch.
 18 Q. But that indicates that they were
 19 going to consider using you; isn't that true?
 20 MR. CASTELLANO: Objection.
 21 The witness may answer.
 22 A. Yes.
 23 Q. In fact, you responded with your
 24 hourly rate.
 25 A. Yes.

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 2 Q. Again, you didn't say oh, I was only
 3 looking for referrals, did you?
 4 MR. CASTELLANO: Objection.
 5 The document speaks for itself.
 6 MS. JACOBSON: That's a yes if you
 7 can answer.
 8 A. No.
 9 Q. Has any of this refreshed your
 10 recollection as to other names of people that
 11 you sent the solicitation letter to?
 12 A. Not at this time.
 13 Q. Do you still have the same Palm
 14 today that you did in July of 2005?
 15 A. No.
 16 Q. Did the information from the old
 17 Palm get transferred to the new Palm?
 18 A. A lot of it did.
 19 Q. Did the names of all those clients
 20 get transferred?
 21 A. Most, yes.
 22 Q. And you had stated before that your
 23 Palm had hooked up with your Outlook.
 24 Is it still in your Outlook?
 25 A. It should be, yes.

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 2 Q. And so if you went to your Outlook
 3 you could print up the names, but not all the
 4 people you sent the letter to, but all the
 5 people that you had downloaded from your Palm?
 6 A. Yes.
 7 Q. Would they indicate which ones had
 8 been clients when you were at plaintiffs
 9 versus which ones were friends and family?
 10 A. The categories as they are now
 11 wouldn't necessarily match what they were at
 12 the time of the letter, if that's what you're
 13 asking.
 14 Q. So there were different categories
 15 then?
 16 A. Yes.
 17 Q. When did you change that?
 18 A. I don't recall specifically but.
 19 Q. In 2005, in 2006?
 20 A. I believe it was end of 2005.
 21 Q. Have you deleted any of those since
 22 2005, any of the names?
 23 A. Yes, quite a few.
 24 Q. What led you to delete names?
 25 A. Returned letters, people I never

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 2 heard from. That sort of thing.
 3 Q. You were aware of the document
 4 demand in this case?
 5 A. I'm sorry?
 6 Q. You were aware that there was a
 7 document demand in this litigation, and that
 8 one of the things being looked for was names
 9 of the people that you sent the August 1
 10 letter to?
 11 A. Yes.
 12 Q. Did you still have that information
 13 on your computer at that time?
 14 A. I believe so.
 15 Q. Did you turn it over to your
 16 counsel?
 17 A. No.
 18 MR. CASTELLANO: When was the
 19 request?
 20 MS. JACOBSON: We asked for the
 21 names -- of all the names of the people
 22 he sent the solicitation letter to.
 23 THE WITNESS: I don't have that
 24 list.
 25 Q. But I asked whether you had it at

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 2 the time of the document demand.
 3 A. No.
 4 MR. CASTELLANO: Let her ask the
 5 questions.
 6 Q. You still have the complete list
 7 that you had downloaded from your Palm,
 8 though?
 9 A. Yes.
 10 Q. From which you had created the list
 11 from which you sent the letter?
 12 A. Yes.
 13 Q. And you still had that at the time
 14 of the document demand?
 15 A. Yes.
 16 Q. And you did not turn that over?
 17 A. No.
 18 Q. Do you know who Bill Gaus is?
 19 A. Yes.
 20 Q. Did you send him a solicitation
 21 letter?
 22 A. I can't recall.
 23 Q. Do you recall calling him on July
 24 25, 2005?
 25 A. Not specifically.

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 2 He's a musician, so we stayed in
 3 touch about shows we were both playing.
 4 MS. JACOBSON: So why don't we mark
 5 this as Plaintiffs' 27 and 28. 27 is
 6 the client information page and 28 is
 7 the cellphone list.
 8 (Plaintiffs' Exhibit 27, Client
 9 information sheet, P0551-P0556, marked
 10 for identification, as of this date.)
 11 (Plaintiffs' Exhibit 28, Cellphone
 12 list, marked for identification, as of
 13 this date.)
 14 Q. You've been handed 27 and 28, and,
 15 for the record, Exhibit 28 is not being handed
 16 to Mr. Anderson since it is Attorneys' Eyes
 17 Only.
 18 And on the cellphone listing, which
 19 is Exhibit 28, I have highlighted the phone
 20 number which matches the phone number on
 21 Mr. Gaus' client information page.
 22 And does that refresh your
 23 recollection that you called him on July 25,
 24 2005?
 25 A. I see that's what it says.

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 2 Q. And that phone call would have been
 3 before you sent out your solicitation letter;
 4 is that correct?
 5 A. Yes.
 6 Q. Do you recall why you called him?
 7 A. I do not.
 8 Q. Had you told him before you left
 9 plaintiffs that you were leaving?
 10 A. I don't recall.
 11 Q. Did you call him in order to solicit
 12 him for business?
 13 MR. CASTELLANO: Asked and
 14 answered.
 15 A. I don't recall.
 16 Q. If you go back to Exhibit 13, which
 17 is your calendar which you kept out and you go
 18 to the first page, July 2005, and if you look
 19 and tell me if I'm wrong, I see you have call
 20 him on the 25th and you have an actual
 21 appointment with him on the 28th.
 22 Do you see that?
 23 A. Yes.
 24 Q. Does that appointment on July 28,
 25 was that your first appointment with him after

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 2 you stopped working for plaintiff?
 3 A. Yes.
 4 Q. What led you to getting an
 5 appointment just less than two weeks after you
 6 left plaintiffs' employment with him?
 7 A. I don't recall specifically.
 8 Q. Was it your phone call to him on the
 9 25th?
 10 A. As that was one minute, I doubt it,
 11 but.
 12 Q. How did he know that you were on
 13 your own by that time?
 14 MR. CASTELLANO: Objection.
 15 If he knows that, he knew.
 16 MS. JACOBSON: Well, must have
 17 known he had an appointment with him.
 18 Q. My question is: Do you know how he
 19 already knew that you had left plaintiffs'
 20 employment?
 21 A. No.
 22 Q. And you don't recall if --
 23 MS. JACOBSON: Withdrawn.
 24 A. I don't recall.
 25 Q. So even though you saw him three

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 2 days after you called him, that doesn't tell
 3 you that you called to solicit his business on
 4 the 25th?
 5 A. Not conclusively.
 6 Q. Looking at the service record for a
 7 second which is Exhibit 27, you see that your
 8 last -- the last service call by Computer Guys
 9 and the last service call was by you and was
 10 June 8, 2005?
 11 A. Yes.
 12 Q. So you knew he was a client of
 13 plaintiffs when you saw him on July 28?
 14 MR. CASTELLANO: Objection.
 15 The witness may answer.
 16 A. He asked me to come and do work, if
 17 anything. So I don't know that he would be
 18 considered their client at that point.
 19 Q. I thought you didn't remember how it
 20 came about.
 21 A. Well, I don't tell people that I'm
 22 coming to their house. They ask me to come to
 23 their house.
 24 Q. How could he have known you had left
 25 plaintiffs' employment unless you had spoken

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 2 to him about it?
 3 MR. CASTELLANO: Objection.
 4 The witness may answer it.
 5 A. I don't know. I must have.
 6 MR. CASTELLANO: You don't know.
 7 THE WITNESS: I don't know.
 8 Q. Now, you had testified earlier that
 9 you had -- that one of the people you had
 10 spoken to about, you know, you were thinking
 11 about leaving plaintiffs was David Scribner.
 12 A. Scribner, yes.
 13 Q. And you had actually been there only
 14 about a week and a half before you left
 15 plaintiffs' employment?
 16 A. I don't recall.
 17 (Plaintiffs' Exhibit 29, Client
 18 information sheet, P0353-P0358, marked
 19 for identification, as of this date.)
 20 Q. I'm handing you what's been marked
 21 as Plaintiffs' Exhibit 29, which is the client
 22 information page with Mr. Scribner.
 23 Does that refresh your recollection
 24 as to your last visit to this client?
 25 A. Yes, I see it.

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 2 Q. And it was July 5, 2005?
 3 A. Yes.
 4 Q. Ten days before you left?
 5 A. Yes.
 6 Q. Was it on this visit that you told
 7 him you were thinking about leaving?
 8 A. I believe so, yes.
 9 Q. So at this point you weren't
 10 thinking about it anymore. You had already
 11 put in your resignation.
 12 MR. CASTELLANO: Objection.
 13 The witness may answer.
 14 A. Yes.
 15 Q. And did you tell him on that visit
 16 that you were starting your own business?
 17 A. I don't recall specifically saying
 18 that on that visit.
 19 Q. And do you recall that you called
 20 him the day before you left plaintiffs'
 21 employment?
 22 A. No.
 23 MS. JACOBSON: This is Exhibit 30.
 24 (Plaintiffs' Exhibit 30, cellphone
 25 statement, marked for identification, as

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 2 of this date.)
 3 Q. I'm handing you what's been marked
 4 as Plaintiffs' Exhibit 30. This is an
 5 Attorneys' Eyes Only document not being handed
 6 to Mr. Anderson. This is a list of cellphone
 7 calls from the period of basically July 14
 8 through 19, 2005. It's the top one. I didn't
 9 highlight it because it was easy to find. The
 10 very top one. If you look, it matches the
 11 phone number on the client information page.
 12 And that looks like a two-minute call on July
 13 14.
 14 Does that refresh your recollection
 15 as to your call to him or his wife on July 14?
 16 A. I see the call was made.
 17 Q. And you made the call?
 18 A. Yes.
 19 Q. And do you recall what was discussed
 20 in that call?
 21 A. Not specifically, no.
 22 Q. Did you give him your contact
 23 information at that time?
 24 A. I don't recall.
 25 Q. Did you schedule an appointment with

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 2 him at that time?
 3 A. I don't recall. I would guess so.
 4 I believe so, yes.
 5 MR. CASTELLANO: Don't guess.
 6 A. I don't know.
 7 Q. Do you know when he got your
 8 personal e-mail address?
 9 A. No.
 10 MS. JACOBSON: Lets mark this as
 11 Exhibit 31.
 12 (Plaintiffs' Exhibit 31, e-mail
 13 stamped HARRIFF 00337, marked for
 14 identification, as of this date.)
 15 Q. I'm handing you what's been marked
 16 as Plaintiffs' Exhibit 31, which is one page
 17 of the e-mail you produced, and the e-mail
 18 from him is the middle of the page
 19 highlighted.
 20 A. Yes. I see it.
 21 Q. Was that scheduling his first
 22 appointment with you, if you recall?
 23 A. It would appear that way, yes.
 24 Q. And he knew to contact you because
 25 he knew when you were leaving plaintiffs'

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 2 employment?
 3 A. He would have, yes.
 4 Q. Do you know who David Goldsmith is?
 5 A. Yes.
 6 Q. Did you send him a solicitation
 7 letter?
 8 A. I don't recall.
 9 Q. By the way, did you send David
 10 Scribner a solicitation letter or didn't need
 11 to bother?
 12 A. I, again, I may have sent one as a
 13 courtesy.
 14 Q. Do you recall calling David
 15 Goldsmith on August 17, 2005?
 16 A. No.
 17 Q. Do you recall when your last service
 18 call was to him was while you were employed by
 19 plaintiffs?
 20 A. No.
 21 MS. JACOBSON: So why don't we make
 22 his client information page Exhibit 32
 23 and we'll make the cellphone page
 24 Exhibit 33.
 25 (Plaintiffs' Exhibit 32, Client

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 2 information sheet, P0259-P0262, marked
 3 for identification, as of this date.)
 4 (Plaintiffs' Exhibit 33, cellphone
 5 statement, marked for identification, as
 6 of this date.)
 7 Q. For the record, I've handed you
 8 Plaintiffs' Exhibit 32 which is the client
 9 information page for --
 10 MR. CASTELLANO: 33.
 11 Q. 32, which is the client information
 12 page for David Goldsmith, and Exhibit 33,
 13 which is the cellphone listing. And Exhibit
 14 33 has not been handed -- 32 is the client
 15 information page. 33 is the cellphone
 16 records, and, as I mentioned, I'm not handing
 17 33 to Mr. Anderson.
 18 I have highlighted on 33 the phone
 19 number that matches the phone number on
 20 Mr. Goldsmith's client information page. And
 21 that was a 24 minute phone call on August 17.
 22 Does that refresh your recollection
 23 as to that phone call?
 24 A. Not particularly. I see that it's
 25 here. Yes.

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 2 Q. If you look at client information
 3 page, your last service call to Mr. Goldsmith
 4 was on June 4, 2005.
 5 A. Yes.
 6 Q. So you knew he was a client of
 7 plaintiffs?
 8 MR. CASTELLANO: Objection.
 9 The witness may answer.
 10 A. Yes.
 11 Q. In fact, if you look at the client
 12 information page, he actually received service
 13 from the plaintiffs on the same day that you
 14 called him.
 15 A. Yes.
 16 Q. What led you to calling him on
 17 August 17?
 18 A. I believe he got in touch with me
 19 and I don't remember the exact details, but I
 20 think he had had difficulty with the phone
 21 support he had gotten. Something had ended up
 22 not working correctly. So he called me
 23 instead or sent me an e-mail and I must have
 24 called him back. I don't recall. I don't
 25 recall the exact series of events.

