

EXHIBIT B

2/19/2014

1 (Pages 1 to 4)

Page 1	Page 3
1 IN THE UNITED STATES DISTRICT COURT	1 to the above office. If you fail to do so,
2 FOR THE NORTHERN DISTRICT OF ALABAMA	2 you automatically waive your right to make
3 SOUTHERN DIVISION	3 any corrections to your deposition.
4	4
5 CIVIL ACTION NUMBER	5
6 CV-2:13-CV-00517-JEO	6
7	7
8 SHARON DIANNE WALTZ,	8
9 Plaintiff,	9
10 vs.	10
11 BIRMINGHAM HEALTH CARE, INC., an Alabama	11
12 corporation; and SYNERGY MEDICAL SOLUTIONS,	12
13 INC., an Alabama corporation,	13
14 Defendants.	14
15	15
16 DEPOSITION TESTIMONY OF:	16
17 JONATHAN WADE DUNNING	17
18	18
19 February 19, 2014	19
20 9:30 a.m.	20
21	21
22 COURT REPORTER:	22
23 DIANA B. WILLIAMS, CCR, CLR	23

Page 2	Page 4
1 JONATHAN WADE DUNNING	1 ERRATA SHEET
2 INSTRUCTIONS TO THE WITNESS	2 PAGE LINE EXPLANATION
3	3
4 Please read your deposition over	4
5 carefully before you sign it. You should	5
6 make all your changes on the attached	6
7 errata sheet.	7
8 After making any changes which you	8
9 have noted on the attached errata sheet,	9
10 sign your name on the Deponent's	10
11 Certificate and date it. You are signing	11
12 it subject to the changes you have made on	12
13 the errata sheet, which will be attached to	13
14 the deposition.	14
15 Return the attached errata sheet	15
16 and Deponent's Certificate to Birmingham	16
17 Reporting, 600 North 20th Street, Suite	17
18 205, Birmingham, Alabama 35203.	18
19 According to the Rules of Civil	19
20 Procedure, you will have thirty (30) days	20
21 from the date you receive this deposition	21
22 in which to read it, sign it, and return	22
23 the errata sheet and Deponent's Certificate	23

2/19/2014

2 (Pages 5 to 8)

Page 5	Page 7
<p>1 DEPONENT'S CERTIFICATE</p> <p>2</p> <p>3 I, JONATHAN WADE DUNNING, the</p> <p>4 witness herein, have read the transcript of</p> <p>5 my testimony and the same is true and</p> <p>6 correct, to the best of my knowledge. Any</p> <p>7 corrections and/or additions, if any, are</p> <p>8 listed separately.</p> <p>9</p> <p>10</p> <p>11</p> <p>12 JONATHAN WADE DUNNING</p> <p>13</p> <p>14</p> <p>15</p> <p>16 Sworn to and subscribed before me,</p> <p>17 this the _____ day of _____, 2014, to</p> <p>18 certify my hand and seal of office.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 NOTARY PUBLIC</p>	<p>1 may make objections and assign grounds at</p> <p>2 the time of trial or at the time said</p> <p>3 deposition is offered in evidence, or prior</p> <p>4 thereto.</p> <p>5</p> <p>6</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</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
Page 6	Page 8
<p>1 STIPULATION</p> <p>2 IT IS STIPULATED AND AGREED by and</p> <p>3 between the parties through their</p> <p>4 respective counsel that the deposition of</p> <p>5 JONATHAN WADE DUNNING may be taken before</p> <p>6 Diana B. Williams, Certified Shorthand</p> <p>7 Reporter and Notary Public, State at Large,</p> <p>8 at the law offices of Scott, Dukes &</p> <p>9 Geisler, PC, 211 22nd Street North,</p> <p>10 Birmingham, Alabama, on February 19, 2014,</p> <p>11 commencing at approximately 9:30 a.m.</p> <p>12 IT IS FURTHER STIPULATED AND AGREED</p> <p>13 that the signature to and the reading of</p> <p>14 the deposition by the witness is waived,</p> <p>15 the deposition to have the same force and</p> <p>16 effect as if full compliance had been had</p> <p>17 with all laws and rules of Court relating</p> <p>18 to the taking of depositions.</p> <p>19 IT IS FURTHER STIPULATED AND AGREED</p> <p>20 that it shall not be necessary for any</p> <p>21 objections to be made by counsel to any</p> <p>22 questions, except as to form or leading</p> <p>23 questions, and that counsel for the parties</p>	<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE NO.</p> <p>4 MR. BRIGHT 11</p> <p>5 MR. DUKES 165</p> <p>6 CERTIFICATE 167</p> <p>7</p> <p>8 INDEX OF EXHIBITS</p> <p>9</p> <p>10 PLAINTIFF'S EXHIBITS: PAGE NO.</p> <p>11 1 Organizational Chart 25</p> <p>12 2 Tax Return 41</p> <p>13 3 Consulting Agreement 58</p> <p>14 4 SMART Care Program Contract 61</p> <p>15 5 Consulting Agreement 67</p> <p>16 6 Promissory Note 77</p> <p>17 7 Recap 80</p> <p>18 8 e-mail 91</p> <p>19 9 Grant Proposal Agreement 94</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

Jonathan Dunning

2/19/2014

3 (Pages 9 to 12)

<p style="text-align: right;">Page 9</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 William E. Bright, Jr., Esq.</p> <p>5 ATTORNEY AT LAW</p> <p>6 1976 Gadsden Highway</p> <p>7 Suite 149</p> <p>8 Birmingham, Alabama 35235</p> <p>9</p> <p>10 FOR THE DEFENDANTS:</p> <p>11 Carter H. Dukes, Esq.</p> <p>12 SCOTT, DUKES & GEISLER</p> <p>13 211 22nd Street North</p> <p>14 Birmingham, Alabama 35203</p> <p>15</p> <p>16 Kenneth A. Dowdy, Esq.</p> <p>17 HARE & CLEMENT, PC</p> <p>18 100 Chase Park South</p> <p>19 Suite 200</p> <p>20 Hoover, Alabama 35244</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">Page 11</p> <p>1 MR. DUKES: Please.</p> <p>2</p> <p>3 EXAMINATION BY MR. BRIGHT:</p> <p>4 Q. Mr. Dunning, I'm Bill Bright.</p> <p>5 We've met before in court. You have sat in</p> <p>6 on depositions. Have you ever had to give</p> <p>7 a deposition before?</p> <p>8 A. Yes.</p> <p>9 Q. In what cases did you give a</p> <p>10 deposition on?</p> <p>11 A. I think one in a lease dispute</p> <p>12 case, real estate case.</p> <p>13 Q. And who were the parties in that</p> <p>14 case?</p> <p>15 A. Synergy Real Estate and I think</p> <p>16 Harbert Realty maybe.</p> <p>17 Q. Okay. So you are familiar with</p> <p>18 the process of a deposition, that you have</p> <p>19 to answer out loud; you can't shake your</p> <p>20 head yes or no?</p> <p>21 A. Yes.</p> <p>22 Q. Are you under the influence of</p> <p>23 any drugs or anything that might influence</p>
<p style="text-align: right;">Page 10</p> <p>1 I, Diana B. Williams, a Certified</p> <p>2 Shorthand Reporter of Birmingham, Alabama,</p> <p>3 and a Notary Public for the State of</p> <p>4 Alabama at Large, acting as Commissioner,</p> <p>5 certify that on this date, pursuant to the</p> <p>6 Federal Rules of Civil Procedure, and the</p> <p>7 foregoing stipulation of counsel, there</p> <p>8 came before me at the offices of Scott,</p> <p>9 Dukes & Geisler, PC, 211 22nd Street North,</p> <p>10 Birmingham, Alabama, commencing at</p> <p>11 approximately 9:30 a.m., on</p> <p>12 February 19, 2014, JONATHAN WADE DUNNING,</p> <p>13 witness in the above cause, for oral</p> <p>14 examination, whereupon the following</p> <p>15 proceedings were had:</p> <p>16</p> <p>17 JONATHAN WADE DUNNING,</p> <p>18 having been first duly sworn, was examined</p> <p>19 and testified as follows:</p> <p>20</p> <p>21 COURT REPORTER: Usual</p> <p>22 stipulations?</p> <p>23 MR. BRIGHT: That's fine.</p>	<p style="text-align: right;">Page 12</p> <p>1 your being able to answer the questions in</p> <p>2 a deposition?</p> <p>3 A. No.</p> <p>4 Q. Do you take any prescription</p> <p>5 drugs?</p> <p>6 A. No.</p> <p>7 Q. All right. If you will, state</p> <p>8 your full name for the record, please.</p> <p>9 A. Jonathan Wade Dunning.</p> <p>10 Q. And what is your date of birth,</p> <p>11 Mr. Dunning?</p> <p>12 A.</p> <p>13 Q. And where do you currently</p> <p>14 reside?</p> <p>15 A. Hoover.</p> <p>16</p> <p>17 Q. And how long have you lived</p> <p>18 there?</p> <p>19 A. Maybe 15 years or so.</p> <p>20 Q. And do you own any other real</p> <p>21 property besides that house?</p> <p>22 A. I do.</p> <p>23 Q. And where are those?</p>