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 2 Q. How did he know how to contact you,
 3 because he had gotten a solicitation letter?
 4 A. I couldn't tell you.
 5 Q. It wasn't that someone at plaintiffs
 6 called you up and said -- wanted you to call
 7 him up and get service and give you his
 8 business?
 9 A. I'm sorry. What are you --
 10 Q. It wasn't because someone at
 11 plaintiffs called you and said, oh, here's
 12 somebody you missed. Why don't you call him
 13 up and try to get business.
 14 A. Said to me?
 15 Q. Said to you.
 16 A. No.
 17 MR. CASTELLANO: Someone at
 18 plaintiffs contacted him and call this
 19 person?
 20 MS. JACOBSON: Yes.
 21 A. Not that I'm aware of.
 22 Q. We had mentioned before that you had
 23 seen, although you hadn't seen in a year, the
 24 Meltons DPNY.
 25 A. I believe that's about right.

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 2 Q. Did you send him a solicitation
 3 letter?
 4 A. Yes. Yes, I did.
 5 Q. And do you recall that you had seen
 6 DPNY or Andrew Melton within a month of
 7 leaving plaintiff while you were still
 8 employed?
 9 A. Not specifically, no.
 10 Q. Would it surprise you if you had?
 11 A. Not at this point.
 12 MS. JACOBSON: Off the record.
 13 (Discussion off the record.)
 14 MS. JACOBSON: Exhibit 34.
 15 (Plaintiffs' Exhibit 34, Client
 16 information sheet, P0537-P0541, marked
 17 for identification, as of this date.)
 18 Q. I'm handing you what's been marked
 19 Plaintiffs' Exhibit 34, which is the client
 20 information page for DPNY and ask you if you
 21 recognize that.
 22 A. Yes.
 23 Q. And if you look, do you see that
 24 your last appointment with them was on June
 25 28, 2005?

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 2 A. I do.
 3 Q. So you knew they were a client of
 4 plaintiffs?
 5 MR. CASTELLANO: Objection.
 6 The witness may answer.
 7 MS. JACOBSON: I wasn't finished
 8 with my question.
 9 MR. CASTELLANO: Sorry.
 10 Q. You knew they were a client of
 11 plaintiffs when you sent them the solicitation
 12 letter?
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 A. Yes.
 16 Q. You already testified that you told
 17 Lauri Romanzi's assistant, Deb, that you were
 18 leaving.
 19 Did you send Dr. Romanzi a
 20 solicitation letter?
 21 A. I believe so, yes, I did.
 22 Q. How soon before you left plaintiffs
 23 do you think your visit was where you talked
 24 to Deb about leaving?
 25 A. How soon, I'm sorry?

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 2 Q. How soon before you left plaintiffs
 3 do you think that you had that conversation
 4 with Deb?
 5 A. I couldn't recall.
 6 Q. A week, a month, a year?
 7 A. I really don't remember. It would
 8 have been over e-mail, kind of in passing at
 9 some point.
 10 Q. It wasn't during a service call to
 11 their office?
 12 A. No.
 13 Q. And do you remember when your last
 14 visit to Dr. Romanzi was before you left
 15 plaintiffs' employment?
 16 A. No.
 17 Q. Did you send a solicitation letter
 18 to Dr. Elliot Zeisel?
 19 A. One was definitely sent to the
 20 household. It may have gone to Mary Sussillo.
 21 Again, that's his wife. One of them would
 22 have at least received it.
 23 Q. And do you recall that he called you
 24 in early August of 2005?
 25 A. No.

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 2 Q. If he did, would that have been that
 3 he had your number from the solicitation
 4 letter?
 5 MR. CASTELLANO: Objection.
 6 The witness may answer.
 7 A. I couldn't say.
 8 Q. Do you know a Don Schenck?
 9 A. Schenck. That's Holly's husband.
 10 Q. OK. Good to know.
 11 Did you know him as well?
 12 A. Yes.
 13 Q. Did you send Holly or John a
 14 solicitation letter?
 15 A. I did as a formality. I ran into
 16 Holly on the street after I had left working
 17 for plaintiffs.
 18 Q. How shortly after you left
 19 plaintiffs?
 20 A. I believe it was around two weeks.
 21 She asked where I had gone. Was glad to run
 22 into me.
 23 Q. Did you give her your contact
 24 information?
 25 A. At that point, yes.

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1 Harriff
 2 Q. Do you recall that you had actually
 3 been to the home in the last week you were
 4 employed by plaintiffs?
 5 A. No.
 6 Q. Did you tell them at any time while
 7 you were still employed that you were leaving?
 8 A. No.
 9 Q. You had talked about Leigh Silber
 10 earlier, that you had not seen her in a while.
 11 A. Yes.
 12 Q. Did you send her a solicitation
 13 letter?
 14 A. I don't recall.
 15 Q. Do you recall that you saw Leigh
 16 Silber in your last week with plaintiffs, in
 17 fact, your next to last day?
 18 A. Not specifically, no.
 19 MS. JACOBSON: Plaintiffs' 35.
 20 (Plaintiffs' Exhibit 35, Client
 21 information sheet, P0626-P0629, marked
 22 for identification, as of this date.)
 23 Q. You've been handed what's been
 24 marked as Plaintiffs' Exhibit 35, which is the
 25 client information page for Leigh Silber.

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 2 Does that refresh your recollection
 3 as to your last visit to Ms. Silber?
 4 A. I see it here, yes.
 5 Q. When was your last visit?
 6 A. July 14, 2005.
 7 Q. So when you left plaintiffs on July
 8 15 you knew she was still a client of
 9 plaintiffs?
 10 MR. CASTELLANO: Objection.
 11 The witness may answer.
 12 A. Yes.
 13 Q. And I know you testified you don't
 14 recall if you sent her a letter.
 15 Do you recall calling her in early
 16 September of '05?
 17 A. Not specifically, no.
 18 MS. JACOBSON: So why don't we mark
 19 this as Plaintiffs' 36.
 20 (Plaintiffs' Exhibit 36, cellphone
 21 statement, marked for identification, as
 22 of this date.)
 23 THE WITNESS: These all would have
 24 been in response to e-mails that would
 25 have been sent to the hotmail account,

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 2 which aren't retained so.
 3 Q. Well, let me ask you before we mark
 4 it then.
 5 You did produce hundreds of pages of
 6 e-mails and included e-mails to and from
 7 Hotmail are in there. So why are there some
 8 e-mails that you produced from Hotmail and not
 9 other e-mails?
 10 A. Again, most of them were deleted,
 11 especially if it was give me a call to set up
 12 something, I need help with something, that
 13 kind of thing. So, or any time there's a
 14 phone call that mentions e-mail was in
 15 response to those messages.
 16 MS. JACOBSON: Off the record.
 17 (Discussion off the record.)
 18 Q. I'm handing you what's been marked
 19 as Plaintiffs' Exhibit 36, which is a one page
 20 from your cellphone record. For the record,
 21 this is an Attorney's Eyes Only document and
 22 no copy has been handed to Mr. Anderson, and I
 23 didn't highlight it because this actually has
 24 item numbers, and if you look at item 138 that
 25 will match the phone number on Leigh Silber's

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1 Harriff
 2 client page.
 3 A. Yes, I see it.
 4 Q. So it's your testimony that you
 5 believe you would have received a phone call,
 6 e-mail from Ms. Silber that would have led to
 7 your phone call?
 8 A. Yes.
 9 Q. And how would Ms. Silber have been
 10 able to get in touch with you other than
 11 having received your solicitation letter?
 12 A. I couldn't answer that.
 13 Q. And if you look at your calendar you
 14 saw Ms. Silber on September 14, 2005, about a
 15 week after the phone call; is that correct?
 16 A. I don't see it. 16th.
 17 Q. 16th. Sorry.
 18 A. So it would appear, yes.
 19 Q. So do you know if the phone call on
 20 the 8th scheduled that appointment?
 21 A. That would make sense.
 22 Q. You mentioned Patricia Michaels
 23 earlier today.
 24 A. Yes.
 25 Q. Did you send her a solicitation

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1 Harriff
 2 letter?
 3 A. Yes, I believe they received one.
 4 Q. I'm sorry?
 5 A. Yeah, they received one.
 6 Q. They meaning?
 7 A. She and her husband.
 8 Q. Do you recall you saw Ms. Michaels
 9 in the last week before leaving plaintiffs?
 10 A. Not specifically, no.
 11 MS. JACOBSON: Mark Plaintiffs'
 12 Exhibit 37.
 13 (Plaintiffs' Exhibit 37, Client
 14 information sheet, P0597-P0601, marked
 15 for identification, as of this date.)
 16 Q. You've been handed what's been
 17 marked as Plaintiffs' Exhibit 37, which is
 18 client information page from Patricia
 19 Michaels.
 20 Do you recognize this document?
 21 A. Yes.
 22 Q. And if you look, does that refresh
 23 your recollection as to the date of your last
 24 appointment?
 25 A. Yes.

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1/ Harriff
 2 Q. And when was your last appointment?
 3 A. It appears July 11, 2005.
 4 Q. Which was your last week with
 5 plaintiffs?
 6 A. Yes.
 7 Q. So you knew she was a client of
 8 plaintiffs when you sent her the solicitation
 9 letter?
 10 MR. CASTELLANO: Objection.
 11 The witness may answer.
 12 A. Yeah.
 13 That was actually a telephone
 14 appointment, just for the record.
 15 Q. But it was an appointment. OK.
 16 And if you look at your calendar you
 17 had a service call with Ms. Michaels on
 18 October 5, 2005. That was the first one I had
 19 found.
 20 A. Yes.
 21 Q. So she had at some point responded
 22 to your August 1 letter?
 23 A. I don't know if she responded to,
 24 but she had gotten in touch with me at some
 25 point to schedule the appointment.

Michael Harriff

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1 Harriff
2 Q. How often -- I know you said that
3 she was not using you anymore. How often did
4 she use your services?
5 A. I don't recall. Infrequently.
6 Q. More than once though?
7 A. Yes.
8 Q. When did she stop using your
9 services?
10 MR. CASTELLANO: Objection.
11 The witness may answer.
12 A. I don't remember specifically.
13 Q. Was there a specific reason why she
14 stopped using your services, to your
15 knowledge?
16 A. To the best of my recollection, we
17 had a disagreement about the way a certain
18 function she needed should be completed and I
19 didn't hear from her again after that. So my
20 guess is that's what did it.
21 Q. Do you remember when that
22 disagreement was?
23 A. I don't.
24 Q. Now, you had testified that Susan
25 Farr is still a client of yours; is that

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1 Harriff
2 correct?
3 A. Yes.
4 Q. Did you send her a solicitation
5 letter?
6 A. Yes.
7 Q. And do you recall that your last
8 service call to Ms. Farr was also your last
9 week of employment with plaintiffs?
10 A. No.
11 Q. Do you recall that it was shortly
12 before you left plaintiffs?
13 A. I don't recall.
14 (Plaintiffs' Exhibit 38, Client
15 information sheet, P0542-P0545, marked
16 for identification, as of this date.)
17 Q. I'm handing you what's been marked
18 as Plaintiffs' 38, and ask you if you
19 recognize that document.
20 A. Yes.
21 Q. What is it?
22 A. Client record.
23 Q. Does that refresh your recollection
24 as to your last visit to Ms. Farr?
25 A. I see it as July 14, 2005.

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1 Harriff
2 Q. So when you left plaintiffs'
3 employment you knew she was a client of
4 plaintiffs?
5 MR. CASTELLANO: Objection.
6 The witness may answer.
7 A. Yes.
8 Q. And if you look at your calendar you
9 had an appointment with Ms. Farr on September
10 22?
11 A. Yes.
12 No, actually. That was a request
13 for research.
14 Q. Did you charge for that research?
15 A. Sometimes.
16 Q. What would determine whether or not
17 you charged for it?
18 A. How long it took, how long to write
19 the response, that sort of thing.
20 Q. Do you remember how long this took?
21 A. I don't.
22 Q. But Ms. Farr has actually used your
23 services since --
24 A. Yes.
25 Q. -- you left plaintiffs?

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1 Harriff
2 A. (Witness nods.)
3 Q. And do you know if she got in touch
4 with you for your services because she
5 received your solicitation letter?
6 A. I don't know.
7 Q. You testified that Wendy Newman is a
8 client of yours.
9 A. Yes.
10 Q. Did you send her a solicitation
11 letter?
12 A. Yes, I did.
13 Q. Did she respond to that solicitation
14 letter?
15 A. I don't recall.
16 Q. You did end up giving her computer
17 consulting services, right?
18 A. Yes.
19 Q. And if you look at your calendar,
20 there's a computer service on September 19.
21 A. Yes.
22 Q. If we could go back to the July 2005
23 page. You saw Mally Beauty, that was actually
24 an appointment on July 21.
25 A. I believe so, but I don't recall.

56 (Pages 218 to 221)

Michael Harriff

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1 Harriff
 2 Q. What could it, I mean, I assume
 3 because of the address being in there that
 4 that was an actual going there.
 5 A. I believe that's correct, yes.
 6 Q. How about Maggie Simmons on July 27?
 7 A. Yes. That was an appointment.
 8 Q. And Billy Gaus on July 28?
 9 A. Yes.
 10 Q. Now, you testified earlier -- is
 11 Doris Pastore still a client of yours?
 12 A. Yes.
 13 Q. Did you send her a solicitation
 14 letter?
 15 A. Yes.
 16 Q. Do you recall that you saw her
 17 within the last couple weeks of your
 18 employment with plaintiffs?
 19 A. Not specifically, no?
 20 (Plaintiffs' Exhibit 39, Client
 21 information sheet, P0611-P0614, marked
 22 for identification, as of this date.)
 23 Q. You've been handed Plaintiffs'
 24 Exhibit 39. Can you identify that document.
 25 A. Doris Pastore's client information.

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1 Harriff
 2 Q. Does that refresh your information
 3 as to when you -- the last time you saw Ms.
 4 Pastore?
 5 A. It says July 5, 2005.
 6 Q. When you left plaintiffs' employment
 7 you knew she was a client of plaintiffs?
 8 MR. CASTELLANO: Objection.
 9 The witness may answer.
 10 A. Yes.
 11 Q. How did you come to have an
 12 appointment with Ms. Pastore once you were on
 13 your own?
 14 A. I don't recall.
 15 Q. And you testified that you weren't
 16 sure if Janet Stieg was still a client, but
 17 she had been?
 18 A. She had been, yes.
 19 Q. Did you send her a solicitation
 20 letter?
 21 A. She's actually someone I told in
 22 person.
 23 Q. When did you tell her in person?
 24 A. At my last appointment.
 25 Q. When was that?

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1 Harriff
 2 A. I don't recall.
 3 Q. If I told you your last appointment
 4 would have been in February of 2005, would you
 5 have told her that early?
 6 A. No, that wouldn't have made sense.
 7 She must have gotten a letter then. I'm
 8 sorry. I don't remember.
 9 Q. She became a client at your new
 10 business?
 11 A. Yes.
 12 Q. Do you remember the last time you
 13 saw her?
 14 A. No.
 15 Q. Now, you testified earlier that
 16 Maggie Simmons is still a client.
 17 A. Yes.
 18 Q. And do you recall how that -- how
 19 you got her as a client?
 20 A. No. I can't remember specifically.
 21 MS. JACOBSON: Plaintiffs' 40.
 22 (Plaintiffs' Exhibit 40, e-mail
 23 HARRIFF 00338, marked for
 24 identification, as of this date.)
 25 Q. You've been handed what's been

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1 Harriff
 2 marked as Plaintiffs' Exhibit 40, which is one
 3 page of the e-mails you produced. It's an
 4 e-mail in the middle of the page. It says
 5 from Maggie Simmons to Michael -- to
 6 MHarriff@hotmail.com. It says "An e-mail
 7 bounced back, so I discovered you left
 8 Computer Guys. Any chance off the record you
 9 could finish the AOL job?"
 10 A. I see that.
 11 Q. Did you know what she meant by off
 12 the record?
 13 A. I don't.
 14 Q. Did you ever discuss it with her?
 15 A. No.
 16 Q. Do you know how she had your hotmail
 17 address?
 18 A. I don't know.
 19 Q. This implies, so please let me know,
 20 that you were in the middle of doing an AOL
 21 job for her when you left Computer Guys; is
 22 that correct?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. I'm not sure.

Michael Harriff

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1 Harriff
 2 Q. Do you recall when your last
 3 appointment with her was before you left
 4 Computer Guys?
 5 A. No.
 6 Q. If I told you it was in June of
 7 2005, would that seem right?
 8 A. I don't know.
 9 Q. Does this imply that she wanted you
 10 to finish a job that had begun under Computer
 11 Guys with you?
 12 A. I don't know.
 13 MR. CASTELLANO: Objection.
 14 The witness may answer.
 15 Q. Do you know what the AOL job was?
 16 A. I don't recall. I can try to piece
 17 together from this text but.
 18 MS. JACOBSON: Why don't we instead
 19 mark her client service page and see if
 20 that helps you as Plaintiffs' 41.
 21 (Plaintiffs' Exhibit 41, Client
 22 information sheet, P0332-P0335, marked
 23 for identification, as of this date.)
 24 Q. Do you recognize what is marked as
 25 Plaintiffs' Exhibit 41?

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1 Harriff
 2 A. Yes.
 3 Q. What is it?
 4 A. Maggie Simmons' client info.
 5 Q. If you look at the last service
 6 record, do you see that you, in fact, saw her
 7 on June 22, 2005?
 8 A. Yes.
 9 Q. Why don't you read that and see if
 10 it helps, you know, what the AOL job is.
 11 A. I see what it says, yeah.
 12 Q. Does that help you in understanding
 13 what AOL job she's referring to in her e-mail
 14 in July of 2005?
 15 A. Yes.
 16 Q. Was it in fact an AOL job --
 17 MS. JACOBSON: Withdrawn.
 18 Q. In her e-mail of July 2005, the AOL
 19 job she's asking you to finish, is that a job
 20 that was begun while you were employed by
 21 Computer Guys?
 22 A. Yes.
 23 Q. Did you, in fact, finish the AOL job
 24 for Maggie Simmons?
 25 A. No. That was finished by someone

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1 Harriff
 2 upstate.
 3 Q. Did you get her someone upstate to
 4 finish it?
 5 A. No.
 6 Q. She found someone on her own.
 7 A. She has a second consultant.
 8 Q. Is there any reason why you didn't
 9 finish it?
 10 A. She's impatient.
 11 Q. Now, if you look at your calendar,
 12 you seem to have an appointment with her at
 13 you've already testified on July 27.
 14 A. Yes.
 15 Q. What was that appointment?
 16 A. I believe it was followup work
 17 related to this, but I did not complete this
 18 specific work.
 19 Q. You did some work on the AOL job
 20 though?
 21 A. No, I believe it was Palm related, I
 22 believe.
 23 MR. CASTELLANO: Can we take ten
 24 minutes any time soon?
 25 MS. JACOBSON: I was wondering when

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1 Harriff
 2 a good break time was.
 3 (Recess taken.)
 4 Q. Were you aware when Carl Nelson got
 5 fired from plaintiffs?
 6 A. Aware of what?
 7 Q. That he had gotten fired.
 8 A. Yes.
 9 Q. And were you told by basically
 10 management of plaintiffs that he got fired for
 11 competing with the company?
 12 A. I believe something to that effect.
 13 Q. You were told that it was
 14 unacceptable to have a competing business
 15 while employed by plaintiffs and that's why he
 16 got fired?
 17 A. Yes.
 18 Q. Were you also told not to pass
 19 information on to Mr. Nelson after he was
 20 terminated?
 21 A. I don't remember any of that
 22 specifically but.
 23 Q. Did you pass any information on to
 24 Mr. Nelson between his termination and when
 25 you left?

58 (Pages 226 to 229)

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1 Harriff
 2 A. No.
 3 Q. After you left, did Todd Cavallo
 4 pass any information on to you between the
 5 time you left and the time he left?
 6 A. No.
 7 Q. Any business dealings today between
 8 you and Mr. Nelson and Mr. Cavallo's companies
 9 or them?
 10 MR. CASTELLANO: Objection.
 11 The witness may answer.
 12 A. Business dealings in what way?
 13 Q. Do you refer clients to each other?
 14 A. We've attempted to offer covering
 15 services if one of us is out of town, but so
 16 far that hasn't happened.
 17 Q. You've never offered covering
 18 services in the last two years?
 19 A. I've been unavailable.
 20 Q. Have they offered covering services
 21 to your clients?
 22 A. Offered, but not done.
 23 They had no availability either when
 24 I needed them so.
 25 Q. Did you do any work for Mr. Nelson

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1 Harriff
 2 between his leaving Computer Guys in February
 3 of 2005 and you leaving in July of 2005?
 4 A. No.
 5 Q. What about Outdoor Solutions Group?
 6 A. That I may have.
 7 (Plaintiffs' Exhibit 42, e-mail
 8 stamped HARRIFF 00341, marked for
 9 identification, as of this date.)
 10 Q. You've been handed Plaintiffs'
 11 Exhibit 42 which is four pages of e-mails
 12 between you and Mr. Nelson in May of 2005.
 13 You were still employed by Computer
 14 Guys in May of 2005?
 15 A. Yes.
 16 Q. Why don't you review those e-mails.
 17 A. I see them.
 18 Q. And is Mr. Nelson e-mailing you
 19 about OSG work in May of 2005?
 20 A. Yes.
 21 Q. So weren't you in fact doing work
 22 for Mr. Nelson on OSG in May of 2005?
 23 A. June, actually. He had sent me the
 24 information, but I hadn't started, but, yes,
 25 it was in June it looks like.

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1 Harriff
 2 Q. Well, this is May, not June.
 3 A. My response is dated June 20.
 4 Q. Well, that's when you seem to have
 5 completed it. Why don't you look at the page
 6 that's Bates stamped 343, your e-mail of May
 7 10.
 8 A. Yes.
 9 Q. And the end of that sentence, I have
 10 it on my list as due this week so it's a
 11 priority.
 12 A. Clearly I didn't do it that way.
 13 Q. But you clearly agreed to do it back
 14 in May of 2005?
 15 A. Yes.
 16 Q. And you were clearly talking to
 17 Mr. Nelson about this in May of 2005?
 18 A. Yes.
 19 Q. So, in fact, your work on this
 20 commenced while employed by Computer Guys?
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 A. Yes.
 24 Q. So your earlier testimony that you
 25 didn't do any work on this until after you

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1 Harriff
 2 left was not correct?
 3 A. That is correct.
 4 Q. And, in fact, you finished mockups
 5 while you were still employed by Computer
 6 Guys?
 7 A. That's what this says. I don't
 8 recall.
 9 Q. Well, that is the e-mail you sent to
 10 Mr. Nelson on June 20?
 11 A. Yes, correct.
 12 Q. In fact, if you look at the e-mail
 13 from Mr. Nelson, either one, the May 10 e-mail
 14 or the one, or the May 9 e-mail, after his
 15 name it says Clinic IT.
 16 A. Yes.
 17 Q. And that was the name of his
 18 company?
 19 A. Yes.
 20 Q. And so, in fact, you were doing work
 21 for a competing business of Mr. Anderson while
 22 employed by plaintiffs?
 23 MR. CASTELLANO: Objection.
 24 The witness may answer.
 25 A. I was doing work for a friend.

Michael Harriff

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1 Harriff
2 Q. Wasn't the work you were doing for
3 Outdoor Solutions Group competing with
4 plaintiffs' business?
5 A. I don't believe so. Outdoor
6 Solutions would have been left working with
7 Robert Anderson at that point.
8 Q. Well, wasn't the work on a website
9 work that plaintiffs had actually pitched to
10 Outdoor Solutions Group?
11 A. I'm not sure.
12 What are you asking specifically,
13 I'm sorry?
14 Q. Had plaintiffs talked to Outdoor
15 Solutions Group about creating a website for
16 them?
17 MR. CASTELLANO: At any time?
18 MS. JACOBSON: At any time.
19 A. I believe so. It's a standard
20 practice with businesses that didn't have a
21 website to ask them if they wanted one.
22 Q. It didn't go further than that?
23 Didn't they do a statement of work
24 for Outdoor Solutions Group for a website?
25 A. I don't recall.

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1 Harriff
2 MS. JACOBSON: Why don't we mark
3 this as Plaintiffs' 43.
4 (Plaintiffs' Exhibit 43, Scope of
5 work, Outdoor Solutions Group, marked
6 for identification, as of this date.)
7 Q. Can you identify what's been marked
8 as Plaintiffs' 43?
9 A. It would appear to be a scope of
10 work to Outdoor Solutions Group.
11 Q. What is the scope of work for?
12 MR. CASTELLANO: Objection.
13 The witness may answer.
14 A. It would appear to be a business
15 website.
16 Q. What were you working on for Outdoor
17 Solutions Group with Carl Nelson?
18 A. That would have been his website.
19 Q. How did you come to be working on a
20 business website for Outdoor Solutions Group
21 for Carl Nelson?
22 A. Carl got in touch with me and asked
23 if I wanted to do a job.
24 Q. Do you remember when he got in touch
25 with you?

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1 Harriff
2 A. Not specifically.
3 Q. Was it by phone or e-mail?
4 A. I believe it was e-mail.
5 Q. Do you know if he had approached
6 Outdoor Solutions Group or if they had come to
7 him?
8 A. No.
9 Q. Did you have any meetings directly
10 with Outdoor Solutions Group while working on
11 this project for them?
12 A. No.
13 Q. Everything went through Mr. Nelson?
14 A. Yes.
15 Q. Do you know how Mr. Nelson was paid
16 for the website?
17 A. I do not.
18 Q. You were paid \$1500 for it?
19 A. I don't recall specifically. I know
20 it was in that vicinity.
21 Q. And, in fact, on your website you
22 have advertised the work that you did for
23 Outdoor Solutions Group, haven't you?
24 A. Yes.
25 Q. And why did you do that?

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1 Harriff
2 A. It's a sample of work I've created.
3 Q. Now, going back to Exhibit 42, which
4 was the e-mails. If you go to page 343 again,
5 that bottom e-mail from Mr. Nelson to you on
6 May 9.
7 A. Yes.
8 Q. When he asked you about Veritos,
9 V.10 serial numbers.
10 Do you know what that's in reference
11 to?
12 A. I believe he was asking if I had any
13 serial numbers for the Veritos software.
14 Q. Would that have been serial numbers
15 that belonged to plaintiffs?
16 A. No.
17 Q. Would that have been serial numbers
18 that belonged to Outdoor Solutions Group?
19 A. Honestly, I'm not sure. I never got
20 back to him about that specific thing.
21 Q. Well, if you read the next sentence
22 that carries over and then the next sentence
23 was he asking you to get information that was
24 at Computer Guys, Ingenuit with Outdoor
25 Solutions Group's software?

60 (Pages 234 to 237)

Michael Harriff

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1 Harriff
 2 A. I couldn't say for sure.
 3 Q. Well, how did you interpret his
 4 request?
 5 MR. CASTELLANO: Objection.
 6 The witness may answer.
 7 The request for Veritos?
 8 Q. Well, it goes on to say not sure --
 9 not sure if Vanzuela, V-a-n-z-u-e-l-a, or
 10 Gershon, G-e-r-s-h-o-n, upgraded. They would
 11 have it.
 12 Wasn't he asking you to check
 13 information on other clients of plaintiffs to
 14 give him the information he was seeking?
 15 A. I couldn't say definitively.
 16 Q. Aren't those two last names of
 17 clients of plaintiffs?
 18 A. Yes.
 19 Q. How did you interpret his telling
 20 you that they would have the serial numbers?
 21 A. I didn't interpret it. I didn't act
 22 on it, like I said.
 23 Q. Did you ever tell Mr. Nelson that
 24 you wouldn't look that information up?
 25 A. Yes.