BIRMINGHAM REPORTING SERVICE

(205) 326-4444

<p style="text-align: right;">Page 13</p> <p>1 A. I own a house in Tarrant.</p> <p>2 Q. Do you have the address of that?</p> <p>3 A. I think it is</p> <p>4</p> <p>5 Q. Is that just in your name?</p> <p>6 A. Yes.</p> <p>7 Q. Any other property?</p> <p>8 A. My business owns property. Me</p> <p>9 personally, I think that's it. Oh, I'm</p> <p>10 sorry. A house on . And I get</p> <p>11 these numbers kind of mixed up because I</p> <p>12 think that's -- that may be 1368 as well.</p> <p>13 It's the same as my parents'.</p> <p>14 Q. All right. Your parents live in</p> <p>15 the Tarrant home?</p> <p>16 A. Yes.</p> <p>17 Q. How long have you owned the</p> <p>18 Tarrant home?</p> <p>19 A. Many years.</p> <p>20 Q. A long time?</p> <p>21 A. Yes.</p> <p>22 Q. And how about the Claiston Way</p> <p>23 home?</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes.</p> <p>2 Q. Was that while you were in the</p> <p>3 service?</p> <p>4 A. Yes.</p> <p>5 Q. And if you would, tell me about</p> <p>6 your service background.</p> <p>7 A. Okay. I served in the United</p> <p>8 States Air Force for more than eight years.</p> <p>9 I was a forward air controller in the</p> <p>10 United States Air Force.</p> <p>11 Q. A what? I'm sorry.</p> <p>12 A. A forward air controller.</p> <p>13 Q. What does that mean?</p> <p>14 A. Well, I planned, directed air</p> <p>15 strikes, reconnaissance missions.</p> <p>16 Q. Where were you stationed?</p> <p>17 A. I was stationed numerous places:</p> <p>18 several bases in Florida, Texas, Europe,</p> <p>19 Asia.</p> <p>20 Q. Tell me where in Europe and</p> <p>21 where in Asia you were.</p> <p>22 A. Well, Germany; Korea; and,</p> <p>23 again, Texas, Austin and San Antonio;</p>
<p style="text-align: right;">Page 14</p> <p>1 A. Since 2005.</p> <p>2 Q. And if you will, give us a</p> <p>3 little bit of your educational background,</p> <p>4 please.</p> <p>5 A. Okay. I have undergraduate</p> <p>6 degrees in business, communications,</p> <p>7 liberal arts.</p> <p>8 Q. And where were those degrees</p> <p>9 from?</p> <p>10 A. Saint Leo College University,</p> <p>11 College of the Air Force, Faulkner State.</p> <p>12 I have a couple of master's degrees, too,</p> <p>13 in education and counseling, Montevallo.</p> <p>14 Q. Montevallo?</p> <p>15 A. And a master's degree in</p> <p>16 business from Southern University.</p> <p>17 Q. Southern University?</p> <p>18 A. Yes.</p> <p>19 Q. Where is Southern University?</p> <p>20 A. Louisiana.</p> <p>21 Q. And Saint Leo, where is that?</p> <p>22 A. Near Tampa, Florida.</p> <p>23 Q. And you said Air Force?</p>	<p style="text-align: right;">Page 16</p> <p>1 Mississippi, Keesler.</p> <p>2 Q. Were you ever involved in actual</p> <p>3 combat?</p> <p>4 A. No.</p> <p>5 Q. And what was your top rank when</p> <p>6 you --</p> <p>7 A. Technical sergeant.</p> <p>8 Q. And when did you -- I assume</p> <p>9 that you are out of the service now?</p> <p>10 A. I am.</p> <p>11 Q. Are you out?</p> <p>12 A. I am.</p> <p>13 Q. When did you get out of the</p> <p>14 service?</p> <p>15 A. 1990.</p> <p>16 Q. Where were you stationed in 1990</p> <p>17 when you got out?</p> <p>18 A. Oh, wow. I think Tyndall.</p> <p>19 Q. Okay. Are you currently</p> <p>20 married?</p> <p>21 A. I am.</p> <p>22 Q. And when did you get married to</p> <p>23 this wife here?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. 1998 August 23rd.</p> <p>2 Q. And what is her name?</p> <p>3 A. Tamik, T-a-m-i-k.</p> <p>4 Q. All right. And what was her</p> <p>5 maiden name?</p> <p>6 A. Surgeon.</p> <p>7 Q. Will you spell that for me?</p> <p>8 A. S-t-u-r-g-e-o-n, Surgeon.</p> <p>9 Q. Okay. Is she from the</p> <p>10 Birmingham area?</p> <p>11 A. She is.</p> <p>12 Q. And what was her date of birth;</p> <p>13 do you know?</p> <p>14 A. Yes.</p> <p>15 Q. You would be in trouble if you</p> <p>16 missed that one.</p> <p>17 A. Absolutely.</p> <p>18 Q. All right. Is that the only</p> <p>19 marriage that you have ever had?</p> <p>20 A. Yes.</p> <p>21 Q. And do you have any other</p> <p>22 relatives over the age of 19 that live in</p> <p>23 Jefferson County?</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. All right. Let's go back to</p> <p>2 your work history. Were you full-time with</p> <p>3 the Air Force when you were there?</p> <p>4 A. I was.</p> <p>5 Q. And when you left the Air</p> <p>6 Force -- I think you said 1990?</p> <p>7 A. Yes.</p> <p>8 Q. Can you give me your work</p> <p>9 history from 1990?</p> <p>10 A. 1990 I started at the Aletheia</p> <p>11 House. And I stayed there until 1995 when</p> <p>12 I went to Birmingham Health Care. And I</p> <p>13 stayed there until 2008 when I started my</p> <p>14 own company, Synergy.</p> <p>15 Q. What did you do at Aletheia</p> <p>16 House?</p> <p>17 A. I was the clinical director of</p> <p>18 the center.</p> <p>19 Q. I'm sorry if I belabor some of</p> <p>20 this, but I'm just not familiar with it.</p> <p>21 A. Sure.</p> <p>22 Q. What exactly did you do as</p> <p>23 clinical director?</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes.</p> <p>2 Q. Is there a lot of them?</p> <p>3 A. Yes.</p> <p>4 Q. Well, give me, if you can, to</p> <p>5 the best of your recollection who they are.</p> <p>6 A. Okay. Of course my parents are</p> <p>7 in their '80s -- mid '80s.</p> <p>8 Q. Okay.</p> <p>9 A. I have three brothers. They are</p> <p>10 all over 19.</p> <p>11 Q. What are their names?</p> <p>12 A. Thomas, Fred, Daniel. And a</p> <p>13 sister, Wanda.</p> <p>14 Q. Is Wanda married?</p> <p>15 A. No, she's not. She's divorced.</p> <p>16 Q. Does she go by your last name</p> <p>17 or --</p> <p>18 A. Ross.</p> <p>19 Q. Okay. Any other relatives?</p> <p>20 A. You know, they all have --</p> <p>21 Q. Numerous?</p> <p>22 A. -- a bunch of children. I'm</p> <p>23 sure you don't want to --</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Well, Aletheia House is an</p> <p>2 agency that specializes in drug and alcohol</p> <p>3 treatment. And I was over that treatment.</p> <p>4 Q. Is Aletheia House co-ed?</p> <p>5 A. Both. It is a -- a co-ed, you</p> <p>6 mean --</p> <p>7 Q. I mean do they treat men and</p> <p>8 women --</p> <p>9 A. Yes.</p> <p>10 Q. -- or just women?</p> <p>11 A. Yes.</p> <p>12 Q. Do they have a physical</p> <p>13 facility?</p> <p>14 A. Several.</p> <p>15 Q. Several?</p> <p>16 A. Yes.</p> <p>17 Q. So you were the clinical</p> <p>18 director for all of the facilities or</p> <p>19 just --</p> <p>20 A. Yes.</p> <p>21 Q. When you left Aletheia House --</p> <p>22 you said in 1995 --</p> <p>23 A. Yes.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. -- you went to Birmingham Health 2 Care? 3 A. Yes. 4 Q. Did you form Birmingham Health 5 Care or was it already existing or can you 6 give me some background on that? 7 A. It was already existing. I 8 think Birmingham Health Care has been in 9 business for 27 or more years. 10 Q. And tell me about your 11 progression in Birmingham Health Care, what 12 you went in as and the rest of it. 13 A. Sure. I started there as the 14 clinical director and development director. 15 And I became its CEO maybe two years later. 16 Q. And what exactly is the business 17 of Birmingham Health Care or was it at the 18 time that you went there? 19 A. It provides medical care as well 20 as substance abuse treatment, some mental 21 health treatment. It provided short-term 22 and long-term housing opportunities for 23 people.</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. What was the purpose of forming 2 Synergy? 3 A. Well, of course, business. Do 4 you mean the type of business it does? 5 Q. Well, I mean, why would you 6 leave Birmingham Health Care to form 7 Synergy? 8 A. I wanted more challenges. I had 9 been there over a decade. I wanted to do 10 more. 11 Q. Is Birmingham Health Care a 12 nonprofit? 13 A. It is. 14 Q. Synergy is a for-profit? 15 A. It is. 16 Q. And when you formed Synergy, did 17 it immediately contract with Birmingham 18 Health Care for business? 19 A. It did. 20 Q. Okay. When you formed 21 Synergy -- 22 MR. DUKES: When we are talking 23 about Synergy, we are talking about -- when</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. And does it still do that today? 2 A. It does. 3 Q. And then from -- you said you 4 made CEO, what, maybe '97? 5 A. Maybe '97 or so, '98. 6 Q. And you remained the CEO until 7 2008? 8 A. Yes. 9 Q. And you formed Synergy? 10 A. Yes. 11 Q. What is the full name of Synergy 12 that you formed -- the one that you formed 13 at that point in time? 14 A. Synergy Medical Solutions. 15 Q. Okay. When you formed Synergy 16 Medical Solutions, who was the -- was it an 17 LLC or -- 18 A. Yes. 19 Q. Okay. And who were the partners 20 in that at that point in time? 21 A. Me. 22 Q. Just you? 23 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 you use the word "Synergy" -- 2 MR. BRIGHT: The very first one. 3 MR. DUKES: You are talking 4 about Synergy Medical Solutions? 5 MR. BRIGHT: Right. 6 MR. DUKES: Okay. 7 MR. BRIGHT: Yes. I will try to 8 lay them out as we go on. 9 Q. (By Mr. Bright) The very first 10 one you formed, how many employees did it 11 have when you formed it? 12 A. I was its first. And I added 13 several employees after that. 14 Q. So what is the most number of 15 employees that they ever had? 16 A. Perhaps ten. 17 Q. And I'm talking about Synergy 18 Medical Solutions. 19 A. Yes. 20 Q. Okay. Did you ever make an 21 organizational chart when you were with 22 Birmingham Health Care? 23 A. Did I ever make an</p>

<p style="text-align: right;">Page 25</p> <p>1 organizational chart?</p> <p>2 Q. Yes.</p> <p>3 A. I may have.</p> <p>4 Q. I will show you what I am going</p> <p>5 to mark as Plaintiff's Exhibit 1 and ask</p> <p>6 you if you can identify that after your</p> <p>7 lawyer looks at it.</p> <p>8 (Whereupon, a document was</p> <p>9 marked as Plaintiff's Exhibit Number 1 and</p> <p>10 is attached to the original transcript.)</p> <p>11 Q. (By Mr. Bright) Can you</p> <p>12 identify that document?</p> <p>13 A. I may have seen this.</p> <p>14 Q. Is that a breakdown of the</p> <p>15 organizational chart of Birmingham Health</p> <p>16 Care?</p> <p>17 A. It may have been.</p> <p>18 MR. DUKES: Let me object to the</p> <p>19 form. At what time, Bill, are you talking</p> <p>20 about?</p> <p>21 MR. BRIGHT: I'm going to have</p> <p>22 to ask him.</p> <p>23 Q. (By Mr. Bright) If you</p>	<p style="text-align: right;">Page 27</p> <p>1 MR. DUKES: Object to the form.</p> <p>2 A. No. The board of directors</p> <p>3 would have the final say-so. They are the</p> <p>4 top line.</p> <p>5 Q. (By Mr. Bright) Over you?</p> <p>6 A. Yes.</p> <p>7 Q. I understand that. Okay. And</p> <p>8 if there was a sexual harassment charge to</p> <p>9 be filed, would it have to go through you?</p> <p>10 MR. DUKES: Object to the form.</p> <p>11 A. No.</p> <p>12 Q. (By Mr. Bright) Would it go</p> <p>13 through you?</p> <p>14 A. Not necessarily, not if I was</p> <p>15 the person of the complaint, nor would it</p> <p>16 go through me if the complainant didn't</p> <p>17 want it to.</p> <p>18 Q. Who would it go to?</p> <p>19 A. The board of directors</p> <p>20 ultimately.</p> <p>21 Q. And was that particular -- I</p> <p>22 mean, is that a company policy?</p> <p>23 A. Yes.</p>
<p style="text-align: right;">Page 26</p> <p>1 recognize it and if that is a breakdown of</p> <p>2 the organizational chart, at what point in</p> <p>3 time was that the organizational chart?</p> <p>4 A. It looks familiar. At some</p> <p>5 point in time over the many years, this may</p> <p>6 have been an accurate chart.</p> <p>7 Q. And I think that shows you as,</p> <p>8 what, the chief executive officer?</p> <p>9 A. It does.</p> <p>10 Q. Okay. And from 1997 until you</p> <p>11 ultimately left there, were you the chief</p> <p>12 executive officer?</p> <p>13 A. I was.</p> <p>14 Q. And would everybody in the</p> <p>15 company report to you ultimately?</p> <p>16 A. I ran the company. I think the</p> <p>17 top line shows the officers that would</p> <p>18 report to me.</p> <p>19 Q. Well, I mean, as I understand</p> <p>20 the chart -- I'm not a chart major -- but</p> <p>21 it looks to me as if everybody in there</p> <p>22 ultimately comes to you. You are the final</p> <p>23 guy with the final say-so?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. And when was that company policy</p> <p>2 put in place?</p> <p>3 A. Since the inception of the</p> <p>4 company.</p> <p>5 Q. And who were the board of</p> <p>6 directors best that you recall?</p> <p>7 MR. DOWDY: For what period?</p> <p>8 MR. BRIGHT: Huh?</p> <p>9 MR. DOWDY: What period?</p> <p>10 MR. BRIGHT: From the time that</p> <p>11 Ms. Waltz worked there until she left.</p> <p>12 A. I can give you the names that I</p> <p>13 recall.</p> <p>14 Q. (By Mr. Bright) Okay.</p> <p>15 A. Terri Burney is one I recall.</p> <p>16 Q. Terri Bruney?</p> <p>17 A. Burney, B-u-r-n-e-y, Burney.</p> <p>18 Q. Okay.</p> <p>19 A. Flora Blackledge, like Flora</p> <p>20 Blackledge.</p> <p>21 Q. Okay.</p> <p>22 A. Louise Shoeford, Vivian Miles,</p> <p>23 Thelma Patterson. And I can't remember the</p>

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1 rest at this time.
 2 Q. Okay. Do you have any documents
 3 anywhere that would tell me who those
 4 people were that you could provide to your
 5 lawyer?
 6 A. I don't. My lawyer -- the
 7 lawyer for BHC is here.
 8 Q. Well, I'm just asking you if you
 9 had any.
 10 A. No, I don't.
 11 Q. All right. When you originally
 12 formed Synergy Medical Solutions, I believe
 13 that was -- it shows here from the
 14 Secretary of State formed in 2006; is that
 15 correct?
 16 A. I'm not sure. If that's what
 17 that says, that may be accurate, yes.
 18 Q. I'm just asking. It says
 19 formation date, August 2, 2006. And it
 20 shows you as the incorporator. That's
 21 correct, that's what you said; right?
 22 A. Sure.
 23 Q. Was there anybody else on the

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1 A. I'm the only CEO it's ever had.
 2 Q. If there were a sexual abuse
 3 claim to be made with that company, who
 4 would it be reported to?
 5 A. It depends on the person making
 6 the complaint. Of course, your supervisor
 7 or the CEO or our legal counsel, if the CEO
 8 was the target of the complaint.
 9 Q. So in Synergy Medical Solutions,
 10 Inc., there is no one above you other than
 11 the corporate attorney --
 12 A. Yes.
 13 MR. DUKES: Object to the form.
 14 Q. -- for that kind of complaint to
 15 be made to?
 16 A. Yes.
 17 Q. And is that in the corporate
 18 bylaws or --
 19 A. It is.
 20 MR. DUKES: Object to the form.
 21 Q. (By Mr. Bright) Where can I
 22 find that?
 23 A. That document has been supplied

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1 board or any other owners at that point in
 2 time?
 3 A. No.
 4 Q. Did you ever put anybody else on
 5 the board?
 6 A. No.
 7 Q. So as of today, at Synergy
 8 Medical Solutions, you are the only board
 9 member?
 10 A. Yes.
 11 Q. And you are the chief executive
 12 officer?
 13 A. Yes.
 14 Q. And are you the only --
 15 A. And when we say "board members,"
 16 there isn't a board, yeah, so.
 17 Q. Well, is there anybody else that
 18 directs that company but you?
 19 A. I'm the director.
 20 Q. Anybody else?
 21 A. No. I'm the director.
 22 Q. Has there ever been anybody
 23 else?