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1 Harriff
 2 Q. But you don't have that e-mail?
 3 A. It was verbal.
 4 Q. What was that conversation?
 5 MR. CASTELLANO: Objection.
 6 When?
 7 Q. What was -- tell me the details of
 8 that conversation.
 9 A. It was something said in passing on
 10 the phone. Something to the effect of I'm not
 11 going to give you serial numbers from other
 12 clients.
 13 MS. JACOBSON: Lets mark this as
 14 Plaintiffs' 44.
 15 (Plaintiffs' Exhibit 44, e-mail
 16 stamped HARRIFF 00086-00094, marked for
 17 identification, as of this date.)
 18 Q. You've been handed what's been
 19 marked as Plaintiffs' 44 which is about nine
 20 pages, Bates stamped 86 through 94 of your
 21 e-mails, and feel free to take a look through
 22 that.
 23 Actually, the main thing is does
 24 this refresh your recollection as to how much
 25 you were paid for the work?

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1 Harriff
 2 A. Yes, it looks like 1,500.
 3 Q. Now, you testified earlier that
 4 neither Mr. Nelson or Mr. Cavallo were ever
 5 available to cover an appointment for you; is
 6 that your testimony?
 7 A. As far as I can recall, yes.
 8 MS. JACOBSON: Lets mark this as
 9 Plaintiffs' 45.
 10 (Plaintiffs' Exhibit 45, e-mail
 11 stamped HARRIFF 00061, marked for
 12 identification, as of this date.)
 13 Q. And Plaintiffs' 45, do you recognize
 14 this?
 15 A. It appears to be e-mails that were
 16 sent.
 17 Q. E-mails to and from you?
 18 A. Yes.
 19 Q. And if you look at the e-mail from
 20 you to Maggie Simmons on March 6, 2006,
 21 referring to you going away. And it says, "As
 22 I said to you before, Todd will be there
 23 between 1:30 p and 2:00 p.m. on Wednesday."
 24 A. Yes.
 25 Q. So, in fact, did Mr. Cavallo cover

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1 Harriff
 2 for you while you were in San Francisco?
 3 A. I would have to double check. I'm
 4 not sure if he made it to this.
 5 Q. If Mr. Cavallo did make it to it,
 6 did Clinic IT get the money or did you in the
 7 appointment?
 8 A. I believe I would have written a
 9 check to Todd and he would have dealt with
 10 that with Carl. It wouldn't have been made to
 11 Clinic IT specifically, I don't believe.
 12 Q. And what was your conversation with
 13 Mr. Cavallo about covering the appointment
 14 with Maggie Simmons?
 15 A. I don't remember at this point.
 16 Q. Well, did you have a globalized
 17 conversation with Mr. Nelson and Mr. Cavallo
 18 about covering each others' appointments if
 19 you could?
 20 A. We had a conversation on those
 21 lines. If we ever had the chance to cover,
 22 could we, would we.
 23 Q. When did you have that conversation?
 24 A. Probably the first time it came up.
 25 Q. Well, when was that?

Michael Harriff

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1 Harriff
2 A. I don't know.
3 Q. Was it after Mr. Nelson left
4 plaintiffs, but before you did?
5 A. No.
6 Q. Was it after you left plaintiffs but
7 before Mr. Cavallo did?
8 A. The conversations would have been
9 between Carl and I prior to Todd leaving.
10 And, again, after Todd left between the three
11 of us. But it was not discussed with Todd
12 while he was there.
13 Q. Did you, Mr. Nelson and Mr. Cavallo
14 coordinate your businesses in any other way?
15 A. No.
16 Q. Didn't you discuss billing rates
17 with Mr. Nelson?
18 When I say discuss, it could have
19 been orally or by e-mail.
20 A. What do you mean discuss? I mean,
21 we are all three friends. We talk about a lot
22 of things.
23 Q. Did you discuss what rates should be
24 charged with your clients?
25 MR. CASTELLANO: To whose clients?

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1 Harriff
2 MS. JACOBSON: Each others'
3 clients.
4 Q. Did you try to coordinate your
5 billing rates?
6 A. No. We have separate rates as far
7 as I know but.
8 Q. Did you discuss what rates you
9 should charge with Mr. Nelson?
10 A. In terms of?
11 Q. Did you discuss what rates you
12 should set with your clients when you were
13 starting up your business?
14 A. Not specifically, no. I told him
15 what I was going to charge.
16 Q. Did you discuss a freelance
17 arrangement with Mr. Nelson?
18 A. We floated the idea.
19 Q. What was that freelance arrangement
20 to be?
21 A. I don't remember the specifics
22 really.
23 Q. Is that part of covering each
24 other's clients or is that something
25 completely different?

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1 Harriff
2 A. No, that was potentially to work
3 with or eventually for him. We discussed
4 partners. We're friends. I mean, we've
5 talked about every aspect of both of our
6 businesses to the point we have a general
7 understanding what we're doing, but not in any
8 specific detail.
9 Q. Did you discuss working for or with
10 Mr. Nelson while you were still employed by
11 plaintiffs?
12 A. I'm sorry.
13 Ask that more clearly.
14 Q. Did you discuss working with or for
15 Mr. Nelson while you were still employed by
16 plaintiffs?
17 A. Are you saying did I discuss making
18 money from him while I was working for them?
19 Q. Did you discuss working for him or
20 going to work with him, Mr. Nelson, while you
21 were still an employee of plaintiffs?
22 A. I'm still not -- you're asking the
23 same thing.
24 Are you saying working for or with
25 him while I was employed there or discussed it

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1 Harriff
2 with him?
3 Q. Did you discuss it with him while
4 you were still employed there?
5 A. Probably.
6 Q. Did you actually work with him other
7 than in the Outdoor Solutions Group site while
8 you were still an employee of plaintiffs?
9 A. No.
10 MR. CASTELLANO: Asked and
11 answered.
12 Q. When did you begin to discuss with
13 Mr. Nelson, discuss with him working with or
14 for him?
15 A. I couldn't tell you exactly, but
16 near the time of my leaving.
17 Q. Not before he left?
18 A. Again, I mean, as friends. I'm sure
19 he suggested I come work for him on the day he
20 left probably. We probably joked about it
21 but.
22 Q. Why didn't you leave earlier to go
23 work for him?
24 A. I never went to work for him.
25 Q. Why didn't you go to work for him?

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 2 A. I wanted to do my own thing.
 3 MS. JACOBSON: Why don't we mark
 4 this as Plaintiffs' 46.
 5 (Plaintiffs' Exhibit 46, e-mail
 6 HARRIFF 00819-00820, marked for
 7 identification, as of this date.)
 8 Q. And if you look at the -- can you
 9 identify Plaintiffs' 46, please.
 10 A. It appears to be e-mails between
 11 Carl Nelson and myself.
 12 Q. If you look at the e-mail dated July
 13 13, 2005 from Mr. Nelson to you, you were
 14 still an employee of plaintiffs on that date,
 15 were you not?
 16 A. July 13, yes.
 17 Q. If you could read that and the last
 18 paragraph on the first page discusses the
 19 freelance arrangement.
 20 A. Yes.
 21 Q. Does that help you explain what it
 22 was that you two were discussing?
 23 A. I see what it says here.
 24 Q. But my question is: Does it, can
 25 you explain what Mr. Nelson is talking about?

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 2 Do you have an understanding of what
 3 Mr. Nelson is talking about in that final
 4 paragraph?
 5 A. Yes.
 6 Q. What is it?
 7 A. He's suggesting that if I came to
 8 work for him as a freelancer I would take half
 9 of billable rates, whatever they may be.
 10 Q. Did he know on July 13 that you were
 11 planning to start your own business?
 12 A. I believe so. He knew I was
 13 certainly leaving.
 14 Q. And if you look at the second page
 15 of that e-mail, first of all, the top
 16 paragraph talks about him going away and
 17 asking if you're going to be available.
 18 Is that one of the times he tried to
 19 get you to cover?
 20 A. Yes.
 21 Q. And you were not able to cover that
 22 week?
 23 MR. CASTELLANO: Asked and
 24 answered.
 25 MS. JACOBSON: You can answer.

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 2 A. No.
 3 Q. Well, if you look at your calendar,
 4 can you explain why you were not available the
 5 week between August 4 and August 14?
 6 A. Well, I believe part of the time --
 7 and my birthday was the 11th and I went away.
 8 The time prior to that I don't believe we ever
 9 agreed on that arrangement to the point where
 10 my time was worth 50 percent of what I could
 11 bill to my clients. So I ended up not doing
 12 anything for him.
 13 Q. I guess I don't see on your calendar
 14 how you can tell that you went away. I don't
 15 see that on the calendar.
 16 A. I just went away on my birthday.
 17 Q. Just for that one day or for several
 18 days?
 19 A. No, for that weekend. I often don't
 20 put everything in here.
 21 Q. Looking at your calendar I couldn't
 22 tell that.
 23 A. I'm spontaneous.
 24 Q. If you look at the next paragraph on
 25 Exhibit 46, how do you keep track of your

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 2 schedule? Do you know -- do you have an
 3 understanding of why he was asking you that
 4 while you were still an employee of
 5 plaintiffs?
 6 MR. CASTELLANO: Objection.
 7 The witness may answer.
 8 A. Do I know why he was asking?
 9 Q. Yes.
 10 A. Well, in light of the earlier
 11 sentence, he probably wanted to know if I
 12 would be able to keep track of appointments,
 13 books, if we ended up doing this thing.
 14 Q. It wasn't because he knew that you
 15 already had a schedule and you were already
 16 making appointments outside of plaintiffs?
 17 A. No. This was just a general
 18 question.
 19 Q. Are you coordinating litigation
 20 strategy with Mr. Nelson or Clinic IT?
 21 MR. CASTELLANO: Objection.
 22 I direct the witness not to answer.
 23 MS. JACOBSON: I'm not asking any
 24 substance, just are they coordinating
 25 litigation strategy.

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<p style="text-align: right;">Page 250</p> <p>1 Harriff 2 MR. CASTELLANO: That's work 3 product. 4 Objection. 5 Q. Have you discussed this litigation 6 with Mr. Nelson? 7 A. Yes. 8 Q. Was any attorney present when you 9 discussed this litigation with Mr. Nelson? 10 A. No. 11 Q. Did you discuss this litigation with 12 Mr. Cavallo? 13 A. Yes. 14 Q. Was any attorney present when you 15 discussed this litigation with Mr. Cavallo? 16 A. No. 17 Q. Have the three of you, Mr. Nelson, 18 Mr. Cavallo and yourself sat down and 19 discussed this litigation? 20 A. We've sat down over beers and talked 21 and its come up for obvious reasons. 22 Q. Have you discussed coordinating your 23 litigation strategy among the three of you? 24 DIR 25 MR. CASTELLANO: I'm going to</p>	<p style="text-align: right;">Page 252</p> <p>1 Harriff 2 The witness may answer. 3 A. How unpleasant it is. How we wish 4 it would go away. Things along those lines. 5 Q. Did Mr. Nelson offer to pay your 6 litigation expenses? 7 A. No. Certainly not with any 8 seriousness. 9 MS. JACOBSON: Plaintiffs' 47. 10 (Plaintiffs' Exhibit 47, e-mail 11 stamped HARRIFF 00206-00209, marked for 12 identification, as of this date.) 13 Q. You've been handed what's been 14 marked as Plaintiffs' 47. 15 Can you identify it, please. 16 A. Yes. More e-mails between Carl and 17 myself. 18 Q. Why don't you read them before I 19 start asking questions. 20 A. OK. 21 What did you want me to see? 22 Q. I just wanted you to review it first 23 and then I'll ask questions. 24 A. OK. 25 Q. So on the second page of this e-mail</p>
<p style="text-align: right;">Page 251</p> <p>1 Harriff 2 instruct the witness not to answer. 3 MS. JACOBSON: It's not work 4 product if no attorney is involved. 5 MR. CASTELLANO: Well, at this time 6 we're talking about this case. If you 7 would like to discuss I think what went 8 through the transaction between them, 9 we're not going to discuss the other 10 cases. I know you guys have pending 11 litigation with those individuals. 12 We're not going to discuss those cases. 13 MS. JACOBSON: I'm not asking him a 14 question about those cases. I'm asking 15 him about coordinating his litigation in 16 this case with that case. 17 MR. CASTELLANO: You've asked if he 18 discussed the litigation. The answer 19 was yes and now we can move on. 20 MS. JACOBSON: No, we can't. 21 That's not for you to decide. 22 Q. What did you discuss with Mr. Nelson 23 and Mr. Cavallo about this litigation? 24 MR. CASTELLANO: I'm going to 25 object.</p>	<p style="text-align: right;">Page 253</p> <p>1 Harriff 2 doesn't Mr. Nelson offer to share litigation 3 expenses? 4 MR. CASTELLANO: Objection. 5 The witness can answer the 6 question. 7 A. I'm sorry. Where on the second page 8 is that? 9 Q. Top paragraph. 10 A. I see it. 11 Q. "Lets say we share the lawyers' 12 expense." 13 A. Definitely not. 14 He says, "If push comes to shove, 15 lets say we share the lawyers' expense." That 16 does not offer to pay my bills. That's an 17 offer to split our bills, but we're not 18 sharing lawyers, so we're not sharing 19 expenses. 20 Q. Did you ever discuss sharing legal 21 expenses beyond this e-mail with Mr. Nelson? 22 A. He asked if I wanted to do that and 23 we decided it probably wouldn't be smart since 24 we were separate entities. 25 Q. Is Mr. Nelson paying your legal</p>