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1 to my attorney.
 2 MR. DUKES: It's been produced
 3 to you.
 4 MR. BRIGHT: I haven't seen it.
 5 MR. DUKES: I think I even asked
 6 Sharon about it in her deposition.
 7 MR. BRIGHT: I will check on it.
 8 Q. (By Mr. Bright) Okay. In
 9 October of 2007, you formed Synergy Real
 10 Estate Holdings; is that correct?
 11 A. If that's what the document --
 12 Q. To the best of your memory, when
 13 did you form it?
 14 A. Did you say 2007?
 15 Q. Uh-huh.
 16 A. I thought it was '08. But if
 17 that says '07, that's fine.
 18 Q. And who owned Synergy Real
 19 Estate Holdings?
 20 A. I did.
 21 Q. Well, according to the Secretary
 22 of State, it says, Synergy Real Estate
 23 Holdings was originally owned by Synergy

<p style="text-align: right;">Page 33</p> <p>1 Medical Solutions, Inc. Is that -- well, 2 excuse me. And you and Terri Mollica and 3 Patricia Osborne and Sharon Waltz? 4 A. Yes. Okay. They had minor 5 shares, yes. 6 Q. Well, how many shares did 7 Synergy Medical Solutions, Inc., have? 8 A. Maybe 1 percent. 9 Q. How about Terri Mollica? 10 A. I don't recall. 11 Q. How about Patricia Osborne? 12 A. I don't recall those. 13 Q. Sharon Waltz? 14 A. I don't recall. 15 Q. Why were they involved in 16 Synergy Real Estate Holdings? 17 A. Well, at the time I felt that 18 they had skills, expertise that would be 19 beneficial to the business. 20 Q. Did any of them ever work for 21 that business? 22 A. Yes. 23 Q. Who?</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. And when did they purchase that 2 building? 3 A. 2008. 4 Q. And who did they purchase it 5 from? 6 A. Birmingham Health Care. 7 Q. And did they turn around and 8 lease part of that building to Birmingham 9 Health Care? 10 A. Birmingham Health Care is a 11 tenant in the building. 12 Q. Are they still a tenant in the 13 building? 14 A. They are. 15 Q. And then did you form a company 16 called Legacy Consulting Group, LLC? 17 A. Legacy was formed -- I think 18 Legacy is a DBA of Synergy Medical, yes. 19 Q. So it's not a separate 20 corporation? 21 A. It may have been formed as a 22 separate corporation, but Legacy has never 23 had a tax return or any of that. Legacy</p>
<p style="text-align: right;">Page 34</p> <p>1 A. All of them. 2 Q. And where was the office of 3 Synergy Real Estate Holdings, LLC? 4 A. The main office at the time of 5 incorporation I think was 1600 20th Street 6 South. 7 Q. And did it subsequently move? 8 A. Synergy Real Estate has always 9 owned that property, so it has always 10 maintained that as its office. It's had 11 additional offices. 12 Q. And where are the additional 13 offices? 14 A. One was at the Harbert Center. 15 Yes, those two. 16 Q. Just those two? 17 A. Yes. 18 Q. All right. What did you say, 19 1600 -- 20 A. 20th Street South. 21 Q. And that was -- is owned by 22 Synergy Real Estate Holdings, LLC? 23 A. Yes.</p>	<p style="text-align: right;">Page 36</p> <p>1 was a DBA. 2 Q. But it was owned by Synergy 3 Medical Solutions, Inc.? 4 A. No. It's a DBA of its own. 5 Q. Well, is it Synergy Medical 6 Solutions, Inc., DBA Legacy Consulting 7 Group? 8 A. Probably, yes. 9 Q. And what exactly did Legacy 10 Consulting Group do? 11 A. Consulting. 12 Q. With who? 13 A. Numerous people. 14 Q. Give me the names, please, of 15 whoever that would be. 16 A. Well, Synergy Medical did 17 consulting. And I'm not sure of a contract 18 that exists with Legacy's name on it. I 19 may be wrong. Okay. 20 As far as I recall, that was 21 just conceptual. It was redundant. And 22 Synergy Medical is the company. And 23 Synergy Medical, again, has several</p>

<p style="text-align: right;">Page 37</p> <p>1 clients.</p> <p>2 Q. Synergy Medical Solutions, Inc.?</p> <p>3 A. Yes.</p> <p>4 Q. And then did you form another</p> <p>5 company called Synergy Health Care Link --</p> <p>6 or Synergy Health Link?</p> <p>7 A. Again, conceptual, and Synergy</p> <p>8 Medical would be the company.</p> <p>9 Q. Synergy Medical Solutions, Inc.?</p> <p>10 A. Yes.</p> <p>11 Q. Well, did Synergy Health Link,</p> <p>12 LLC, do any work?</p> <p>13 A. Absolutely. We did work</p> <p>14 associated with the concept of why that</p> <p>15 company was started.</p> <p>16 Again, when you have that many</p> <p>17 companies, it's kind of onerous to file</p> <p>18 that many tax returns, have that many</p> <p>19 corporate bylaws, have that many meetings.</p> <p>20 So those were after the concepts were</p> <p>21 combined with Synergy Medical.</p> <p>22 So you are speaking of concepts</p> <p>23 that a lawyer may have filed with the</p>	<p style="text-align: right;">Page 39</p> <p>1 A. A year.</p> <p>2 Q. Sir?</p> <p>3 A. A year.</p> <p>4 Q. Well, how about prior to that</p> <p>5 time?</p> <p>6 A. Ray Dyer.</p> <p>7 Q. D-y-e-r?</p> <p>8 A. Yes. D-y-e-r, yes.</p> <p>9 Q. And where is he located?</p> <p>10 A. Ray's, his office is in</p> <p>11 Birmingham, yes.</p> <p>12 Q. And how long was he your</p> <p>13 accountant? And when I say "your</p> <p>14 accountant," I'm actually talking about the</p> <p>15 accountant for your corporate --</p> <p>16 A. I think I understand. Yes.</p> <p>17 Many years.</p> <p>18 Q. And why did you change from him</p> <p>19 to Angela?</p> <p>20 A. Well, Angela is a lot cheaper,</p> <p>21 and she's good.</p> <p>22 Q. Okay. So do you turn over your</p> <p>23 records every year to your accountant to</p>
<p style="text-align: right;">Page 38</p> <p>1 Secretary of State to potentially start a</p> <p>2 business that wasn't started.</p> <p>3 Q. So Synergy Health Link, LLC,</p> <p>4 never became a business?</p> <p>5 MR. DUKES: Object to the form.</p> <p>6 Go ahead.</p> <p>7 A. The concept of why Synergy</p> <p>8 Health Link was started had a great</p> <p>9 business; still does. But that entity does</p> <p>10 not exist other than a filing with the</p> <p>11 Secretary of State's office.</p> <p>12 Q. (By Mr. Bright) So it's your</p> <p>13 testimony as far as you know no tax returns</p> <p>14 have ever been filed for this corporation?</p> <p>15 A. No. As far as I know, no.</p> <p>16 Q. Who is your accountant?</p> <p>17 A. Angela Brothers.</p> <p>18 Q. Angela Brothers?</p> <p>19 A. Yes.</p> <p>20 Q. And where is she located?</p> <p>21 A. Her office is in Hoover.</p> <p>22 Q. And how long has she been your</p> <p>23 accountant?</p>	<p style="text-align: right;">Page 40</p> <p>1 file taxes?</p> <p>2 MR. DUKES: Object to the form.</p> <p>3 A. They stay in the records</p> <p>4 throughout the year so --</p> <p>5 Q. (By Mr. Bright) Well, I guess</p> <p>6 I'm asking you do you prepare your own</p> <p>7 corporate tax returns --</p> <p>8 A. No.</p> <p>9 Q. Or does somebody else prepare</p> <p>10 them?</p> <p>11 A. No. Absolutely the accountant</p> <p>12 prepares all tax returns.</p> <p>13 Q. Okay.</p> <p>14 A. I have never done a tax return.</p> <p>15 Q. Okay. So Ray Dyer would have</p> <p>16 prepared the taxes?</p> <p>17 A. Oh, yes. Oh, yes.</p> <p>18 Q. I will show you what I am going</p> <p>19 to mark as Plaintiff's Exhibit 2 and ask</p> <p>20 you if you can look at that and identify it</p> <p>21 for me.</p> <p>22 (Whereupon, a document was</p> <p>23 marked as Plaintiff's Exhibit Number 2 and</p>

<p style="text-align: right;">Page 41</p> <p>1 is attached to the original transcript.)</p> <p>2 MR. DUKES: Have you produced</p> <p>3 this to me?</p> <p>4 MR. BRIGHT: Uh-huh.</p> <p>5 MR. DUKES: Where was it</p> <p>6 produced?</p> <p>7 MR. BRIGHT: In our original</p> <p>8 production. Actually, I'm not so sure you</p> <p>9 didn't produce that to me.</p> <p>10 MR. DUKES: I didn't produce it</p> <p>11 to you.</p> <p>12 Q. (By Mr. Bright) Do you</p> <p>13 recognize that?</p> <p>14 A. I think this is dated 2006.</p> <p>15 Q. Actually it's --</p> <p>16 A. I'm sorry. Is that right? Is</p> <p>17 that what it says?</p> <p>18 Q. I'd have to look back at it.</p> <p>19 There should be a date at the top of it of</p> <p>20 what year it is. I think it -- yes, 2006.</p> <p>21 Let me have it back and look at</p> <p>22 your signature page and see what -- yes,</p> <p>23 2010. This is the 2010 tax return.</p>	<p style="text-align: right;">Page 43</p> <p>1 she might have in her possession relating</p> <p>2 to these companies, and this was not</p> <p>3 produced to me.</p> <p>4 MR. BRIGHT: Relating to these</p> <p>5 companies?</p> <p>6 MR. DUKES: To the defendants,</p> <p>7 yes.</p> <p>8 MR. BRIGHT: Well, he is not a</p> <p>9 defendant.</p> <p>10 MR. DUKES: Synergy Medical</p> <p>11 Solutions is.</p> <p>12 MR. BRIGHT: But he's not.</p> <p>13 MR. DUKES: I know.</p> <p>14 MR. BRIGHT: I'm asking him if</p> <p>15 he can identify those.</p> <p>16 MR. DUKES: But you never</p> <p>17 produced these documents.</p> <p>18 MR. BRIGHT: Yes, I did. And I</p> <p>19 don't know where you put them, but I did</p> <p>20 produce them.</p> <p>21 MR. DUKES: Bill, I've got them</p> <p>22 right here in front of --</p> <p>23 MR. BRIGHT: So if you are going</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Okay. Are these two different</p> <p>2 returns?</p> <p>3 Q. Uh-huh. I think one of them is</p> <p>4 Synergy -- I mean Legacy.</p> <p>5 A. One says Synergy Real Estate</p> <p>6 Holdings, and the other says Synergy</p> <p>7 Medical.</p> <p>8 Q. Right.</p> <p>9 A. There's another return here,</p> <p>10 Integrated Health Systems. And also you</p> <p>11 have --</p> <p>12 MR. DUKES: Wait a minute.</p> <p>13 Let's stop.</p> <p>14 Bill, you never produced this to</p> <p>15 me. I'm looking through what you produced</p> <p>16 in response to your request, Dr. Waltz's</p> <p>17 responses to my request for production.</p> <p>18 And I am looking through your initial</p> <p>19 disclosures. And this was never produced</p> <p>20 to me.</p> <p>21 I haven't seen Plaintiff's</p> <p>22 Exhibit 1 either. That was not produced to</p> <p>23 me. And I asked you for all documents that</p>	<p style="text-align: right;">Page 44</p> <p>1 to enter an objection, enter an objection.</p> <p>2 MR. DUKES: No. What I am going</p> <p>3 to do is I'm going to take a break since I</p> <p>4 have never seen those documents before. I</p> <p>5 have not had an opportunity to prepare him</p> <p>6 for these documents. I want an opportunity</p> <p>7 to review them with my client.</p> <p>8 MR. BRIGHT: Fine.</p> <p>9 MR. DUKES: Okay. Let's take a</p> <p>10 break. Well, let's go back on the record.</p> <p>11 And I confirmed that fact in</p> <p>12 your client's deposition when I produced</p> <p>13 everything that you gave to me. And she</p> <p>14 told me that that was everything that was</p> <p>15 responsive to my request for production.</p> <p>16 MR. BRIGHT: Well, she may have</p> <p>17 thought that it was.</p> <p>18 MR. DUKES: Let's take these two</p> <p>19 documents, and let's take a break.</p> <p>20 Is there anything else that's</p> <p>21 going to be introduced in this deposition</p> <p>22 that has not been produced to me?</p> <p>23 MR. BRIGHT: You know, I know</p>