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 2 expenses?
 3 A. Absolutely not.
 4 Q. Is Clinic IT paying your legal
 5 expenses?
 6 A. No.
 7 Q. If you look above his, the offer
 8 with about if push comes to shove in that
 9 e-mail, it says basically Robert still does
 10 not have a leg to stand on, especially in the
 11 vague terms of the noncompete, but I just want
 12 to caution you against contacting people in a
 13 form that he could obtain and use against
 14 you."
 15 Did you ever tell Mr. Nelson you had
 16 not signed, you allegedly had not signed a
 17 noncompete?
 18 A. I believe so, yes.
 19 Q. Yet he's talking as though you do
 20 have a noncompete, isn't he?
 21 MR. CASTELLANO: Objection.
 22 The witness may answer.
 23 A. I don't know how he's talking.
 24 Q. And did you understand why he was
 25 cautioning you against contacting people in a

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 2 form that Mr. Anderson could obtain?
 3 A. As he said, I believe he's on the
 4 war path, so I think Carl was aware that there
 5 was litigation in the works and that if there
 6 was anything that would raise Robert's eye,
 7 that it would be used against us in whatever
 8 fashion possible.
 9 Q. And Mr. Nelson had e-mailed you to
 10 tell you that Megan Tarter had been sweet
 11 enough to call him and tell him that she had
 12 told Mr. Anderson that you and Mr. Nelson had
 13 solicited her?
 14 A. In a manner solicited her, yes.
 15 Q. Had you and Mr. Nelson spoken to her
 16 together?
 17 A. No. Separately.
 18 Q. Did she use either one of your
 19 services?
 20 A. I don't know.
 21 She did not use mine.
 22 Q. The e-mail that Mr. Nelson sent you
 23 on November 3, 2005, that's on the first page
 24 at 1:18 a.m.
 25 A. Yes.

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 2 Q. Did you ever respond to that e-mail?
 3 A. I don't believe so.
 4 Q. After you left plaintiffs'
 5 employment, other than Mr. Nelson and
 6 Mr. Cavallo, did you work with any other
 7 current employees of plaintiffs?
 8 A. After I left?
 9 Q. After you left.
 10 A. Did I work with any of his other
 11 current employees?
 12 Q. Yes.
 13 A. No.
 14 Q. Did you work with Joana Pollaid,
 15 J-o-a-n-a-h P-o-l-l-a-i-d?
 16 A. No.
 17 Q. Did you work with Kevin Till?
 18 A. No.
 19 Q. Did you work with David Campbell?
 20 A. No.
 21 Q. Ever discuss working with any of the
 22 three of them?
 23 A. I asked Joana what he would be
 24 doing next. He said he was planning to leave.
 25 Q. Was that the extent of it?

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 2 A. Yeah, he said he was probably going
 3 to move to Boston so.
 4 Q. Other than what we've discussed so
 5 far, have you done any other business with
 6 Mr. Nelson since you left plaintiffs'
 7 employment?
 8 MR. CASTELLANO: Objection.
 9 The witness may answer.
 10 A. No.
 11 Q. Now, you testified earlier that your
 12 business -- that some of your clients that
 13 we've discussed you accepted cash.
 14 A. Yes.
 15 Q. Do you know how much of your
 16 business is a cash business?
 17 A. Very small amount.
 18 Q. Higher percentage at the beginning
 19 of your business than today?
 20 A. I don't know.
 21 Q. Do you have a bank account for
 22 Techknow or is there just --
 23 A. I do now.
 24 Q. When did you open that?
 25 A. I would have to check.

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1 Harriff
 2 Q. Do you know what calendar year you
 3 opened it in?
 4 A. I don't remember. I'm sorry.
 5 Q. Late 2005, early 2006?
 6 A. That's probably.
 7 MR. CASTELLANO: 2005.
 8 MS. JACOBSON: I'm just trying to
 9 figure out. If he wasn't sure which
 10 year it was between, '06 and '07 or '05
 11 and '06.
 12 A. '05 and '06.
 13 Q. Do all payments you receive go into
 14 that bank account?
 15 A. Yes.
 16 Q. Including cash payments now?
 17 A. Yes.
 18 Q. And prior to late 2005, early 2006,
 19 what happened to payments that you got for
 20 your business?
 21 A. It all went to one checking account,
 22 my personal account.
 23 Q. And did that include cash payments
 24 back then also?
 25 A. It could have, yes.

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1 Harriff
 2 Q. What bank does Techknow have its
 3 bank account?
 4 A. HSBC.
 5 Q. And is it a business account?
 6 A. Yes.
 7 Q. How much money did you make in
 8 November 2005 when you opened your consulting
 9 website business?
 10 A. November 2005?
 11 Q. Yeah.
 12 A. I believe it was around \$6,000.
 13 Q. How about in February 2006?
 14 A. No recollection.
 15 Q. How about today, what's your
 16 approximate monthly revenue today?
 17 A. I believe it averages around 3500.
 18 Q. What's your average monthly
 19 expenses?
 20 A. I don't have a clear handle on that.
 21 We have all the receipts with the tax guy. I
 22 guess we're going to have to sort that out.
 23 Q. So the last time you filed a tax
 24 return was 2003?
 25 A. Again, I believe it was 2004. I

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1 Harriff
 2 just don't have my confirmation of that so.
 3 But it would have been W-2 only for 2004.
 4 Q. So you've been filing extensions
 5 since then with the IRS while you worked this
 6 out?
 7 A. Unfortunately for me, no.
 8 Q. Have you now been filing for the
 9 extension now that you're working with a tax
 10 guy?
 11 A. We're in the process of all that
 12 now, yes.
 13 Q. So do you know how much money you
 14 made in all of 2005, excluding your salary
 15 with plaintiffs? After, you know, from your
 16 own business?
 17 A. I don't know exactly. I would have
 18 to look.
 19 Q. Do you know how much you made in all
 20 of 2006?
 21 A. Yes, it was approximately \$42,000,
 22 before expenses.
 23 Q. That was gross, 42?
 24 A. Yes.
 25 Q. Do you know what net was?

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1 Harriff
 2 A. I don't.
 3 Q. Approximately when did your average
 4 monthly revenue become 3500 a month?
 5 A. Almost immediately after starting
 6 the business. I had a big wave up and down in
 7 the early months. A lot of spiking, I guess,
 8 and then it kind of leveled off.
 9 Q. So 3500 is approximately what you
 10 consider now your level business?
 11 A. Yeah. I mean, that's pretty
 12 standard. But even then, I mean, that's over
 13 the year. It's kind of like a big wave where
 14 the summer is slow.
 15 Q. What are the busiest months?
 16 A. Beginning and end of the year
 17 typically.
 18 Q. So like November is a busy month?
 19 A. First and later quarter tend to be
 20 better, but not always. It's very random so.
 21 Q. What's your evidence, since you
 22 haven't filed tax returns, I understand, that
 23 your gross revenue in 2006 was 42,000?
 24 A. In 2006 I had all of my invoices and
 25 receipts in Quick Books for income, but not my

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1 Harriff
 2 expenses.
 3 Q. What is the evidence in 2005 of what
 4 you were making?
 5 A. It's basically the same. Again,
 6 what I have -- it's a mish mash. I mean, a
 7 lot of it was done after the fact. It's a lot
 8 as far as for that. I would have to kind of
 9 go through.
 10 Q. Well, you don't have a complete
 11 record, because earlier when you were talking
 12 with me you said some people were paying you
 13 in cash, you said you didn't -- you couldn't
 14 tell me how much money Mary Link had paid you.
 15 A. Yeah.
 16 Q. Do you know about how much -- how
 17 many appointments were covered by things that
 18 you don't have any records of?
 19 A. I don't really know.
 20 Q. Now, you testified earlier that you
 21 thought you had approximately 90 clients
 22 today.
 23 A. I believe that's about right.
 24 Q. Now, in counting that 90 clients
 25 when we went through a list of clients earlier

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1 Harriff
 2 and there were approximately 36 that you were
 3 able to say yes, and then there were a number
 4 where you said I'm not sure. I haven't seen
 5 them in a while.
 6 Do you count those as part of your
 7 90 or --
 8 A. Yes.
 9 Q. Let me finish my question.
 10 Or would that be in addition to the
 11 90?
 12 A. That's all inclusive.
 13 Q. But it doesn't include the people
 14 that you said no to?
 15 A. Yes.
 16 Q. So the 90 would include Trisha
 17 Michaels?
 18 A. Not her. She was removed after our
 19 falling out.
 20 Q. Would Mallygirl, who's not in New
 21 York City, be counted in that 90?
 22 A. Yes.
 23 Q. I count about 16 more. I'm not --
 24 you're not sitting here doing that.
 25 Within that original list I counted

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1 Harriff
 2 about 52 names that you and I went through,
 3 but then we named some other people who you
 4 also admitted to seeing. Patricia Kusnick,
 5 would she be part of the 90?
 6 A. Yes.
 7 Q. Institute of Religion, would that be
 8 part of the 90?
 9 A. No.
 10 Q. Wendy Chase's husband would be part
 11 of the 90?
 12 A. Yes.
 13 Q. Lupa Restaurant would be part of the
 14 90?
 15 A. Actually, I don't believe so
 16 anymore.
 17 Q. The entertainment company owned by
 18 Galinsky would be part of the 90?
 19 A. Yes.
 20 Q. So it does actually seem that more
 21 than 50 percent of your current clients are in
 22 fact clients who at some point were
 23 plaintiffs' clients?
 24 A. Based on those numbers it would
 25 appear that way, yes.

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 2 I would have to double check with my
 3 list, but.
 4 Q. At the time of your affidavit in
 5 January of 2006 it was approximately 58
 6 percent of 60, so that would have been low
 7 30s.
 8 A. I believe so, yes.
 9 Q. So you now have more clients than
 10 you did at the time of your affidavit?
 11 A. Correct.
 12 Q. A year ago, July of 2006, how many
 13 clients did you have then?
 14 A. I would have no idea.
 15 Q. A lot more, or a lot less than 90 or
 16 somewhere around 90?
 17 A. Probably in between where I was two
 18 years ago and now.
 19 Q. And what have you done since July of
 20 2005 to get more clients?
 21 A. As I mentioned before, word of
 22 mouth.
 23 (Plaintiffs' Exhibit 48, chart of
 24 income and expenses by month, marked for
 25 identification, as of this date.)

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 2 Q. You've just been handed a document
 3 marked as Plaintiffs' Exhibit 48.
 4 Can you identify this document for
 5 us.
 6 A. It's an incomplete income expense
 7 draft from Quick Books.
 8 Q. Did you put this together?
 9 A. Yes.
 10 Q. And what was the purpose of you
 11 putting this together?
 12 A. I believe you requested something to
 13 this effect.
 14 Q. So you put it together for this to
 15 produce in this litigation?
 16 A. I was -- at the point where this was
 17 done, I was beginning to utilize Quick Books
 18 for my financial records. I hadn't been up to
 19 then so it's pretty inaccurate, I would think.
 20 It's inaccurate I think because the expenses
 21 are incomplete.
 22 Q. Is the income also incomplete?
 23 A. No. I don't believe so.
 24 Q. Let me ask you a question.
 25 You testified that you actually

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1 Harriff
 2 provided some services to Mary Link before you
 3 left plaintiffs. Where is that income shown
 4 on this?
 5 A. It's not. Again, I had no records.
 6 Q. So the income is incomplete?
 7 A. I'm sorry. For the period prior to
 8 this, yes.
 9 Q. Well, how about September, August
 10 and September of '05, July, August and
 11 September, would show almost no income.
 12 Are you saying that's all the income
 13 you had in those months?
 14 A. I believe part of why November is so
 15 high is because a lot of checks and other
 16 things were not recorded until then. And even
 17 then it's not -- I don't have records of
 18 everything from the earlier times so.
 19 Q. So in us trying to find out how much
 20 income you made in the period from July of '05
 21 to July of '06, at what point would you say
 22 your records become accurate?
 23 A. Around, around November, December.
 24 I think from December forward is pretty
 25 correct in terms of what's in it.