<p style="text-align: right;">Page 45</p> <p>1 what I think I produced to you. If it 2 comes up, you will have the opportunity to 3 go over it with him. 4 (Whereupon, a brief recess was 5 taken from 10:08 a.m. until 10:22 a.m.) 6 Q. (By Mr. Bright) Do you 7 recognize the documents? 8 A. I may have seen these. They 9 look like either partial or incomplete tax 10 returns. 11 Q. Well, have you had a chance to 12 review them with your lawyer? 13 A. I did look at them. 14 Q. Are they factual? 15 A. I'm not sure. 16 Q. Did you sign those tax returns? 17 A. I saw no signature page on the 18 documents you provided. 19 Q. Okay. So you are saying you 20 don't know whether you signed them or not? 21 MR. DOWDY: Object to the form. 22 A. I don't know if these are the 23 documents, if they were ever filed, if they</p>	<p style="text-align: right;">Page 47</p> <p>1 tax return. I have an accountant that does 2 that for me, a very capable one. And this 3 is not a complete return. It appears to be 4 partial pages of a return. 5 Q. Okay. 6 A. There is no signature page of me 7 or my accountant. 8 Q. So you are saying that you don't 9 know whether that's true and correct or 10 not? 11 A. I don't. 12 Q. So you couldn't say that it's 13 not true and correct? 14 MR. DUKES: Object to the form. 15 A. I don't know if it's true or 16 false or accurate or inaccurate, no. 17 Q. (By Mr. Bright) Okay. And then 18 attached underneath that, or with it, you 19 have got it divided up. It says, Synergy 20 Real Estate Holdings, LLC. And you have 21 had a chance to review this also with your 22 lawyer? 23 A. I saw the documents that you</p>
<p style="text-align: right;">Page 46</p> <p>1 are drafts. I don't know what they are. 2 Q. (By Mr. Bright) Who would have 3 those tax returns? 4 A. Well, I'm sure the IRS would 5 have them or my accountant probably has a 6 copy. 7 Q. Let me see them back, please. 8 A. Sure. 9 Q. So you are saying -- this top 10 one here, Synergy Medical Solutions for 11 2010, if you could, show me what is not 12 factual in that. 13 MR. DUKES: Object to the form. 14 He's already testified, Bill, that he 15 doesn't know. 16 Q. (By Mr. Bright) Were you the 17 CEO of that company? 18 A. Yes, I am. 19 Q. Were you in 2010? 20 A. I was. 21 Q. You are not familiar with 22 anything filing taxes in that year? 23 A. Well, I have never prepared a</p>	<p style="text-align: right;">Page 48</p> <p>1 presented to us, yes. 2 Q. And you can't state whether or 3 not these are true and correct or not? 4 A. Again, it appears to be an 5 incomplete draft of a return. 6 Q. Okay. Integrated Health 7 Systems, same -- 8 MR. DOWDY: Object to the form. 9 A. I don't own that company. 10 Q. (By Mr. Bright) Who owns that 11 company? 12 A. I'm not sure. 13 Q. Are you employed by that 14 company? 15 A. No. 16 Q. Have you ever received any 17 payment from that company? 18 A. No. 19 Q. Have any of your companies ever 20 received payment from this company? 21 A. Perhaps rent. 22 Q. Rent? 23 A. Yes.</p>

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1 Q. Any other?
 2 A. No, not that I recall.
 3 Q. No management fees?
 4 A. Not that I recall.
 5 Q. And this last document here that
 6 was attached, it says, Synergy Medical
 7 Solutions, 2010 distributions. It looks
 8 like that, from there, there is \$187,930
 9 paid to you; is that correct?
 10 A. I saw the document, Mr. Bright,
 11 but I don't know if that is accurate or
 12 not.
 13 Q. You don't know whether you got
 14 almost \$200,000 from somebody in a year?
 15 MR. DOWDY: Object to the form.
 16 A. I don't know if that document is
 17 accurate.
 18 Q. (By Mr. Bright) Well, it shows
 19 10,000 goes to Sharon Waltz. Do you know
 20 if that was ever paid to her?
 21 A. I don't know if that is an
 22 accurate document or not.
 23 Q. Well, do you know if you paid

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1 Q. (By Mr. Bright) Do Patricia
 2 Osborne, Terri Mollica, and Sharon Waltz?
 3 A. I'm really not certain.
 4 Q. Are you the CEO of that company
 5 today?
 6 A. I am.
 7 Q. And you don't know who the
 8 members are?
 9 A. Well, I don't know if those
 10 individuals still have shares in the
 11 company.
 12 Q. Why not?
 13 A. I'm not sure -- I can't speak
 14 definitively here because I am not sure.
 15 I'm sure the tax returns would bear that
 16 out.
 17 Q. Do you guys have any annual
 18 meetings of the members or any corporate
 19 meetings?
 20 MR. DUKES: Object to the form.
 21 A. We have had meetings, yes.
 22 Q. (By Mr. Bright) When was the
 23 last time you had one?

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1 her \$10,000 in 2010?
 2 MR. DUKES: Object to the form.
 3 A. Four years ago?
 4 Q. (By Mr. Bright) Uh-huh.
 5 A. No.
 6 Q. As a distribution for Synergy
 7 Medical Solutions?
 8 A. I'm not sure.
 9 Q. And the last one, Synergy Real
 10 Estate distributions for 2010, you show
 11 Ms. Waltz received \$3,024. Do you know if
 12 that was ever paid?
 13 MR. DOWDY: Object to the form.
 14 A. I don't know if that is
 15 accurate.
 16 Q. (By Mr. Bright) But you are the
 17 CEO of the company?
 18 A. Yes.
 19 Q. Well, let's go back a minute.
 20 Synergy Real Estate Holdings, do these
 21 people still own membership in Synergy Real
 22 Estate Holdings?
 23 MR. DUKES: Object to the form.

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1 A. I don't recall.
 2 Q. A year ago? Five years ago?
 3 A. Possibly a year ago.
 4 Q. A year ago. And who was at that
 5 meeting?
 6 A. I'm not certain.
 7 Q. Where was the meeting?
 8 A. I don't recall that either.
 9 Q. Okay. Did you form a company
 10 called Synergy Real Estate Holdings II?
 11 A. Yes.
 12 Q. And when was that formed?
 13 A. I'm not certain of the year, but
 14 it may have been 2009 or '08.
 15 Q. And who owns that company?
 16 A. I do.
 17 Q. And why was that company formed?
 18 A. Investment real estate.
 19 Q. Does it currently own any real
 20 estate?
 21 A. It does.
 22 Q. What real estate does it own?
 23 A. It owns a building on the north

<p style="text-align: right;">Page 53</p> <p>1 side of Birmingham.</p> <p>2 Q. Do you know the address of that</p> <p>3 building?</p> <p>4 A. I think it is 2401 15th Avenue</p> <p>5 North.</p> <p>6 Q. And how long has it owned that</p> <p>7 building?</p> <p>8 A. Since 2008 or '09.</p> <p>9 Q. And who did you purchase that</p> <p>10 building from?</p> <p>11 A. Carraway Hospital.</p> <p>12 Q. And who are the tenants of that</p> <p>13 building?</p> <p>14 A. There are several. Brookwood</p> <p>15 Ophthalmology -- Optometry, Brookwood</p> <p>16 Optometry, Drake Hogan Pharmacy, The Dannon</p> <p>17 Company, Birmingham Health Care.</p> <p>18 Q. How many employees does that</p> <p>19 company have?</p> <p>20 MR. DUKES: Which company are</p> <p>21 you referring to, Bill?</p> <p>22 MR. BRIGHT: The one we are</p> <p>23 talking about, Synergy Real Estate Holdings</p>	<p style="text-align: right;">Page 55</p> <p>1 three employees?</p> <p>2 A. It's two or three employees,</p> <p>3 yes.</p> <p>4 Q. Did you form Synergy Real Estate</p> <p>5 Holdings 3?</p> <p>6 A. Yes.</p> <p>7 Q. When was that formed?</p> <p>8 A. Perhaps 2010 or '11.</p> <p>9 Q. And the registered agent for</p> <p>10 that company is Ken Dowdy; is that correct?</p> <p>11 A. If that's what the document</p> <p>12 says, he may be.</p> <p>13 Q. And what was the purpose -- or</p> <p>14 who owns this company?</p> <p>15 A. The company is jointly owned.</p> <p>16 Birmingham Health Care and --</p> <p>17 Q. I will suggest to you that it's</p> <p>18 you and Synergy Medical Solutions and --</p> <p>19 A. Okay.</p> <p>20 Q. -- or Health Care.</p> <p>21 A. Okay.</p> <p>22 Q. Can you tell me the division of</p> <p>23 ownership between the three of those?</p>
<p style="text-align: right;">Page 54</p> <p>1 2.</p> <p>2 A. Perhaps two.</p> <p>3 Q. (By Mr. Bright) Perhaps two?</p> <p>4 A. Yes.</p> <p>5 Q. You don't know for sure?</p> <p>6 A. I think two.</p> <p>7 Q. How many employees does Synergy</p> <p>8 Health Link have?</p> <p>9 A. Well, Synergy Health Link was</p> <p>10 never established past the Secretary of</p> <p>11 State documents.</p> <p>12 Q. How about Legacy Consulting</p> <p>13 Group?</p> <p>14 A. Neither was it.</p> <p>15 Q. And Synergy Real Estate</p> <p>16 Holdings, LLC, how many does it have?</p> <p>17 A. It, too, probably has two</p> <p>18 employees.</p> <p>19 Q. And who are those two employees?</p> <p>20 A. Kevin Ware is one, and there are</p> <p>21 a couple of people who work for Kevin whose</p> <p>22 names are not coming to my mind right now.</p> <p>23 Q. A couple? So that means you had</p>	<p style="text-align: right;">Page 56</p> <p>1 A. I am the majority owner.</p> <p>2 Perhaps it's 55/45.</p> <p>3 Q. And what was the purpose of</p> <p>4 forming that corporation?</p> <p>5 A. Real estate development.</p> <p>6 Q. Have they developed any real</p> <p>7 estate?</p> <p>8 A. We did.</p> <p>9 Q. Which real estate?</p> <p>10 A. A property on First Avenue</p> <p>11 North.</p> <p>12 Q. Did you purchase that property?</p> <p>13 A. We did.</p> <p>14 Q. Who did you purchase it from?</p> <p>15 A. I think that property was</p> <p>16 bank-owned, Citizens Trust Bank.</p> <p>17 Q. And does Birmingham Health Care</p> <p>18 rent space in that building?</p> <p>19 A. Well, it was a development</p> <p>20 venture. We sold that building.</p> <p>21 Q. When was it sold?</p> <p>22 A. 2013.</p> <p>23 Q. And what would be the reason</p>

<p style="text-align: right;">Page 57</p> <p>1 that Birmingham Health Care was involved in 2 that corporation? 3 MR. DOWDY: Object to the form. 4 A. Real estate investment. 5 Q. (By Mr. Bright) Did the board 6 of directors of Birmingham Health Care to 7 your knowledge approve that? 8 A. Absolutely. 9 Q. And who would be on the board of 10 directors to approve that? 11 A. I think the names that I gave 12 you earlier are the members. 13 Q. Current members? 14 A. Yes, as far as I know. There 15 may be more. I am sure there are more. I 16 don't know their names. 17 Q. All right. Then did you form 18 Synergy Real Estate Holdings 4? 19 A. I think I did. 20 Q. Do you know when you did that? 21 A. No, I'm not sure. 22 Q. And do you know what was the 23 purpose of that corporation?</p>	<p style="text-align: right;">Page 59</p> <p>1 there a management consulting agreement? 2 When was the first one? 3 A. I think 2008. 4 Q. 2008? And how long did that 5 continue? 6 A. We have current agreements with 7 Birmingham Health Care. 8 Q. So it's still in effect? 9 A. But, again, this is a draft. 10 And which document is in effect, I'm not 11 sure. I'm sure this is not it. 12 Q. Well, in 2008, do you know how 13 much Synergy was paid from Birmingham 14 Health Care for that agreement -- 15 MR. DUKES: Object to the form. 16 Q. -- management agreement? 17 A. I may know approximately. 18 Q. Well, how much was that? 19 A. Maybe between 200 and 300,000. 20 Q. And how much is reflected on 21 that one? 22 A. Again, this one says 75,000. 23 So, again, I'm not sure if this was ever --</p>
<p style="text-align: right;">Page 58</p> <p>1 A. I don't recall. 2 Q. Does that corporation own any 3 property? 4 A. Not that I recall. 5 Q. All right. We had filed in 6 opposition one of your motions. In that 7 opposition was a copy of this "Management 8 Consulting Agreement." Let me ask you if 9 you can identify that for me, please. Can 10 you identify that document? 11 A. It appears to be a draft of a 12 consulting agreement that may have existed 13 once between Synergy and Birmingham Health 14 Care. 15 (Whereupon, a document was 16 marked as Plaintiff's Exhibit Number 3 and 17 is attached to the original transcript.) 18 Q. May have or did exist? 19 MR. DUKES: Object to the form. 20 A. There was a management 21 consulting agreement. I don't know if this 22 is the one. 23 Q. (By Mr. Bright) And when was</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Ever done? 2 A. Ever done, no. 3 Q. Okay. 4 A. This is not what I assumed it 5 was, no. 6 Q. Okay. 7 A. That's a draft. 8 Q. Let me put that in the stack. 9 So under the management 10 consulting agreements that you did have, 11 what did Synergy Medical Solutions, Inc., 12 contract to do under those consulting 13 agreements? 14 A. Again, without the agreement in 15 front of me -- this document lists several 16 deliverables. 17 Q. Well, under your current 18 agreement, what do you do? 19 A. I would have to look at a 20 document to know specifically. I can tell 21 you generally. 22 Q. Just tell me generally what you 23 do?</p>

<p style="text-align: right;">Page 61</p> <p>1 A. Consulting work for them, grant</p> <p>2 writing, proposal writing, preparation.</p> <p>3 Q. Okay. Do you still do the grant</p> <p>4 writing for Birmingham Health Care?</p> <p>5 A. I do as --</p> <p>6 MR. DUKES: Go ahead. I object</p> <p>7 to the form, but go ahead.</p> <p>8 A. I do do some for them, yes.</p> <p>9 Q. (By Mr. Bright) All right.</p> <p>10 I'll show you what is marked as</p> <p>11 Exhibit 4 -- it looks like it's a contract</p> <p>12 between Birmingham Health Care and Synergy</p> <p>13 Health Link, LLC -- and ask you to review</p> <p>14 that. Can you tell me what that is?</p> <p>15 A. This, again, is an unsigned,</p> <p>16 undated draft of some sort of a document.</p> <p>17 I can't authenticate this.</p> <p>18 (Whereupon, a document was</p> <p>19 marked as Plaintiff's Exhibit Number 4 and</p> <p>20 is attached to the original transcript.)</p> <p>21 Q. I didn't ask you to authenticate</p> <p>22 it. I asked if you had ever seen one like</p> <p>23 it before.</p>	<p style="text-align: right;">Page 63</p> <p>1 authenticate it.</p> <p>2 Q. I did not ask you to</p> <p>3 authenticate it. What I asked you was, was</p> <p>4 there ever a contract between these two</p> <p>5 entities that you are aware of.</p> <p>6 A. I'm not sure.</p> <p>7 Q. So you are not denying that</p> <p>8 there was?</p> <p>9 A. I'm not sure.</p> <p>10 Q. And you are the chief executive</p> <p>11 officer of Synergy Health Link?</p> <p>12 A. The company doing business as</p> <p>13 Synergy Medical, yes.</p> <p>14 Q. Okay. And you can't tell me if</p> <p>15 they ever had a contract with Birmingham</p> <p>16 Health Care --</p> <p>17 A. No.</p> <p>18 Q. -- concerning SMART Care?</p> <p>19 A. No.</p> <p>20 Q. Okay. Do you know if Synergy</p> <p>21 Health Care -- or Synergy Health Link ever</p> <p>22 had a contract with Birmingham Health Care</p> <p>23 concerning a contract for SHEP kit service?</p>
<p style="text-align: right;">Page 62</p> <p>1 A. I'm not sure.</p> <p>2 Q. Well, it says, if you will push</p> <p>3 it over here, that Birmingham Health Care,</p> <p>4 Inc., contracts with Synergy Health Link,</p> <p>5 LLC.</p> <p>6 A. Yes.</p> <p>7 Q. Has there ever been a contract</p> <p>8 between Birmingham Health Care, Inc., and</p> <p>9 Synergy Health Link, LLC?</p> <p>10 A. Not to my knowledge.</p> <p>11 Q. That never existed?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Would there be -- I mean</p> <p>14 concerning SMART Care program, this is what</p> <p>15 this was entitled.</p> <p>16 A. Sure.</p> <p>17 Q. Was there any other company that</p> <p>18 you are involved with that contracted with</p> <p>19 Birmingham Health Care, Inc., for the SMART</p> <p>20 Care program?</p> <p>21 A. Well, Synergy Medical may have</p> <p>22 had a contract with Birmingham Health Care.</p> <p>23 That's a draft of a document. I can't</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I'm not sure if they did.</p> <p>2 Synergy Medical had a contract.</p> <p>3 Q. Synergy Medical did?</p> <p>4 A. Yes.</p> <p>5 Q. Who prepares these contracts for</p> <p>6 you?</p> <p>7 A. That contract may have been</p> <p>8 prepared by Sharon, it may have been</p> <p>9 prepared by the CFO, or a combination of</p> <p>10 both.</p> <p>11 Q. So your attorney didn't prepare</p> <p>12 them?</p> <p>13 A. The attorney may have prepared</p> <p>14 it. I'm not sure. It's a draft document.</p> <p>15 Q. Well, I understand that. But, I</p> <p>16 mean, it had to come from somewhere.</p> <p>17 A. Sure.</p> <p>18 Q. Where did it come from?</p> <p>19 A. Well, I don't know where a draft</p> <p>20 document came from. If it was a signed,</p> <p>21 authenticated, dated document, I may know.</p> <p>22 Q. So you don't know where drafts</p> <p>23 come from? Do you review drafts that come</p>

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1 to you?

2 A. It depends. If it came to me,

3 yes. That document, I don't know if it

4 ever came to me or not. I don't know if

5 it's just out of someone's folder of a

6 dream or a thought or a concept.

7 MR. DUKES: Just answer his

8 question.

9 Q. (By Mr. Bright) Well, are SHEP

10 kits dreams? I mean, is that what you are

11 telling me?

12 A. I'm talking about the contract.

13 Q. Was there ever any negotiations

14 to your knowledge between Synergy Health

15 Link and Birmingham Health Care for SHEP

16 kit services?

17 A. Not to my knowledge.

18 Q. So somebody just made this up?

19 MR. DUKES: Object to the form.

20 A. That may have been a concept,

21 yes.

22 Q. (By Mr. Bright) What do you

23 mean, a concept?

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1 A. Well, I'm an entrepreneur in

2 business. We have many conceptual ideas.

3 Q. Did any of your companies ever

4 do SHEP kit services?

5 A. Synergy Medical.

6 Q. So the names were changed?

7 MR. DUKES: Object to the form.

8 A. As we've discussed, the Synergy

9 Health Link was a concept or a DBA.

10 Q. (By Mr. Bright) Does Synergy

11 Medical contract with Birmingham Health

12 Care for the SMART health card services?

13 A. They did at one time.

14 Q. I think you said Legacy

15 Consulting Group you didn't know anything

16 about; is that --

17 MR. DUKES: Object to the form.

18 A. No, I didn't say that at all.

19 Q. (By Mr. Bright) All right.

20 Tell me about Legacy Consulting Group.

21 A. As we discussed, Legacy was a

22 consulting concept company. It was

23 burdensome on accountants to have that many

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1 different companies. Synergy Medical did

2 that business.

3 Q. Okay. Let me show you another

4 contract.

5 MR. DOWDY: What exhibit number

6 is that, Bill?

7 MR. DUKES: It's Exhibit 5.

8 MR. BRIGHT: 5.

9 (Whereupon, a document was

10 marked as Plaintiff's Exhibit Number 5 and

11 is attached to the original transcript.)

12 Q. (By Mr. Bright) Have you ever

13 seen that document before?

14 MR. DUKES: Bill, give him a

15 chance to review it.

16 MR. BRIGHT: Oh, I'm sorry.

17 Sure.

18 MR. DUKES: Have you reviewed it

19 now?

20 THE WITNESS: I have.

21 Q. (By Mr. Bright) What is that

22 document?

23 A. It appears to be a draft of an

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1 agreement to do construction services.

2 Q. What is construction services?

3 What does that mean?

4 A. It could be the building of a

5 building, the renovation of one. This

6 appears to be referring to that.

7 Q. And to your knowledge, was there

8 ever an agreement like that signed?

9 A. I recall Synergy doing

10 construction projects for Birmingham Health

11 Care like this or, if this is the

12 agreement, I don't know. It's not signed

13 or dated.

14 Q. But you can't say it's not the

15 agreement?

16 MR. DUKES: Object to the form.

17 A. I can't say that it's not.

18 Q. (By Mr. Bright) Okay. I think

19 you told me earlier, and correct me if I am

20 misquoting you, that Birmingham Health Care

21 leased office space from Synergy Real

22 Estate Holdings?

23 A. Yes.

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1 Q. In buildings that Birmingham
2 Health Care used to own but sold to Synergy
3 Real Estate Holdings; is that correct?
4 MR. DOWDY: Object to the form.
5 A. A building.
6 Q. (By Mr. Bright) A building?
7 A. Yes.
8 Q. And is that building the one at
9 1401 24th Street North?
10 A. That building is 1600 20th
11 Street South.
12 Q. Well, they leased space from you
13 at 1401 24th Street North; isn't that
14 correct?
15 A. They do.
16 Q. And did Synergy Real Estate
17 Holdings own that building?
18 A. Yes.
19 Q. And who did they get that
20 building from? You may have already told
21 me but I --
22 A. Carraway.
23 Q. From Carraway. Okay.

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1 A. But I may be mistaken about
2 that. They were bankrupt so --
3 Q. Carraway was?
4 A. Yes.
5 Q. Do you recall what the rent was
6 that they paid you for that?
7 A. I'm not certain of the exact
8 amount.
9 Q. Well, I have a document here
10 that suggests \$18,750 a month. Does that
11 ring a bell with you?
12 MR. DUKES: Object to the form.
13 MR. DOWDY: Are we talking about
14 Carraway or are we talking about --
15 MR. BRIGHT: Carraway.
16 MR. DOWDY: Okay.
17 A. That may be accurate.
18 Q. (By Mr. Bright) When you formed
19 Synergy --
20 A. Yes.
21 Q. -- and started contracting with
22 Birmingham Health Care, to your knowledge,
23 were there any other companies that were

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1 contracting with Birmingham Health Care to
2 do their work?
3 MR. DOWDY: Object to the form.
4 A. There are many companies that
5 Birmingham Health Care contracts with to do
6 various tasks.
7 Q. (By Mr. Bright) Name one.
8 A. Red Mountain X-ray.
9 Q. And what do they do?
10 A. X-ray and imaging.
11 Q. And did you -- you are saying
12 that Red Mountain X-ray --
13 A. Yes.
14 Q. -- has a contract with
15 Birmingham Health Care -- or had a contract
16 with Birmingham Health Care?
17 A. Yes.
18 Q. And who managed that contract?
19 MR. DUKES: Object to the form.
20 Q. (By Mr. Bright) If you know.
21 MR. DUKES: I don't understand
22 the question, Bill.
23 MR. BRIGHT: Well, I'm not

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1 asking you. I'm asking him.
2 MR. DUKES: Okay. I object to
3 the form. It's ambiguous.
4 A. I don't understand it either.
5 Q. (By Mr. Bright) So you don't
6 understand who would manage the day-to-day
7 operations of the business?
8 MR. DOWDY: Which business?
9 MR. DUKES: Object to the form.
10 Q. (By Mr. Bright) You are not
11 going to answer?
12 A. Please ask me again.
13 Q. Okay. You say that Red Mountain
14 X-ray had a contract to do imaging?
15 A. Sure.
16 Q. Okay. Do you know who arranged
17 that contract?
18 A. I'm not sure.
19 Q. Did you have any part in it?
20 A. Not that I recall.
21 Q. Did your companies have any part
22 in it?
23 A. Not that I recall.

<p style="text-align: right;">Page 73</p> <p>1 Q. Okay. Who else? Any other 2 companies that you know of? 3 A. Mr. Bright, there are probably a 4 dozen, if one, to do various things. 5 Q. Well, how are you familiar that 6 Red Mountain X-ray had a contract? 7 A. Well, you asked me to name one. 8 Q. I mean, did you actually see 9 their contract? 10 A. I may have over the years, yes. 11 Q. What would be the purpose of you 12 seeing their contract? 13 A. As CEO, I may have seen it. 14 MR. DUKES: CEO of who? 15 THE WITNESS: Birmingham Health 16 Care. 17 Q. (By Mr. Bright) Well, I'm 18 talking about after you left there. 19 A. Well, I don't know if they have 20 a contract with them now or not. 21 Q. My question was, after you 22 formed Synergy -- 23 A. Sure.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Okay. 2 MR. DUKES: With Synergy 3 Medical? 4 THE WITNESS: With Synergy 5 Medical. 6 Q. (By Mr. Bright) All right. Who 7 else did Synergy Medical contract to work 8 for? 9 A. Sure. Between a dozen and a 10 half-dozen other community health centers, 11 probably many individuals. 12 Q. Is one in central Alabama? 13 A. Yes. 14 Q. What is the name of that one? 15 A. Central Alabama, yes. 16 Q. It's just Central Alabama, 17 Incorporated or -- 18 A. That's what I recall, Central 19 Alabama Health. 20 Q. Is it commonly known as "CAHC," 21 something like that? 22 A. Yes, Central Alabama Health, CAH 23 maybe.</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. -- and left there, what other 2 companies to your knowledge contracted with 3 Birmingham Health Care? 4 A. Well, to my knowledge, I'm not 5 sure who they contract with now. 6 Q. Okay. Well, if you could, just 7 tell me each and every contract that you 8 had with Birmingham Health Care when you 9 left and formed Synergy. 10 MR. DUKES: Object to the form. 11 A. Synergy Medical had a contract 12 with them to do consulting work. 13 Q. (By Mr. Bright) Okay. That's 14 one? 15 A. Yes. And we also had -- well, 16 that is the only one that Synergy Medical 17 has. And there may be others, as you 18 mentioned, for a SHEP kit if we developed 19 it, for a SMART card if we developed it. 20 And you also showed me a contract of a 21 construction project. 22 Q. And that's all you are aware of? 23 A. That's all I recall at the time.</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. And they have disassociated with 2 your companies; is that correct? 3 A. We don't have a contract with 4 them currently, no. 5 Q. Was there any lawsuits filed 6 between any of your companies and CAHC? 7 A. No. 8 Q. Are there currently any other 9 lawsuits against any of your companies? 10 MR. DUKES: Object to the form. 11 What do you mean by "your companies"? 12 Q. (By Mr. Bright) Well, companies 13 owned by either you or companies that you 14 own controlling interest in. 15 A. No. 16 Q. No other lawsuits? 17 A. No. 18 MR. DUKES: Object to the form. 19 Q. (By Mr. Bright) At some point 20 in time, did you loan Birmingham Health 21 Care some money? 22 A. No. 23 Q. You have never loaned Birmingham</p>

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1 Health Care any money?

2 A. No.

3 Q. You took a little while to
4 answer that question. Have any of your
5 companies loaned Birmingham Health Care
6 some money?

7 A. Yes. And -- well, no, not
8 loaned them money. We've extended
9 payments. So if you want to combine that
10 or call that loaning money, no, we extended
11 payments.

12 Q. Okay. On February 11, 2011, did
13 you send an e-mail to Dr. Waltz concerning
14 a promissory note and a revolving line of
15 credit?

16 A. An e-mail in 2011?

17 Q. Uh-huh. Do you recognize that
18 document?

19 A. Well, I recognize this draft
20 document, yes.

21 (Whereupon, a document was
22 marked as Plaintiff's Exhibit Number 6 and
23 is attached to the original transcript.)

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1 A. If I recall, there was a delay
2 in Birmingham Health Care getting funding,
3 something going on with the government
4 similar to this sequestering stuff that's
5 going on now, and they asked if I would
6 delay getting paid. So that's what I
7 recall.