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 2 MS. JACOBSON: Lets mark one more
 3 document. We'll need that one. We're
 4 going to be using that with the calendar
 5 as the next document.
 6 (Plaintiffs' Exhibit 49, document
 7 stamped HARRIFF 00007-00009, marked for
 8 identification, as of this date.)
 9 Q. Can you identify that for me,
 10 please.
 11 A. This is a breakdown, I believe, of
 12 what we see here.
 13 Q. Does that come out of Quick Books?
 14 A. Yes.
 15 Q. And is it now your practice to input
 16 all invoices into Quick Books?
 17 A. Yes.
 18 Q. When did that practice begin?
 19 A. Again, officially I believe it was
 20 around November or December.
 21 Q. So if you look at the last page of
 22 Exhibit 49, because this goes in reverse
 23 chronological order. It starts with April of
 24 '06 and the last page is actually August of
 25 '05. It shows one invoice in August for the

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 2 website of OSG, and one invoice in September.
 3 Now, obviously, you had more
 4 appointments than that in August and September
 5 of '05, didn't you?
 6 A. Yes.
 7 Q. Where are those invoices?
 8 A. I only invoiced maybe five clients,
 9 probably. I don't remember. The rest pay me
 10 on the spot and I either e-mail a receipt or
 11 they don't want a receipt at all.
 12 Q. So if we're looking for how much
 13 income you made, do you have any record of it
 14 at all since it's not on either of the two
 15 documents that you've produced?
 16 A. I don't believe so, no.
 17 Q. What about deposits into your bank
 18 account?
 19 A. I don't retain the tickets. I have
 20 statements, obviously, from the bank.
 21 Q. What about your bank statements from
 22 that period, would that reflect the income
 23 that you made?
 24 A. Not accurately. I mean, there's
 25 other things in my account. It's personal as

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 2 well as business.
 3 Q. So is there any way to determine how
 4 much income you made in August and September
 5 of 2005?
 6 A. Not that accurately.
 7 Q. And so lets go back to your
 8 calendar.
 9 According to this you had a minimum
 10 of three appointments in July of 2005 after
 11 you left plaintiffs.
 12 A. Yes.
 13 Q. Do you have any idea how much income
 14 you made from those three appointments?
 15 A. Not specifically.
 16 Q. An idea?
 17 MR. CASTELLANO: Don't guess.
 18 MS. JACOBSON: Educated guess.
 19 MR. CASTELLANO: That's fine.
 20 A. A few hundred dollars. Somewhere in
 21 that vicinity.
 22 Q. Can you explain on the 22nd you have
 23 the 1:30 a.m. weekly invoices, what that means
 24 if you weren't invoicing?
 25 A. That was a way for me to try to

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 2 motivate myself to try to create the record.
 3 Q. Lets look at August.
 4 You had an appointment with David
 5 Scribner.
 6 A. Yes.
 7 Q. Do you know how much money you made
 8 for that?
 9 A. I don't recall.
 10 Q. Were you paid by Nate Weber for
 11 ordering his PC?
 12 A. I did that as a favor.
 13 Q. Susan Farr with a question mark.
 14 A. That may or may not have occurred.
 15 I don't know.
 16 Q. Elliot Zeisel and Maggie Simmons on
 17 the 10th of August.
 18 Do you know how much money you got
 19 paid by them?
 20 A. Elliot would have been \$80. Maggie
 21 I couldn't say definitively.
 22 Q. The next week, Susan Brant, any
 23 idea?
 24 A. Almost all of my appointments are
 25 two or two hours or less. So it would be 160

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 2 or less. Or quite a few, I should say. It
 3 would be around 160 most likely.
 4 Q. So you would say almost all your
 5 appointments would be about \$160. You know,
 6 as a general generalized rule, not
 7 specifically.
 8 A. No. I think that's too vague a
 9 statement actually.
 10 Q. I can keep going.
 11 Sharon Johnson on the 19th of
 12 August.
 13 A. I couldn't say. It would have been
 14 no more than two and a half hours, excuse me,
 15 one and a half hours.
 16 Q. How about Dave Melton at DPNY on
 17 August 23.
 18 A. That I couldn't say.
 19 Q. Gail Simmons on August 25?
 20 A. We had a few one-hour appointments
 21 occasionally on Thursdays. That would have
 22 been \$80.
 23 Q. And the redacted parts, are those
 24 appointments with people who weren't
 25 originally clients of plaintiffs, to your

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 2 understanding?
 3 A. Not always. It's a host of things.
 4 It's personal things I'm doing where I don't
 5 want my location known.
 6 Q. Is it possible, and I will put this
 7 in writing after the deposition, that some of
 8 the redactions include people who we've now
 9 identified were clients of plaintiffs who you
 10 didn't, at the time you prepared this,
 11 identify at the time you were employed by
 12 plaintiffs.
 13 A. Using that language I would say
 14 that's correct.
 15 MS. JACOBSON: I'm going to request
 16 that the unredacted version be checked.
 17 MR. CASTELLANO: So individuals
 18 that he remembers during the deposition,
 19 OK.
 20 Q. Mary Link on August 29, do you know
 21 how much you were paid for that visit?
 22 A. I couldn't say for sure but.
 23 Q. And the same question for Marjorie
 24 Maloney and Sharon Johnson on August 31.
 25 A. Well, Sharon Johnson couldn't have

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 2 been more than an hour and a half which would
 3 be 120. Marjorie potentially could have been
 4 up to three hours.
 5 Q. But you don't remember?
 6 A. No. I'm basing that on the times
 7 alone, which aren't always accurate either.
 8 Q. You have a lot more appointments in
 9 September, so rather than going each line,
 10 other than the fact that you have another
 11 appointment that clearly limits how long you
 12 spent at one, do you have any idea how much
 13 time, how much income you made from any of
 14 these appointments?
 15 A. I mean, outside of doing the
 16 estimates, no.
 17 Q. And you have no records that would
 18 indicate that to you back in your office,
 19 home?
 20 A. Not really, no.
 21 Q. And, in fact, sometimes it could
 22 have been longer than the time allotted here
 23 because sometimes you were running late to
 24 your next appointment?
 25 A. Occasionally, yes.

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1 Harriff
 2 Q. You had a pretty busy September
 3 2005, didn't you?
 4 A. Yes.
 5 Q. Do you have any idea how much money
 6 you made?
 7 A. No, because quite a bit of that is
 8 dinner and that kind of stuff as well.
 9 Q. I'm looking at the daytime
 10 appointments, but OK.
 11 You said that you pretty much got
 12 accurate by like December of '05.
 13 A. I believe that's correct.
 14 Q. Why don't we look at April of '06 on
 15 the calendar. It's on the calendar, April of
 16 '06, the week of April 3. If we look at your
 17 invoices on Plaintiffs' 39, not the month, but
 18 the actual invoices for April, and look at
 19 April 3.
 20 A. Yes.
 21 Q. And, again, what's redacted
 22 obviously, are nonclients. And I have seen an
 23 unredacted version of this, so I have been
 24 able to confirm it on the invoices.
 25 MR. CASTELLANO: That someone

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1 Harriff
 2 associated with --
 3 MS. JACOBSON: That I haven't seen
 4 any of our clients in the redacted ones,
 5 which doesn't tell me anything about the
 6 calendar, but on this I believe.
 7 Q. And if you see, you seem to have an
 8 appointment with Bob Hoguet on April 3 and I
 9 don't see an invoice from him.
 10 A. That was probably not added when
 11 this was done. It may have been put in later.
 12 He is one of the handful of clients who gets
 13 invoiced separately because his wife's company
 14 often pays.
 15 Q. When did Wendy Newman, who is also
 16 on here for an appointment on Friday the 7th,
 17 but I don't see an invoice for him.
 18 A. I couldn't say for sure. That may
 19 have been website discussions stuff. I made a
 20 website for her. I may have also been working
 21 at home.
 22 Q. But just so the record is clear.
 23 You -- the appointments we went through in
 24 July, August and September for which I don't
 25 see anything in the invoice list, you were

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1 Harriff
 2 paid for those appointments?
 3 A. Yes. When they were appointments,
 4 yes.
 5 Q. And so the invoice list that's
 6 Plaintiffs' Exhibit 49 is not complete?
 7 A. As compared to what?
 8 Q. Does not show all your income for
 9 the period that it covers?
 10 A. Correct.
 11 Q. And was Plaintiffs' 48, the chart,
 12 sort of pulled out of what's on Plaintiffs'
 13 49?
 14 A. Yes, they were the same.
 15 Q. So Plaintiffs' 48 would be
 16 inaccurate to the extent that Plaintiffs' 49
 17 is inaccurate?
 18 A. Correct.
 19 MR. CASTELLANO: You should also
 20 note that I think that he testified that
 21 the expenses were also inaccurate on 48.
 22 MS. JACOBSON: I got that.
 23 THE WITNESS: I'm not much of a
 24 bookkeeper.
 25 Q. Do you have any idea what your

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1 Harriff
 2 monthly expenses -- I'm sorry. I don't
 3 remember if --
 4 A. You did.
 5 I'm not totally sure.
 6 Q. Even today you don't know what your
 7 monthly expenses are?
 8 A. Not exactly, no, because there's
 9 equipment purchases which could spike to
 10 hundreds or thousands of dollars even
 11 sometimes. It fluctuates widely and I haven't
 12 looked at the averages yet over the year.
 13 Q. Is your revenue covering your
 14 expenses?
 15 A. Yes, barely.
 16 Q. But you've bought a car since you
 17 started your own business?
 18 A. Yes.
 19 Q. Went on vacation for a week to San
 20 Francisco?
 21 A. Yes.
 22 Q. Was that money you had saved up or
 23 money from the business that you -- from your
 24 business?
 25 A. Some of it is money I saved. I

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1 Harriff
 2 don't remember how I paid for the trip to San
 3 Francisco, but it was basically just the air
 4 fare. My best friend lives there, so I don't
 5 incur any expenses when I'm there. It
 6 probably costs \$200 to go round trip, so. The
 7 car I utilize for work purposes as well.
 8 Q. So some of that you --
 9 A. Some of it, yeah.
 10 Q. We talked about Liz Goss earlier,
 11 that she was a client.
 12 Did you send her a solicitation
 13 letter?
 14 A. I believe I did, but I believe she
 15 had my info already.
 16 Q. How did she have your info already?
 17 A. Again, just from usual interactions,
 18 e-mails, that sort of thing. I don't recall
 19 exactly, but she did receive one at some
 20 point.
 21 Q. You testified that Sharon Johnson is
 22 a client of yours.
 23 Did you send her a solicitation
 24 letter?
 25 A. She was sent one as a formality, but

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1 Harriff
 2 we have stayed in touch over the years for
 3 numerous reasons.
 4 Q. But you knew that Liz Goss was a
 5 client of plaintiffs?
 6 MR. CASTELLANO: Objection.
 7 The witness may answer.
 8 A. Yes.
 9 Q. And you knew Sharon Johnson was
 10 also?
 11 MR. CASTELLANO: Objection.
 12 The witness may answer.
 13 A. Yes.
 14 Q. What about Odessa Bourne who you
 15 mentioned, you sent her a solicitation letter?
 16 A. You asked me that, I believe.
 17 Q. I apologize. I did.
 18 A. Yes.
 19 Q. You knew she was a client of
 20 plaintiffs?
 21 A. Yes.
 22 And just for the record, it's Lib,
 23 L-i-b, Goss.
 24 Q. Did you send Gail Simmons a
 25 solicitation letter?

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1 Harriff
 2 A. I believe I did, yes.
 3 Q. And you knew she was a client of
 4 plaintiffs?
 5 A. Yes.
 6 Q. And I apologize if I repeat a name.
 7 I've been trying to check them off if we've
 8 done it already.
 9 A. That's OK.
 10 Q. Marjorie Maloney, did you send her a
 11 solicitation letter?
 12 A. Yes.
 13 Q. And you knew she was a client of
 14 plaintiffs?
 15 MR. CASTELLANO: Objection.
 16 The witness may answer.
 17 A. Yes.
 18 Q. The Birnbaums, did you send them a
 19 solicitation letter?
 20 A. Again, they were also -- not again,
 21 but they were given one kind of formally so
 22 they'd have it. But, again, we've been in
 23 touch between the Catskills, my time at the
 24 farm, those kinds of things.
 25 Q. Susan Senk, did you send her a

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1 Harriff
 2 solicitation letter?
 3 A. Yes.
 4 Q. And you knew she was a client of
 5 plaintiffs?
 6 MR. CASTELLANO: Same objection.
 7 A. Yes.
 8 Q. Jan Markman, did you send her a
 9 solicitation letter?
 10 A. I don't recall. Yes.
 11 Q. How did you have her address?
 12 A. She's a painter and my girlfriend is
 13 an illustrator and we had stayed in touch.
 14 Q. So was that an example of someone
 15 you didn't have on your list from being a
 16 client of plaintiffs?
 17 MR. CASTELLANO: Same objection.
 18 A. I'm sorry. She's someone that what?
 19 Q. Did you not have her name because
 20 she was a client of plaintiffs? I'm sorry,
 21 let me reword that. That was terrible.
 22 Did you have her name from working
 23 for her at plaintiffs or did you have her name
 24 for a personal reason?
 25 A. I met her through working with the

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1 Harriff
 2 plaintiffs, if that's what you are asking.
 3 Q. Susan Brant, had you sent her a
 4 solicitation letter?
 5 A. I don't recall if she received one.
 6 Q. Do you know how you two --
 7 A. She's friends with a lot of the
 8 names that you've listed so they all spoke
 9 together.
 10 Q. You sent Ashley Silverman a
 11 solicitation letter?
 12 A. Yes.
 13 Q. Did you know she was a client of
 14 plaintiffs?
 15 A. Yes.
 16 Q. Did you have Ashley Silverman's
 17 address because it was in your Palm?
 18 A. Yes.
 19 Q. The last few names that I've given
 20 you, did you have their addresses because they
 21 were in your Palm?
 22 A. Yes.
 23 Q. Ronda Shaw, did you send her a
 24 solicitation letter?
 25 A. I believe so, yes.

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1 Harriff
 2 Q. Did you know she was a client of
 3 plaintiffs?
 4 MR. CASTELLANO: Same objection.
 5 A. Yes.
 6 Q. And did you have her address in your
 7 Palm because you had seen her when you worked
 8 for plaintiffs?
 9 A. Yes. Most of these people's
 10 address -- not most, but quite a few of them I
 11 also know just from traveling.
 12 Q. Well, we've gone through over 50
 13 names today. Are you saying you knew 50 names
 14 and addresses?
 15 A. I didn't say all of them.
 16 Q. Julia Prospero, did you send her a
 17 solicitation letter?
 18 A. I believe so, yes. I actually don't
 19 recall.
 20 Q. Do you know how you two hooked up
 21 after to get computer services after you left?
 22 A. She's a music buyer at Lincoln
 23 Center, so we've stayed in touch about music
 24 and that kind of stuff. So I don't know if it
 25 was from that or elsewhere. I can't remember.