8 Q. And this Revolving Line of
9 Credit Agreement is from you individually;
10 is that correct?

11 A. May I take another look?

12 Q. Sure.

13 A. That's true, yes. Yes, I
14 recall. Because someone would have had to
15 pay the bill, so, yes.

16 Q. Wait. Somebody would have had
17 to pay the bills? I thought you said that
18 they were delaying payments to you.

19 A. Well, no. For instance. If the
20 bill that they did not pay was rent, of
21 course, the bank would have to be paid
22 anyway, and I may have paid that
23 personally. So that may have come from me.

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1 Q. And did you send this e-mail to
2 Dr. Waltz?

3 A. I don't recall that.

4 Q. You are not denying that your
5 name is on here; correct?

6 A. I'm not.

7 Q. And that it shows that you sent
8 it to Dr. Waltz?

9 A. Well, let me look again. I was
10 looking at --

11 Q. I'm sorry.

12 A. Well, that's what it appears to
13 say.

14 Q. Okay. I mean, you are not
15 denying that it was sent?

16 A. No.

17 Q. And that it had the attached
18 documents with it, this "Revolving Line of
19 Credit Agreement"?

20 A. This document may have been
21 attached to it, yes.

22 Q. And what would be the purpose of
23 the Revolving Credit Agreement?

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1 Q. Well, did you have a meeting
2 with your -- or a company meeting
3 concerning this line of credit and how much
4 was extended and what it was paid for?

5 A. Please repeat that.

6 Q. I will just give you the
7 documents attached to our original --
8 marked as Number 7. I realize they are
9 marked over.

10 (Whereupon, a document was
11 marked as Plaintiff's Exhibit Number 7 and
12 is attached to the original transcript.)

13 MR. DUKES: Do you want to look
14 at it?

15 MR. BRIGHT: Do y'all need a
16 break?

17 MR. DUKES: It's a little after
18 eleven. Do you mind if we take a break?

19 MR. BRIGHT: Do what? I'm
20 sorry.

21 MR. DUKES: Can we take a break?

22 MR. BRIGHT: Oh, sure. Let's
23 get through this one, and then we will take

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1 a break.
 2 MR. DUKES: Sure.
 3 Q. (By Mr. Bright) Have you ever
 4 seen that document before?
 5 A. No, it doesn't look familiar.
 6 MR. DUKES: Well, look at it.
 7 You haven't even had a chance to look at
 8 it. Look through it real quick. There is
 9 writing on the back too.
 10 A. That's not my writing. It
 11 doesn't look familiar to me, no. I don't
 12 recall ever seeing it.
 13 Q. (By Mr. Bright) Sir?
 14 A. I don't recall ever seeing this,
 15 no.
 16 MR. DUKES: What are you
 17 referring to? What exhibit?
 18 THE WITNESS: Exhibit 7.
 19 Q. (By Mr. Bright) All right. On
 20 Exhibit 7, it says, "Recap of Line of
 21 Credit." Vendors paid on behalf of
 22 Birmingham Health Care \$1,186,000.
 23 Do you know if vendors were paid

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1 Q. (By Mr. Bright) No, sir. I
 2 didn't say that it showed a million dollars
 3 worth of transfers. But does it show
 4 transfers?
 5 MR. DUKES: Object to the form.
 6 A. I don't know what your documents
 7 show. You haven't shown me a document.
 8 Q. (By Mr. Bright) Well, I'm
 9 asking you, if you know if any money was
 10 transferred from your personal account with
 11 the credit union to Birmingham Health Care.
 12 A. Well, as far as I know, you
 13 can't transfer money from someone's
 14 account. If I withdrew money from my
 15 account --
 16 Q. Did you?
 17 MR. DUKES: Object to the form.
 18 Go ahead.
 19 A. No, not to give to Birmingham
 20 Health Care. No.
 21 Q. (By Mr. Bright) Well, do you
 22 have any knowledge who Birmingham Health
 23 Care had a line of credit with?

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1 from this line of credit for 1,186,287?
 2 A. I have no idea who Birmingham
 3 Health Care would have paid, none.
 4 Q. Well, in December of 2010 -- Ken
 5 Dowdy is on here for \$17,000. You have no
 6 idea of any of those payments?
 7 A. None whatsoever. I wasn't the
 8 CEO of Birmingham Health Care or on its
 9 board. I don't know what that is.
 10 Q. So you just gave them a million
 11 dollars and didn't ask them where it was
 12 being spent?
 13 A. Never gave them a million
 14 dollars.
 15 Q. What did you do?
 16 A. Again, delayed payments to us.
 17 Q. So you are telling me that it
 18 would not show on your credit union
 19 transfers of money from your account to
 20 Birmingham Health Care?
 21 MR. DUKES: Object to the form.
 22 A. I didn't have a million dollars
 23 in my account in the credit union, so, no.

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1 MR. DUKES: At what time?
 2 A. I have no idea who else --
 3 MR. DUKES: Object to the form.
 4 Q. (By Mr. Bright) But in 2010,
 5 2011?
 6 A. Mr. Bright, I don't know their
 7 business. I don't know who they had lines
 8 of credit with.
 9 Q. Well, let's see. Well, this
 10 also shows during 2010 through 2011 checks
 11 written to you. Do you know why you were
 12 getting paid by Birmingham Health Care
 13 during that period of time?
 14 MR. DUKES: Object to the form.
 15 MR. DOWDY: Object to the form.
 16 MR. DUKES: You can answer, if
 17 you know.
 18 A. I'm sorry, sir. What was the
 19 question?
 20 Q. (By Mr. Bright) Well, this
 21 shows Birmingham Health Care paying you
 22 from November 2010 to February 2011. Why
 23 were you being paid by them during that

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1 period of time, you individually?
 2 MR. DUKES: Object to the form.
 3 You have shown him the document. Now you
 4 have pulled it away from him. Can he look
 5 at what you are --
 6 MR. BRIGHT: I'm sorry. He said
 7 he didn't know anything about it.
 8 A. Again, I think that you're
 9 mixing documents here. I had my own
 10 account at the credit union. If money came
 11 out of that account to me, it was my money.
 12 So I have no idea what you are talking
 13 about.
 14 Q. (By Mr. Bright) Well, why would
 15 it come out of that account to you if it's
 16 your money and be put on their line of
 17 credit?
 18 A. No. I think you are making
 19 assumptions. That isn't true and -- nor
 20 have you shown me something that says it's
 21 true.
 22 Q. I'm asking you. I mean are you
 23 having a hard time deciding --

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1 Q. (By Mr. Bright) Well, did you
 2 get the money from Birmingham Health Care?
 3 MR. DUKES: Object to the form.
 4 A. Absolutely not.
 5 Q. (By Mr. Bright) No? Okay.
 6 A. The document said credit union.
 7 Q. Do what?
 8 A. The document says credit union.
 9 Q. Documents at the credit union?
 10 A. That document says credit union,
 11 not Birmingham Health Care.
 12 Q. I understand that. If
 13 Birmingham Health Care credited that to
 14 their line of credit which they owed -- do
 15 you know who they owed it to?
 16 MR. DUKES: Object to the form.
 17 Q. (By Mr. Bright) Who they owned
 18 the line of credit to?
 19 A. Mr. Bright, I'm not trying to be
 20 difficult, but those questions are
 21 nonsensical. I don't know what you are
 22 referring to.
 23 Q. You have no clue?

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1 A. No.
 2 Q. -- whether or not you got paid
 3 and it went on their line of credit?
 4 MR. DUKES: Object to the form.
 5 A. You have a document. It appears
 6 that's an internal document of BHC, which I
 7 have no knowledge of. You asked me a
 8 question, if money came out of -- this says
 9 Birmingham Federal Financial Credit Union
 10 account. I had an account there. There is
 11 money on here. I don't know if this is a
 12 credit union document. I have no idea what
 13 it is. If --
 14 Q. Go ahead?
 15 A. No, I have no idea.
 16 Q. You have no idea. So according
 17 to this, you got -- let's see. 5, 10, 15,
 18 20, 25, 30, 35, 40, 50, 60 -- \$73,000 in
 19 three months, and you have no idea where it
 20 came from?
 21 MR. DUKES: Object to the form.
 22 A. I have no idea where that
 23 document came from.

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1 MR. DOWDY: Object to the form.
 2 MR. DUKES: Object to the form.
 3 Q. (By Mr. Bright) You had
 4 somebody draw up a promissory note for a
 5 million dollars, and you have no clue? Is
 6 that what you are telling us?
 7 MR. DUKES: Object to the form.
 8 A. Again, I very well know that the
 9 promissory note was to delay payments that
 10 they may have owed to the Synergy
 11 companies.
 12 Q. (By Mr. Bright) Okay.
 13 A. The document you have is from a
 14 credit union.
 15 Q. Show me where it says delayed
 16 payments.
 17 MR. DUKES: Are you referring to
 18 Defendant's Exhibit 6?
 19 MR. BRIGHT: Uh-huh.
 20 A. Well, again, this is a draft of
 21 a document that I don't know was ever put
 22 into effect. The relationship that I had
 23 was a delay of payments, not any transfer

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1 of any money, and certainly not a million
2 dollars.

3 Q. (By Mr. Bright) Do you have a
4 signed document that says delay of
5 payments?

6 A. I'm not sure which document we
7 have from 2011 that relates to the
8 continuing resolution of a government issue
9 that I was trying to recall. But I don't
10 have that document in front of me. If I
11 had it, I could tell you exactly what it
12 says.

13 Q. Well, so you can't answer
14 questions unless you have a document in
15 front of you?

16 MR. DUKES: Object to the form.

17 Q. (By Mr. Bright) Is that true?

18 MR. DOWDY: Object to the form.

19 A. No. You were asking for me to
20 clarify and authenticate something that is
21 not in front of me.

22 Q. (By Mr. Bright) I have never
23 asked you to authenticate anything, sir.

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1 Q. (By Mr. Bright) Approximately.
2 MR. BRIGHT: Let's take a break.

3 (Whereupon, a brief recess was
4 taken from 11:13 a.m. until 11:35 a.m.)

5 Q. (By Mr. Bright) We had one
6 other e-mail from you to Sharon.

7 (Whereupon, a document was
8 marked as Plaintiff's Exhibit Number 8 and
9 is attached to the original transcript.)

10 MR. DUKES: Is this part of your
11 exhibit?

12 MR. BRIGHT: Uh-huh.

13 MR. DUKES: What exhibit number
14 was that, Bill?

15 MR. BRIGHT: S or --

16 MR. DUKES: It's not S.

17 MR. BRIGHT: Well, pull it out.
18 Try P or Q. It should be right there or on
19 the back of that one.

20 MR. DUKES: It's not Q. V --
21 no. You can't figure out which one it is?

22 MR. BRIGHT: No, because I
23 pulled it out, and I've got them all

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1 You can twist it any way you'd like.

2 A. Sure.

3 Q. But the fact remains that you
4 say you personally credited rent and paid
5 rent on behalf of Birmingham Health Care;
6 is that correct?

7 MR. DUKES: Object to the form.

8 A. That sound accurate, yes.

9 Q. (By Mr. Bright) And how much
10 did you do that for? What is the total
11 amount?

12 A. Again, I don't recall. There
13 was -- I think their grant was delayed six
14 months.

15 Q. So how much did you pay on their
16 behalf?

17 A. It would have to be a guess.

18 Q. Guess.

19 A. Maybe 200,000, 3.

20 Q. So you can't remember if you
21 paid 200,000 or 300,000?

22 A. Approximately.

23 MR. DUKES: Object to the form.

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1 stacked up.

2 MR. DUKES: Here, you can look
3 at it while I'm trying to find it, but
4 don't answer any questions until I see it.

5 This hasn't been produced to us,
6 and it's not on any of the exhibits that
7 were part of your opposition. I just went
8 through them.

9 I have the Court document that
10 has the exhibits to your opposition motion
11 to dismiss which are page numbered. And
12 all of the page numbers are complete, but I
13 don't have this document. Can you give us
14 a second to review it?

15 MR. BRIGHT: Sure.

16 (Whereupon, a brief recess was
17 taken from 11:41 a.m. until 11:44 a.m.)

18 Q. (By Mr. Bright) Do you
19 recognize that document?

20 A. I do.

21 Q. Is that an e-mail from you to
22 Dr. Waltz?

23 A. It appears to be.

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1 Q. And does it include debts that
 2 have been paid on behalf of Birmingham
 3 Health Care?
 4 MR. DUKES: Object to the form.
 5 A. It appears to be.
 6 Q. (By Mr. Bright) This says, this
 7 is a portion of the money we're owed. Who
 8 is "we"?
 9 A. I'm sure I meant the Synergy
 10 company.
 11 Q. Huh?
 12 A. I'm sure I meant the Synergy
 13 company.
 14 Q. So Synergy is owed this money?
 15 A. If you -- can I have that e-mail
 16 again?
 17 Q. Sure.
 18 A. Okay. This says a portion of
 19 money that we're owed. I'm sure I was
 20 talking about in this e-mail money that was
 21 owed to the Synergy companies and me
 22 personally.
 23 Q. So some of it is owed to Synergy

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1 and some to you personally?
 2 A. Yes.
 3 Q. Okay. Do you know how much was
 4 owed to you personally out of that
 5 \$750,000?
 6 A. My estimate is around 200,000.
 7 Q. So it's your estimate that
 8 Birmingham Health Care owed some \$550,000
 9 to Synergy?
 10 A. Yes.
 11 Q. And that would show up on the
 12 books and records of Synergy's accounting?
 13 A. Yes.
 14 Q. Okay. I will show you what I
 15 have marked as Plaintiff's Exhibit
 16 Number 9.
 17 (Whereupon, a document was
 18 marked as Plaintiff's Exhibit Number 9 and
 19 is attached to the original transcript.)
 20 A. And, Mr. Bright, I think I have
 21 been corrected, too, that a deference and a
 22 loan may be interchangeable.
 23 Q. Okay. Do you recognize that

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1 document?
 2 A. It looks familiar.
 3 Q. And what is that?
 4 A. This appears to be a draft of a
 5 contract to provide Joint Commission
 6 periodic performance review.
 7 Q. What does that mean?
 8 A. Well, we got Birmingham Health
 9 Care prepared to undergo a Joint Commission
 10 accreditation visit.
 11 Q. And that's signed by the board
 12 share with Birmingham Health Care; isn't
 13 that correct?
 14 A. Birmingham Health Care CEO.
 15 Q. Yes.
 16 A. Yes.
 17 Q. And who is that?
 18 A. Jimmy Lacey.
 19 Q. And who is that contract
 20 between?
 21 A. This contract is between Legacy
 22 Consulting and Birmingham Health Care.
 23 Q. Did you ever sign that contract?

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1 A. My name is not on this contract.
 2 Q. I'm sorry. I didn't ask you if
 3 your name was on it.
 4 A. Sure.
 5 Q. I asked you if you ever signed
 6 it.
 7 A. See, I don't recall. If it is a
 8 contract in good standing, I would have
 9 signed it.
 10 Q. Okay. So is your answer yes or
 11 no?
 12 A. I would have signed the
 13 contracts for --
 14 Q. All right. I have tried to
 15 piece together who works for who from
 16 information you and your attorney have
 17 provided. Tell me if I am incorrect.
 18 2004 to 2009, the chairman of
 19 the board of Birmingham Health Care would
 20 be Jimmy Lacey; is that correct?
 21 A. Jimmy was the chair of the board
 22 from 2004 to 2008.
 23 Q. 2008. And who became the

<p style="text-align: right;">Page 97</p> <p>1 chairman of the board in 2008?</p> <p>2 A. I think it was Dr. Patton,</p> <p>3 Dr. Kim Patton.</p> <p>4 Q. Okay. And were you the CEO from</p> <p>5 2004 to 2009?</p> <p>6 MR. DUKES: Object to the form.</p> <p>7 Of BHC?</p> <p>8 MR. BRIGHT: No. Birmingham</p> <p>9 Health Care. That's who we are talking</p> <p>10 about.</p> <p>11 A. I was the CEO from 2004 to 2008.</p> <p>12 Q. (By Mr. Bright) And at what</p> <p>13 point in time in 2008?</p> <p>14 A. I think August.</p> <p>15 Q. Okay. And then at Synergy,</p> <p>16 2008, 2009, up until the present, you are</p> <p>17 the president and CEO?</p> <p>18 A. I am.</p> <p>19 Q. And the other board members are</p> <p>20 the people we talked about a while ago --</p> <p>21 Terri Mollica, Pat Osborne, Sharon Waltz,</p> <p>22 and Abdul Kallon?</p> <p>23 MR. DOWDY: Object to the form.</p>	<p style="text-align: right;">Page 99</p> <p>1 the shareholders?</p> <p>2 A. 2008 and '09, I believe,</p> <p>3 Mr. Bright, it was myself and Sharon and</p> <p>4 Terri, yes.</p> <p>5 Q. Pat Osborne was not?</p> <p>6 A. To my recollection, she never</p> <p>7 was.</p> <p>8 Q. How about Judge Kallon?</p> <p>9 A. Never was.</p> <p>10 Q. So do you know if he ever owned</p> <p>11 any interest in that company?</p> <p>12 A. Did not.</p> <p>13 Q. And then Birmingham Financial</p> <p>14 Federal Credit Union, did you form that</p> <p>15 company?</p> <p>16 A. No. No.</p> <p>17 Q. To your knowledge, who did?</p> <p>18 A. It's a 50-year-old company. I'm</p> <p>19 not sure.</p> <p>20 Q. Well, did you become the</p> <p>21 chairman of the board in that company?</p> <p>22 A. I did serve on the board for a</p> <p>23 while.</p>
<p style="text-align: right;">Page 98</p> <p>1 MR. DUKES: Object to the form.</p> <p>2 Q. (By Mr. Bright) Who are the</p> <p>3 other board members?</p> <p>4 MR. DUKES: Board members I</p> <p>5 object to the form of --</p> <p>6 MR. BRIGHT: Synergy Medical</p> <p>7 Solutions.</p> <p>8 MR. DUKES: -- And Synergy.</p> <p>9 With what entity? Object to the form.</p> <p>10 Q. Synergy -- it's just like I</p> <p>11 said, Synergy Medical Solutions. Who are</p> <p>12 the members of Synergy Medical Solutions</p> <p>13 from 2008 to 2009?</p> <p>14 MR. DUKES: Object to the form.</p> <p>15 MR. DOWDY: There aren't any</p> <p>16 members.</p> <p>17 MR. BRIGHT: Huh?</p> <p>18 MR. DOWDY: There aren't any</p> <p>19 members.</p> <p>20 MR. BRIGHT: What are they?</p> <p>21 MR. DOWDY: Shareholders.</p> <p>22 MR. DUKES: Shareholders.</p> <p>23 Q. (By Mr. Bright) Well, who are</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Were you the chairman?</p> <p>2 A. I may have been.</p> <p>3 Q. 2008 to 2009, were you the</p> <p>4 chairman?</p> <p>5 A. I was a chairman briefly. I</p> <p>6 don't recall.</p> <p>7 Q. And was the CEO Jimmy Lacey?</p> <p>8 A. No. And Jimmy was a chair of</p> <p>9 that company as well.</p> <p>10 Q. I'm sorry. What?</p> <p>11 A. He was the chairman of that</p> <p>12 entity as well for a while. And I don't</p> <p>13 recall the years. Never the CEO.</p> <p>14 Q. Well, did you or one of your</p> <p>15 companies purchase Birmingham Financial</p> <p>16 Federal Credit Union --</p> <p>17 A. No.</p> <p>18 Q. -- or controlling interest</p> <p>19 therein?</p> <p>20 A. No, sir. It's not a purchasable</p> <p>21 company. It's a credit union. And I own</p> <p>22 no part of it.</p> <p>23 Q. Okay.</p>

Jonathan Dunning

2/19/2014

26 (Pages 101 to 104)

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<p>1 A. I served in a voluntary capacity</p> <p>2 on the board, never in a compensation.</p> <p>3 Q. Okay. So you and Jimmy Lacey</p> <p>4 who was the board chair of BHC both served</p> <p>5 there, and you were both chairman of that</p> <p>6 board?</p> <p>7 A. No. I've never -- if you are</p> <p>8 asking if I was ever the chairman of the</p> <p>9 board of BHC, the answer is, no. I was its</p> <p>10 CEO.</p> <p>11 Q. I'm sorry. In Reliant Real</p> <p>12 Estate, did you form that company?</p> <p>13 A. Birmingham Health Care did.</p> <p>14 Q. But you were the CEO?</p> <p>15 A. Years ago I served in that</p> <p>16 capacity.</p> <p>17 Q. And Jimmy Lacey was the board</p> <p>18 chair?</p> <p>19 A. I'm not sure. It had many board</p> <p>20 members. I'm not sure if Jimmy was the</p> <p>21 chair or not. I don't recall if he was.</p> <p>22 Q. Okay. Do you recall how much</p> <p>23 Synergy paid Birmingham Health Care for the</p>	<p>1 A. Well, there may have been some</p> <p>2 employees -- well, no. I think the answer</p> <p>3 to that is no. Now, to my recollection,</p> <p>4 no.</p> <p>5 Q. (By Mr. Bright) But you can't</p> <p>6 testify for sure?</p> <p>7 MR. DUKES: Object to the form.</p> <p>8 Go ahead.</p> <p>9 A. Sure. I remember an IT worker</p> <p>10 or -- Mr. Bright, I'm just not sure. There</p> <p>11 may have been someone who did some work for</p> <p>12 BHC who I may have hired to do some</p> <p>13 part-time something.</p> <p>14 Q. Did Dr. Waltz do work for both</p> <p>15 companies --</p> <p>16 MR. DUKES: Object to the form.</p> <p>17 A. She never worked --</p> <p>18 Q. -- at the same time?</p> <p>19 A. No, she did not. When she came</p> <p>20 to Synergy, she resigned her position at</p> <p>21 BHC.</p> <p>22 Q. Did you attend board meetings at</p> <p>23 BHC after you formed Synergy?</p>
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<p>1 property at 1600 16th Street South?</p> <p>2 MR. DOWDY: Object to the Form.</p> <p>3 20th Street South.</p> <p>4 MR. BRIGHT: 20th Street South.</p> <p>5 Is it 20th Street?</p> <p>6 MR. DOWDY: Yes.</p> <p>7 A. Just under three million.</p> <p>8 Q. (By Mr. Bright) And do you know</p> <p>9 what it appraised for?</p> <p>10 MR. DOWDY: Object to the form.</p> <p>11 A. I recall it appraising for about</p> <p>12 three million.</p> <p>13 Q. So it would surprise you that</p> <p>14 the records at the county courthouse shows</p> <p>15 it appraising at six million?</p> <p>16 MR. DUKES: Object to the form.</p> <p>17 A. Yes.</p> <p>18 Q. (By Mr. Bright) Were there ever</p> <p>19 any employees that worked for both Synergy</p> <p>20 and Birmingham Health Care at the same</p> <p>21 time?</p> <p>22 A. No -- well, I -- which Synergy?</p> <p>23 MR. DUKES: Object to the form.</p>	<p>1 A. No.</p> <p>2 Q. Never?</p> <p>3 A. If I was invited to give a</p> <p>4 presentation, I may have, but that wouldn't</p> <p>5 have been attending a board meeting. I may</p> <p>6 have met with their board.</p> <p>7 Q. All right. Let's go back to</p> <p>8 when did you first meet Ms. Waltz?</p> <p>9 A. 2001.</p> <p>10 Q. And what was the occasion of</p> <p>11 that meeting?</p> <p>12 A. Well, she worked at</p> <p>13 The University of Alabama Birmingham.</p> <p>14 I worked at BHC. And we worked in the</p> <p>15 same building.</p> <p>16 Q. And where did you meet her?</p> <p>17 A. I recall first meeting her on</p> <p>18 the running track, and we may have met in</p> <p>19 the building as well.</p> <p>20 Q. Okay. And do you recall when in</p> <p>21 2001 that was?</p> <p>22 A. Probably the fall.</p> <p>23 Q. And, if you could, when would be</p>

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1 your next meeting with her?
 2 A. Well, I mean, I saw her probably
 3 every day.
 4 Q. Okay. At some point in time,
 5 did you have some discussions with her
 6 about coming to work for Birmingham Health
 7 Care?
 8 MR. DUKES: I'm going to object
 9 to the form, but go ahead and answer.
 10 A. Sure. Sure. At some time, yes.
 11 Q. (By Mr. Bright) Huh?
 12 A. Sure.
 13 Q. And when did that occur?
 14 A. Sometime in 2002.
 15 Q. Okay. Can you give me a point
 16 in time?
 17 A. No.
 18 Q. Fall? Spring?
 19 A. Winter, early winter.
 20 Q. And what did those conversations
 21 consist of?
 22 A. Maybe not then. I think --
 23 yeah, because, you know, I'm getting my

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1 A. I believe the title was clinical
 2 director or development director --
 3 clinical development director, something
 4 like that.
 5 Q. Okay. And what did she do?
 6 A. She was a psychologist. There
 7 was oversight of clinical programs,
 8 substance-abuse/mental-health-type
 9 programs, children's mental health. There
 10 were some grant writing responsibilities.
 11 Q. Okay. How did your relationship
 12 progress?
 13 MR. DUKES: Object to the form.
 14 Go ahead.
 15 A. Can you be more specific? How
 16 did it progress?
 17 Q. (By Mr. Bright) Well, you've
 18 heard her testimony that at some point in
 19 time -- well, when was the first time you
 20 had sex with her?
 21 A. January 2001.
 22 Q. And that would be before you
 23 hired her?

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1 2001 and '02 maybe confused there.
 2 My first conversations with her
 3 about coming to work would have been later
 4 in 2002, maybe the summer or the almost
 5 fall, yes, of 2002.
 6 Q. Okay. And what did you say and
 7 what did she say?
 8 A. Well, I had a vacant position
 9 that she was interested in. Sharon
 10 approached me about wanting that job.
 11 Q. How did she know about it?
 12 A. Well, she worked in the
 13 building. She knew the person who was in
 14 the job. She knew that that person had
 15 left us. And Sharon approached me and said
 16 that she would be the best person to hire
 17 for that job.
 18 Q. And so did you hire her for that
 19 job?
 20 A. I did.
 21 Q. And when did you hire her?
 22 A. August 2002.
 23 Q. Okay. And what job was that?

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1 A. Yes.
 2 Q. And so it's your testimony she
 3 was still working for UAB at that point in
 4 time?
 5 A. Yes.
 6 Q. You have heard her testimony
 7 that sex did not occur until after she came
 8 to work with you?
 9 A. I've heard that.
 10 Q. Is that incorrect?
 11 A. It is.
 12 Q. And how can you show us that
 13 that is incorrect?
 14 MR. DOWDY: Object to the form.
 15 A. Well, it's incorrect. I recall
 16 it.
 17 Q. (By Mr. Bright) So if she
 18 recalls it differently, then you two have
 19 separate recollections?
 20 A. I don't think she recalls it
 21 differently. I know what she testified to.
 22 Q. I didn't ask you what you
 23 thought. I asked you, if she recalls it

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1 one way and you recall it another, then you
 2 have two different recollections; is that
 3 correct?
 4 A. We absolutely differ on it.
 5 Q. All right. So you say it was in
 6 January of 2001?
 7 A. Yes.
 8 Q. And where did that happen?
 9 A. The initial sexual encounter
 10 between us was in my truck, in a vehicle,
 11 yes.
 12 Q. In your truck?
 13 A. Yes.
 14 Q. And where was that?
 15 A. It was on the South Side of
 16 Birmingham.
 17 Q. And what would be the occasion
 18 for her being in your truck?
 19 A. We had gone out talking and had
 20 dinner that evening.
 21 Q. Well, when did you say she came
 22 to you and said she wanted the job? Was
 23 that prior to this?