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1 Harriff
 2 Q. Dave Phillips, did you send him a
 3 solicitation letter?
 4 A. Yes.
 5 Q. And did you know he was a client of
 6 plaintiffs?
 7 MR. CASTELLANO: Objection.
 8 A. Yes.
 9 Q. And did you have his address in your
 10 Palm because you had seen him while working
 11 for plaintiffs?
 12 A. Yes.
 13 Q. Connie Kaplan, did you send her a
 14 solicitation letter?
 15 A. Yes.
 16 Q. And did you know she was a client of
 17 plaintiffs?
 18 MR. CASTELLANO: Objection.
 19 A. Yes.
 20 Q. And did you have her address in your
 21 Palm because you had seen her while working
 22 for plaintiffs?
 23 A. Yes.
 24 Q. Mary Hilliard, did you send her a
 25 solicitation letter?

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1 Harriff
 2 A. I can't recall specifically.
 3 Q. Do you know how she found your
 4 computer services after she left plaintiff?
 5 A. She asked me to house-sit for her.
 6 I came to house-sit for her a couple of times.
 7 Q. You house-sat while you were still
 8 employed by plaintiffs?
 9 A. I visited her. I actually could not
 10 house-sit.
 11 Q. Did I already ask you about Ursula?
 12 I don't want to repeat myself.
 13 A. I believe so. I think she had an
 14 e-mail.
 15 Q. I'm trying not to repeat.
 16 Stuart Woods, did you send him a
 17 letter?
 18 A. No.
 19 Well, I may have delivered one to
 20 him informally, but, again, I was in touch
 21 with his assistant at the time and my
 22 girlfriend was actually doing illustration
 23 work for her, for the assistant.
 24 Q. Madelyn Miller?
 25 A. Yes.

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1 Harriff
 2 Q. You send a solicitation letter?
 3 A. Yes.
 4 Q. And Madelyn Miller was a client of
 5 plaintiffs?
 6 MR. CASTELLANO: Objection.
 7 A. Yes.
 8 Q. Had Madelyn Miller's address been in
 9 your Palm because you had seen her as the
 10 client of plaintiffs?
 11 MR. CASTELLANO: Objection.
 12 A. Yes.
 13 Q. Charles Suisman, you sent him a
 14 solicitation letter?
 15 A. Yes.
 16 Q. Had his address in your Palm because
 17 you had seen him as a client of plaintiffs?
 18 MR. CASTELLANO: Objection.
 19 A. Yes.
 20 Q. Pat Finnegan, did you send Pat
 21 Finnegan a solicitation letter?
 22 A. Yes.
 23 Q. Was Pat Finnegan's address in your
 24 Palm because you had seen Pat Finnegan as a
 25 client of plaintiff?

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1 Harriff
 2 MR. CASTELLANO: Objection. Same
 3 objection.
 4 A. Yes.
 5 Q. Robin Singer, did you send Robin
 6 Singer a solicitation letter?
 7 A. Yes.
 8 Q. Did you have Robin Singer's name and
 9 address in your Palm because you had seen
 10 Robin Singer as a client of plaintiff?
 11 MR. CASTELLANO: Same objection.
 12 A. Yes.
 13 Q. Joan Baldrige, did you send Joan a
 14 solicitation letter?
 15 A. Yes.
 16 Q. Did you have Joan Baldrige's name
 17 and address in your Palm because you had seen
 18 her as a client of plaintiffs?
 19 MR. CASTELLANO: Objection.
 20 A. Yes.
 21 Q. Kumiko Mack, did you send Kumiko
 22 Mack a letter?
 23 A. I can't recall.
 24 Q. Do you know how Kumiko Mack came to
 25 you for computer consulting services?

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1 Harriff
 2 A. I don't recall.
 3 Q. You knew Kumiko Mack was a client of
 4 plaintiffs?
 5 MR. CASTELLANO: Objection.
 6 A. Yes.
 7 Q. Bob Hoguet, did you send him a
 8 solicitation letter?
 9 A. Yes.
 10 Q. Have his address in your Palm
 11 because you had seen him as a client of
 12 plaintiffs?
 13 A. Yes.
 14 MR. CASTELLANO: Objection.
 15 THE WITNESS: Can I run to the
 16 bathroom?
 17 MS. JACOBSON: Yeah. Sure.
 18 (Recess taken.)
 19 Q. Do you know how much is in your bank
 20 account today?
 21 A. Not exactly.
 22 Q. Approximately?
 23 A. Couple thousand dollars.
 24 Q. You claim in this litigation that
 25 you lost money because of the temporary

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1 Harriff
2 restraining order in the preliminary
3 injunction.
4 A. Yes.
5 Q. What is your evidence that you lost
6 money?
7 A. Well, in writing I don't really have
8 evidence per se, but I've had a lot of clients
9 tell me things through the fact that had you
10 been able to contact me for work I would have
11 called you. Had you sent me the reminders we
12 talked about. A lot of people wanted to be
13 set up for routine maintenance.
14 Q. Who told you if you had sent
15 reminders they would have scheduled with you?
16 A. Quite a few people. Jan Markman is
17 one. Mary Link.
18 Q. Are you telling me that you didn't
19 get in touch with Mary Link during the
20 preliminary injunction and temporary
21 restraining order?
22 A. I'm telling you that I wasn't able
23 to send out work requests and work reminders
24 of that sort.
25 Q. But you did e-mail with people who

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1 Harriff
2 had been plaintiffs' clients during the
3 preliminary injunction TRO, didn't you?
4 A. As the counter to the contempt
5 shows, I believe so.
6 Q. I'm sorry. I don't understand your
7 answer.
8 MR. CASTELLANO: Can you read the
9 question back. I'm sorry.
10 (Record read.)
11 MR. CASTELLANO: Objection.
12 The witness can answer.
13 A. I stayed in contact with people who
14 work was occurring with and who contacted me
15 proactive.
16 Q. So it didn't stop you from being in
17 contact with people?
18 A. It stopped me from proactively
19 contacting people and attempting to increase
20 business.
21 Q. And if you actually look at your
22 invoice chart, on the very first page, if you
23 look at March 4, 2006, you had an appointment
24 with Mary Link that day.
25 A. Yes.

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1 Harriff
2 Q. So that didn't stop you from doing
3 work for Mary Link, did it, having a
4 preliminary injunction?
5 A. If clients knew to contact me, yes.
6 Q. As incomplete as it might be, if you
7 look at your income and expense by month,
8 which is Exhibit 48, and mind you, April is an
9 incomplete month, so do you really see a
10 decline in income because of the injunction
11 here?
12 A. I see a decline in income.
13 Q. Well, didn't you already testify
14 that November was really high because you
15 thought a lot of the previous month's billing
16 ended up being paid in November?
17 A. That's what I seem to recall, yes.
18 Q. And so if you look at November,
19 January went up from November. December. I'm
20 sorry.
21 A. Yes.
22 Q. And January there was a TRO in place
23 for the entire month?
24 A. I don't know the exact dates, but I
25 believe that was correct.

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1 Harriff
2 Q. Well, we were in court on January
3 30, I believe, to change the TRO into a
4 preliminary injunction. So you were under an
5 injunction the entire month in January.
6 February is just a slight decline and it's a
7 shorter month. March, and if you look at your
8 calendar you were away for a week in March.
9 Wouldn't that explain the decline in
10 March. You went away to San Francisco for a
11 week in March?
12 MR. CASTELLANO: Objection.
13 The witness can answer.
14 A. The week of March 6?
15 Q. The week of March 6.
16 A. I was away. I couldn't tell you
17 that was the only reason for the decline.
18 Q. It makes sense that if you go away
19 for a week that -- if you're available one
20 less week a month, that would mean less income
21 for that month, wouldn't it?
22 MR. CASTELLANO: Objection.
23 The witness can answer.
24 A. Yes.
25 Q. And so other than this anecdotal

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1 Harriff
 2 evidence that some people told you, oh, if you
 3 had only sent me reminders, you don't have any
 4 other evidence that your business suffered
 5 because of the injunction. do you?
 6 MR. CASTELLANO: Objection.
 7 The witness can answer.
 8 A. I don't believe so.
 9 Q. Prior to December of 2005, other
 10 than the solicitation letter you sent in
 11 August, had you sent another one?
 12 A. No.
 13 MR. CASTELLANO: Asked and
 14 answered.
 15 Q. And weren't you busy despite your
 16 claim in that period that the injunction was
 17 in place?
 18 MR. CASTELLANO: Objection.
 19 The witness can answer.
 20 Q. Weren't you telling clients that you
 21 were too busy?
 22 A. I mean, if somebody asked for an
 23 appointment on a day I'm busy, I'll say
 24 something to that effect. It always depends
 25 on the schedule.

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1 Harriff
 2 (Plaintiffs' Exhibit 50, e-mail
 3 stamped HARRIFF 00139, marked for
 4 identification, as of this date.)
 5 Q. You've been handed what's been
 6 marked as Plaintiffs' Exhibit 50.
 7 Can you identify that.
 8 A. It appears to be e-mails.
 9 Q. Do you see the e-mail in the middle
 10 of the page from you to Maggie Simmons?
 11 A. Yes.
 12 Q. And you write in the middle of that
 13 e-mail, I am already booked solid this week.
 14 A. I see that, yes.
 15 Q. Was that a true statement?
 16 MR. CASTELLANO: At the time?
 17 MS. JACOBSON: Yes.
 18 A. I'll have to look.
 19 Q. I told you you'd need the calendar.
 20 A. Not exactly. I left town on Friday,
 21 took a rental car and left and I had to be
 22 home on Thursday, the 5th, in order to wait
 23 for Time Warner.
 24 I believe what that meant at the
 25 time is that I wouldn't be able to see her for

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1 Harriff
 2 the rest of that week. Being booked out was
 3 just a way of making it sound work related I
 4 guess you would say.
 5 (Plaintiffs' Exhibit 51, e-mail
 6 stamped HARRIFF 00101, marked for
 7 identification, as of this date.)
 8 Q. You've been handed what's been
 9 marked as Plaintiffs' Exhibit 51. Could you
 10 identify it.
 11 A. It appears to be more e-mails.
 12 Q. Do you see the e-mail at the bottom
 13 of the page from you to Mary Hilliard in
 14 February of '06?
 15 A. Yes.
 16 Q. And you wrote my Wednesday is pretty
 17 much booked out at this point.
 18 A. Yes.
 19 Q. So this is now the preliminary
 20 injunction is in place and you're actually
 21 e-mailing a client that was plaintiffs' also?
 22 A. It was in response to an e-mail from
 23 her.
 24 Q. You didn't find yourself prohibited
 25 from writing to a client?

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1 Harriff
 2 A. In response to a client.
 3 Q. And was your February 6, was your
 4 Wednesday, February 8, pretty much booked out
 5 based on what's on your calendar?
 6 A. It appeared to be.
 7 (Plaintiffs' Exhibit 52, e-mail
 8 stamped HARRIFF 00021, marked for
 9 identification, as of this date.)
 10 Q. Could you identify what's been
 11 handed to you as Plaintiffs' Exhibit 52.
 12 A. E-mails.
 13 Q. If you look at the e-mail, April 4,
 14 2006 from you to Wendy Newman and you wrote,
 15 "I am just very busy right now." And then two
 16 sentences later, "I just have clients booked
 17 all day every day right now." You wrote that
 18 to Ms. Newman on April 4, 2006?
 19 A. It would appear so, yes.
 20 Q. Does that make it sound like your
 21 business was suffering in April of 2006 from
 22 the injunction?
 23 MR. CASTELLANO: Objection.
 24 The witness can answer.
 25 A. According to who?

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Michael Harriff

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1 Harriff
 2 Q. Well, according to what you wrote to
 3 Ms. Newman.
 4 MR. CASTELLANO: What's the
 5 question? I'm sorry.
 6 Q. Does it make it sound like your
 7 business was suffering in April of 2006?
 8 A. Well, I certainly wouldn't want to
 9 give any of my clients the impression that my
 10 business was suffering regardless of what the
 11 calendars show.
 12 Q. But, in fact, that week of April 3
 13 did you have openings?
 14 A. I did actually, but on Wednesday I
 15 was in Purchase.
 16 Q. Well, that meant you weren't
 17 available for a client, doesn't it?
 18 A. Yes, but it also doesn't mean there
 19 were also appointments all day every day.
 20 Q. But you couldn't have booked an
 21 appointment anyway if you were in Purchase,
 22 right?
 23 A. Right.
 24 Q. Just like when you were in San
 25 Francisco the week of March 6, you couldn't

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1 Harriff
 2 book appointments that week for yourself that
 3 week anyway since you were out of town?
 4 A. Correct.
 5 Q. How many appointments per day do you
 6 average right now?
 7 A. Again, it fluctuates widely. There
 8 could be many weeks where I have two
 9 appointments or there could be some weeks
 10 where I have 10 or 25.
 11 Q. In a day or a week?
 12 A. In a week.
 13 Q. My question is a day.
 14 A. I know, but, I mean, it can be none
 15 for several days in a row. Two to three
 16 probably, but.
 17 Q. When the preliminary injunction was
 18 lifted in August of '06 --
 19 A. Yes.
 20 Q. -- did your business suddenly see a
 21 spike?
 22 A. At that point, no, because I had
 23 been, that summer was incredibly slow,
 24 actually. I had been in Rwanda and hadn't
 25 been around to keep in touch with people and

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1 Harriff
 2 send out those reminders, that sort of thing.
 3 Q. When were you in Rwanda for?
 4 A. Late May, early June.
 5 Q. How long?
 6 A. About two weeks.
 7 Q. So by August 16 when the preliminary
 8 injunction was lifted, you've been back in New
 9 York for almost two months?
 10 A. I had moved at the same time. There
 11 was a whole list of things, which I'm sure you
 12 don't want to know about.
 13 Q. But it sounds like from your prior
 14 testimony you haven't really seen a difference
 15 in your business now than you did a year ago.
 16 MR. CASTELLANO: Objection.
 17 The witness may answer.
 18 A. Well, I mean, there is a difference.
 19 The number of clients has changed. It's gone
 20 up and down. People have come and gone. It's
 21 hard to quantify that kind of thing.
 22 Q. Do you know what documents, if any,
 23 you would use to prove any damages to your
 24 business in this case?
 25 A. At this moment I don't know.

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1 Harriff
 2 Q. Remember I asked you this morning
 3 about you were talking about the Jaspas, LLC
 4 and that you had asked David Campbell to look
 5 at it for you.
 6 A. Yes.
 7 Q. And I had asked you if you had asked
 8 him to take screen shots and your testimony
 9 was that you did not.
 10 A. I don't believe I did.
 11 Q. In fact, you had said that you had
 12 asked him just to look at it you thought?
 13 A. I believe so.
 14 Q. And that you didn't specifically
 15 instruct him how to get around it being
 16 noticed by Mr. Anderson.
 17 MR. CASTELLANO: Objection.
 18 A. I don't recall you asking me any of
 19 that kind.
 20 Q. Did you instruct him how to do it so
 21 that Mr. Anderson would not notice that he had
 22 checked Jaspas, LLC's client pages?
 23 A. I don't recall.
 24 (Plaintiffs' Exhibit 53, e-mail
 25 from Michael Harriff to Mr. Campbell

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1 Harriff
 2 dated 10/20/05, marked for
 3 identification, as of this date.)
 4 Q. If you could look at what's been
 5 marked as Plaintiffs' 53. It's the top one.
 6 Do you recall sending this e-mail to
 7 David Campbell on August 20, 2005?
 8 MR. CASTELLANO: Has this been
 9 produced?
 10 MS. JACOBSON: No. You're getting
 11 it now. We only got it a few weeks ago.
 12 It wasn't -- I looked for it in your
 13 document demand. It wasn't called for
 14 by your document production.
 15 MR. CASTELLANO: I haven't seen it.
 16 This is the first I'm seeing it. I
 17 mean --
 18 MS. JACOBSON: I looked at your
 19 document demand today and it wasn't
 20 asked for, so.
 21 MR. CASTELLANO: I'm not prepared
 22 because I don't have my document demand
 23 and I don't have everything, so I'm
 24 unprepared to respond at this point.
 25 But I don't think any question

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1 Harriff
 2 should be asked of this witness. This
 3 is the first I'm seeing this. I don't
 4 have my document request with me, so I
 5 can't compare. I don't have anything.
 6 MS. JACOBSON: I'm asking him if,
 7 in fact, he sent this e-mail on or about
 8 October 20, 2005.
 9 MR. CASTELLANO: Go ahead.
 10 Answer it.
 11 A. Yes, so it would appear.
 12 Q. So, in fact, you instructed
 13 Mr. Campbell to take screen shots?
 14 MR. CASTELLANO: Wait. I'd like to
 15 look at my document request before we go
 16 forward. This is snuck in on me at the
 17 last minute, at, whatever, 5:00, at
 18 5:15, whatever.
 19 I'm going to direct the witness not
 20 to answer. I want to look at my
 21 document requests.
 22 MS. JACOBSON: If the defendant had
 23 answered differently, I wouldn't have
 24 used the document, but since he said he
 25 didn't, I'm using it to refresh his

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1 Harriff
 2 recollection. I can use a plain sheet
 3 of paper --
 4 MR. CASTELLANO: I haven't seen
 5 this.
 6 MS. JACOBSON: I could use a plain
 7 sheet of paper to refresh the witness'
 8 recollection, so I can use this
 9 document.
 10 MR. CASTELLANO: I haven't seen
 11 this. I'm going to direct him not to
 12 answer.
 13 MS. JACOBSON: You can't direct him
 14 not to answer. You can note your
 15 objection on the record. You can't
 16 direct him not to answer.
 17 MR. CASTELLANO: I haven't seen
 18 this.
 19 MS. JACOBSON: Your witness has
 20 testified that he believes he sent this,
 21 so I'm just asking him, you wrote this
 22 e-mail to Mr. Campbell --
 23 MR. CASTELLANO: I'm directing the
 24 witness not to answer.
 25 MS. JACOBSON: You can't direct him

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1 Harriff
 2 not to answer. It's an improper
 3 direction. There is no attorney-client
 4 privilege invoked by this document. You
 5 can't direct the witness not to answer.
 6 MR. CASTELLANO: I haven't seen
 7 this document and we have not had
 8 adequate preparation, and what you're
 9 refreshing his recollection -- you've
 10 refreshed his recollection.
 11 Q. Did you instruct Mr. Campbell to
 12 take screen shots of the Jaspar, LLC page and
 13 not to copy them?
 14 MR. CASTELLANO: You can answer the
 15 question.
 16 A. It appears I made the suggestion
 17 along those lines, yes.
 18 Q. Does it refresh your recollection
 19 that you requested Mr. Campbell to send you
 20 the actual pages, not to just check them for
 21 you?
 22 A. That is what it says. I asked him
 23 also just to check them but.
 24 Q. Where do you ask him just to check
 25 them?

Michael Harriff

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1 Harriff

2 A. I said I need to know what the notes

3 say. I have a question about exactly what I

4 did and what the notes say.

5 Q. And then there is can you please,

6 please copy them and send them to me.

7 A. Is that a question?

8 Q. Yes.

9 A. What is the question?

10 Q. My question is, but then didn't you

11 follow that with can you please, please copy

12 them and send them to me?

13 A. Yes.

14 MS. JACOBSON: I have no further

15 questions.

16 MR. CASTELLANO: I have no

17 questions.

18 (Time noted: 5:10 p.m.)

19 _____

20 MICHAEL HARRIFF

21

22 Subscribed and sworn to before me

23 this ___ day of _____, 2007.

24

25 _____

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1

2 CERTIFICATE

3 STATE OF NEW YORK)

4 : ss.

5 COUNTY OF DUTCHESS)

6

7 I, ANGELA GRANT, a Notary Public

8 within and for the State of New York, do

9 hereby certify:

10 That MICHAEL HARRIFF, the witness

11 whose deposition is hereinbefore set

12 forth, was duly sworn by me and that

13 such deposition is a true record of the

14 testimony given by the witness.

15 I further certify that I am not

16 related to any of the parties to this

17 action by blood or marriage, and that I

18 am in no way interested in the outcome

19 of this matter.

20 IN WITNESS WHEREOF, I have hereunto

21 set my hand this 3rd day of August,

22 2007.

23

24 _____

25 ANGELA GRANT

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1

2 ----- I N D E X -----

3 WITNESS EXAMINATION BY PAGE

4 MICHAEL HARRIFF MS. JACOBSON 5

5

6

7 ----- INFORMATION REQUESTS -----

8 DIRECTIONS: 160, 161, 249, 303, 304

9 REQUESTS:

10 117 Check to see if Ms. Seldin is in

11 unredacted calendar

12 140 Name of entertainment company and

13 invoices provided to company

14

15 ----- EXHIBITS -----

16 PLAINTIFFS' FOR ID.

17 Plaintiffs' Exhibit 1, Form W-4, 8

18 Plaintiffs' Exhibit 2, Affidavit of 15

19 Michael Harriff,

20 Plaintiffs' Exhibit 3, 22

21 Confidentiality and Noncompete

22 Agreement stamped P0192,

23 Plaintiffs' Exhibit 4, 23

24 Confidentiality and Noncompete

25 Agreement stamped HARRIFF 00002,

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1

2 Plaintiffs' Exhibit 5, Client 33

3 service record,

4 Plaintiffs' Exhibit 6, e-mail 41

5 stamped HARRIFF 00340-00341,

6 Plaintiffs' Exhibit 7, invoice from 59

7 Tekserve,

8 Plaintiffs' Exhibit 8, 2005 expenses 61

9 stamped HARRIFF 00936-00941,

10 Plaintiffs' Exhibit 9, e-mail 68

11 stamped HARRIFF 00257-00259,

12 Plaintiffs' Exhibit 10, Client 73

13 service record, P0567-P0569,

14 Plaintiffs' Exhibit 11, Activity Log 75

15 Report, P0394-P0405,

16 Plaintiffs' Exhibit 12, Client 83

17 Service Record, P0580-P0582,

18 Plaintiffs' Exhibit 13, Calendars 85

19 stamped HARRIFF 00010-00019,

20 Plaintiffs' Exhibit 14, Cellphone 87

21 statement,

22 Plaintiffs' Exhibit 15, e-mail 93

23 stamped HARRIFF 00221,

24 Plaintiffs' Exhibit 16, Client 124

25 service record, P0562-P0566,

78 (Pages 306 to 309)

Michael Harriff

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<p>1</p> <p>2 Plaintiffs' Exhibit 17, Microsoft 146</p> <p>3 Implementing and Administering a</p> <p>4 Microsoft Windows 2000 Network</p> <p>5 Infrastructure,</p> <p>6 Plaintiffs' Exhibit 18, letter dated 164</p> <p>7 8/1/05,</p> <p>8 Plaintiffs' Exhibit 19, copy of 170</p> <p>9 receipts,</p> <p>10 Plaintiffs' Exhibit 20, Affidavit of 175</p> <p>11 Cass Adelman,</p> <p>12 Plaintiffs' Exhibit 21, e-mail 178</p> <p>13 stamped HARRIFF 00155,</p> <p>14 Plaintiffs' Exhibit 22, e-mail 182</p> <p>15 stamped HARRIFF 00318,</p> <p>16 Plaintiffs' Exhibit 23, e-mail 183</p> <p>17 stamped HARRIFF 00325,</p> <p>18 Plaintiffs' Exhibit 24, Client 184</p> <p>19 information sheet, P0619-P0622,</p> <p>20 Plaintiffs' Exhibit 25, Client 189</p> <p>21 information sheet, P0511-P0517,</p> <p>22 Plaintiffs' Exhibit 26, e-mail 190</p> <p>23 stamped HARRIFF 00327,</p> <p>24 Plaintiffs' Exhibit 27, Client 196</p> <p>25 information sheet, P0551-P0556,</p>	<p>1</p> <p>2 Plaintiffs' Exhibit 40, e-mail 224</p> <p>3 HARRIFF 00338,</p> <p>4 Plaintiffs' Exhibit 41, Client 226</p> <p>5 information sheet, P0332-P0335,</p> <p>6 Plaintiffs' Exhibit 42, e-mail 231</p> <p>7 stamped HARRIFF 00341,</p> <p>8 Plaintiffs' Exhibit 43, Scope of 235</p> <p>9 work, Outdoor Solutions Group,</p> <p>10 Plaintiffs' Exhibit 44, e-mail 239</p> <p>11 stamped HARRIFF 00086-00094,</p> <p>12 Plaintiffs' Exhibit 45, e-mail 240</p> <p>13 stamped HARRIFF 00061,</p> <p>14 Plaintiffs' Exhibit 46, e-mail 246</p> <p>15 HARRIFF 00819-00820,</p> <p>16 Plaintiffs' Exhibit 47, e-mail 252</p> <p>17 stamped HARRIFF 00206-00209,</p> <p>18 Plaintiffs' Exhibit 48, chart of 265</p> <p>19 income and expenses by month,</p> <p>20 Plaintiffs' Exhibit 49, document 268</p> <p>21 stamped HARRIFF 00007-00009,</p> <p>22 Plaintiffs' Exhibit 50, e-mail 295</p> <p>23 stamped HARRIFF 00139,</p> <p>24 Plaintiffs' Exhibit 51, e-mail 296</p> <p>25 stamped HARRIFF 00101,</p>
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<p>1</p> <p>2 Plaintiffs' Exhibit 28, Cellphone 196</p> <p>3 list,</p> <p>4 Plaintiffs' Exhibit 29, Client 200</p> <p>5 information sheet, P0353-P0358,</p> <p>6 Plaintiffs' Exhibit 30, cellphone 201</p> <p>7 statement,</p> <p>8 Plaintiffs' Exhibit 31, e-mail 203</p> <p>9 stamped HARRIFF 00337,</p> <p>10 Plaintiffs' Exhibit 32, Client 204</p> <p>11 information sheet, P0259-P0262,</p> <p>12 Plaintiffs' Exhibit 33, cellphone 205</p> <p>13 statement,</p> <p>14 Plaintiffs' Exhibit 34, Client 208</p> <p>15 information sheet, P0537-P0541,</p> <p>16 Plaintiffs' Exhibit 35, Client 212</p> <p>17 information sheet, P0626-P0629,</p> <p>18 Plaintiffs' Exhibit 36, cellphone 213</p> <p>19 statement,</p> <p>20 Plaintiffs' Exhibit 37, Client 216</p> <p>21 information sheet, P0597-P0601,</p> <p>22 Plaintiffs' Exhibit 38, Client 219</p> <p>23 information sheet, P0542-P0545,</p> <p>24 Plaintiffs' Exhibit 39, Client 222</p> <p>25 information sheet, P0611-P0614,</p>	<p>1</p> <p>2 Plaintiffs' Exhibit 52, e-mail 297</p> <p>3 stamped HARRIFF 00021,</p> <p>4 Plaintiffs' Exhibit 53, e-mail from 301</p> <p>5 Michael Harriff to Mr. Campbell</p> <p>6 dated 10/20/05,</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 (Exhibits retained by Counsel.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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