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1 A. No. That was after the -- that
 2 would have been that summer following
 3 January '02.
 4 Q. So the summer of 2001 is when
 5 she said she wanted the job with BHC?
 6 A. Yes.
 7 Q. And so it's your testimony you
 8 were already having sex with her at that
 9 point in time?
 10 A. Yes.
 11 Q. Okay. So what would be the
 12 occasion for you and she going out to
 13 dinner in January of 2001?
 14 A. Well, Sharon and I went out
 15 quite a few times. We talked. We were
 16 close friends. We were colleagues.
 17 Q. Well, before January of 2001,
 18 had you ever kissed her?
 19 A. I don't think so. Before
 20 January, no.
 21 Q. So this -- no preliminaries, you
 22 just went straight to sex in January 2001?
 23 MR. DUKES: Object to the form.

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1 A. No there were preliminaries.
 2 Sharon and I talked all of the time.
 3 Q. (By Mr. Bright) Did you talk
 4 about sex?
 5 A. I don't recall such a
 6 conversation.
 7 Q. So did she initiate the sex, or
 8 did you initiate the sex?
 9 A. Sharon and I both are adults. I
 10 think it was consensual and mutual.
 11 Q. No, sir, that is not what I
 12 asked you.
 13 MR. DUKES: He answered your
 14 question. You don't need to be
 15 argumentative.
 16 MR. BRIGHT: Well, neither does
 17 he. He's going to have to answer the
 18 question, you know, sooner or later.
 19 MR. DUKES: Well, he did answer
 20 your question.
 21 MR. BRIGHT: No, he didn't.
 22 Read it back.
 23 MR. DUKES: Okay. Read it back.

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1 Read the question and then read his answer,
 2 and you will see that he answered the
 3 question.
 4 MR. BRIGHT: Not even close.
 5 I'll ask it again.
 6 Q. (By Mr. Bright) Who initiated
 7 the sex?
 8 MR. DUKES: Object to the form.
 9 Asked and answered. Go ahead.
 10 Q. (By Mr. Bright) So you can't
 11 tell me who initiated the sex? I mean, you
 12 are a man. Did you not initiate it?
 13 MR. DUKES: Bill, he answered
 14 the question. And it's no big deal --
 15 MR. BRIGHT: Listen, you don't
 16 get to testify, he does; okay? If you want
 17 to object, object. Put it on the record.
 18 MR. DUKES: Well, I have put --
 19 MR. BRIGHT: But he's going to
 20 have to answer the question; okay?
 21 MR. DUKES: And he has is my
 22 point. Object --
 23 MR. BRIGHT: That's your

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1 opinion. Not my opinion, your opinion.
 2 And you don't get to do this.
 3 Q. (By Mr. Bright) Who initiated
 4 the sex?
 5 A. Again, Sharon and I initiated a
 6 mutual consensual relationship with each
 7 other.
 8 Q. Well, you were married at the
 9 time; right?
 10 A. Yes.
 11 Q. Did you tell Sharon you were
 12 married --
 13 A. Yes.
 14 Q. -- at that point in time?
 15 A. We talked about it a lot.
 16 Q. At that point in time when you
 17 had sex, had you told her before that you
 18 were married?
 19 A. Oh, yes.
 20 Q. And it's your testimony she
 21 voluntarily entered into sexual relations
 22 with you?
 23 A. Absolutely.

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1 rolled over to 2002.
 2 Q. Okay.
 3 MR. DUKES: You just misspoke
 4 earlier.
 5 THE WITNESS: Okay.
 6 Q. (By Mr. Bright) So it was 2002
 7 when you first had sex with her?
 8 A. Yes.
 9 Q. Okay. In January?
 10 A. Yes.
 11 Q. Okay. And you hired her in
 12 August?
 13 A. Yes.
 14 MR. DUKES: Object to the form.
 15 Q. (By Mr. Bright) All right. So
 16 in 2002, you said there were a couple of
 17 times in the truck and you went to her
 18 house on 280 in 2002?
 19 A. Yes.
 20 Q. Were her children there when you
 21 went to her house?
 22 A. It may -- no, not that I recall
 23 on that first incident, no.

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1 Q. And so when would be the next
 2 time after January of 2001? Was there more
 3 than one time in January?
 4 A. I think so.
 5 Q. How many more times in January?
 6 A. Perhaps a couple.
 7 Q. And where did those occur?
 8 A. There I think was another
 9 incident in the vehicle and one at her
 10 house.
 11 Q. At her house where?
 12 A. Or her apartment on 280.
 13 Q. Okay. And that would be in
 14 January of 2001?
 15 A. '02.
 16 MR. DUKES: Yes, I think -- I'll
 17 clear it up later if you don't want me to
 18 say anything.
 19 Q. (By Mr. Bright) Well, you told
 20 me you first had sex with her in January of
 21 2001?
 22 A. No. I said I met her in 2001,
 23 in the fall of 2001. And then the year

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1 Q. Was it day or night?
 2 A. It was night.
 3 Q. Did you spend the night there?
 4 A. No.
 5 Q. Okay. Well, let's go from
 6 January 2002 when you said you hired her in
 7 August of 2002, how many times did you have
 8 sex during that period of time?
 9 A. Several.
 10 Q. How many is several?
 11 A. Numerous times.
 12 Q. Twice a month? Ten times a
 13 month? Every day?
 14 A. Once or twice a month.
 15 Q. Once or twice a month?
 16 A. Yes.
 17 Q. Okay. And it's your testimony
 18 that she was not employed by you during
 19 that period of time?
 20 A. No.
 21 MR. DOWDY: Object to the form.
 22 When you say "employed by you" --
 23 MR. DUKES: Yes. That's what --

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1 MR. BRIGHT: Well, employed by
2 Birmingham Health Care, his company.
3 MR. DUKES: Just where we don't
4 object over each other, is it all right if
5 we have objections by one defendant is good
6 for all defendants? Is that okay with you,
7 Mr. Bright?
8 MR. BRIGHT: Oh, sure. However
9 y'all want to do it.
10 Q. (By Mr. Bright) Now, you heard
11 her testimony about she said the first time
12 you had sex was in your office after she
13 went to work for you. Did you have sex in
14 your office after she went to work for you?
15 A. There is never a time that I
16 recall ever having sex with Sharon in my
17 office.
18 Q. And that would be at Birmingham
19 Health Care?
20 A. Right.
21 Q. How about in the building?
22 A. No.
23 Q. Never in the building?

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1 A. There's cameras everywhere.
2 Q. Are there cameras in your
3 office?
4 A. No.
5 Q. So are you saying that that
6 didn't happen?
7 A. No.
8 Q. You are not saying it didn't
9 happen?
10 A. It did not happen.
11 Q. Okay. You are saying it didn't
12 happen.
13 Do you have any -- I mean, did
14 you tell anybody about this sexual affair
15 during that period of time before she came
16 to work with you?
17 A. Yes. I talked with my brother
18 about it.
19 Q. Your brother?
20 A. Yes.
21 Q. Which brother was that?
22 A. My brother Tom.
23 Q. Tom. And what did you tell Tom?

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1 A. Well, we discussed the
2 incident -- the incidents, the
3 relationship, the difficulty, the issues
4 related to that.
5 Q. And what were the issues?
6 A. Me being married and Sharon and
7 I having an affair.
8 Q. All right. And so when did you
9 tell him about this?
10 A. I think it may have been in
11 January or February, very early.
12 Q. Of 2002?
13 A. Yes.
14 Q. And what did your brother tell
15 you?
16 A. And, in fact, I am mistaken. I
17 think I may have told Tom before there was
18 any sexual encounter. Probably around
19 Christmastime, I remember he and I talking
20 about it and the difficulty of the
21 attraction. So I recall it being around
22 Christmas.
23 Q. Well, did you tell him after you

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1 actually had sex with her?
2 A. Yes.
3 Q. And when was the first time you
4 told him after you had sex with her?
5 A. It was in January or February.
6 Q. What does your brother do for a
7 living? Is he employed?
8 A. Yes. He is a retired teacher.
9 Q. Where does he live?
10 A. Birmingham.
11 Q. Tom?
12 A. Thomas Dunning.
13 Q. So then you hired her, according
14 to you, in August. Did you --
15 MR. DUKES: Object to the form.
16 Q. -- of 2002 for Birmingham Health
17 Care; right?
18 A. Yes. Yes.
19 Q. And you had already had
20 discussions with your brother about the
21 problems with that situation?
22 MR. DUKES: Object to the form.
23 A. Yes, sir.

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31 (Pages 121 to 124)

<p style="text-align: right;">Page 121</p> <p>1 Q. (By Mr. Bright) Did you think 2 that was advisable for you to hire her as 3 an employee? 4 A. I thought it was not advisable. 5 Q. But you did it anyway? 6 A. I did. 7 Q. And why is that? 8 A. Well, Sharon is very persuasive, 9 and she was also very qualified. 10 Q. Have you ever had any other EEOC 11 complaints filed? 12 A. No. 13 Q. All right. So after she came to 14 work with you, you were her supervisor? 15 A. Yes. 16 MR. DUKES: Object to the form. 17 Q. (By Mr. Bright) So, I mean, 18 what was the employee-employer 19 relationship? 20 A. Well, you know Sharon. She's 21 very intelligent. She's very bright, very 22 good at her job. 23 Q. We can save a lot of time if you</p>	<p style="text-align: right;">Page 123</p> <p>1 within your vocation. But professionals at 2 that level, you don't tell them what to do 3 or how to do their job. 4 Q. Who did she report to? 5 A. On the organizational chart, 6 that position is subordinate to the CEO. 7 Q. Which would be you; correct? 8 A. Yes. 9 Q. All right. So after she came to 10 work in August, between August and 11 December 2002, how many times did y'all 12 have sex? 13 MR. DUKES: Between when? I'm 14 sorry. 15 Q. (By Mr. Bright) August of 2002 16 to December of 2002. 17 A. How many times? 18 Q. Uh-huh. 19 A. Probably several. 20 Q. And where did that occur? 21 A. At her home. 22 Q. And where was that home? 23 A. It was on 280.</p>
<p style="text-align: right;">Page 122</p> <p>1 will just answer what the question -- 2 A. That wasn't a yes-or-no 3 question. You asked the relationship -- 4 Q. Uh-huh. 5 A. So what was it like? 6 Q. No. Day to day, did you tell 7 her what to do or did she have her own free 8 job to do whatever she wanted to do or -- 9 A. Well, to understand, I mean, in 10 my company, or when I was the CEO of 11 Birmingham Health Care, doctors -- medical 12 doctors may report to me, but, of course, 13 you don't tell them what to do. 14 Sharon was a trained 15 psychologist who knew more about that than 16 me. I couldn't tell her what to do. 17 I didn't tell the dentist what 18 to do or the cook what to do. They know 19 more than I know. 20 Q. So she just did whatever she 21 wanted to? 22 A. No. There are goals and 23 objectives to meet, parameters to operate</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. Did anybody ever see you there? 2 A. No. 3 Q. Did you ever spend the night 4 there? 5 A. No. 6 Q. Did she ever tell you during 7 that period of time she did not want to 8 have sex with you? 9 A. Never. 10 Q. Did you ever put your hands 11 around her throat? 12 A. Never. 13 Q. Did you ever threaten her? 14 A. Never. 15 Q. In any shape form or fashion? 16 A. Never. 17 Q. You never told her that, if you 18 couldn't have her, nobody else could have 19 her? 20 A. Absolutely not. 21 Q. Well, it's your testimony this 22 was a consensual relationship; right? 23 A. Yes.</p>

<p style="text-align: right;">Page 125</p> <p>1 Q. She was just as into it as you 2 were; is that -- 3 A. Yes. 4 Q. Did you provide her with a 5 credit card -- 6 MR. DUKES: Object to the form. 7 Q. -- from one of your companies? 8 A. Sharon had a Synergy credit card 9 many years later. 10 Q. Okay. And why would she have a 11 Synergy credit card? 12 A. Well, to purchase office 13 supplies, make reservations, business. It 14 was a business card. 15 Q. It was. Okay. It's your 16 testimony you never gave her a credit card 17 that she could use for her personal use? 18 A. No. 19 Q. Did she have a credit card that 20 she used for her personal use? 21 A. She did use it for her personal 22 use. 23 Q. And did you tell her not to do</p>	<p style="text-align: right;">Page 127</p> <p>1 different way. Did you ever provide any 2 other woman that worked for you a credit 3 card to use for her personal benefit? 4 A. No. 5 Q. Okay. Then why would you 6 provide Sharon with one? 7 A. Well, I never provided anyone a 8 credit card to use for their personal 9 benefit including Sharon. 10 Q. Well, why didn't you take it 11 back? 12 A. When Sharon was using that card, 13 you've dropped to ten years later or many 14 more years later. She had my children, 15 she's a person I cared about, and I let her 16 use it. 17 Q. Well, let's talk about your 18 children then. In 2004, she left BHC; 19 correct? 20 A. Yes. 21 Q. And she was pregnant at the 22 time; correct? 23 A. She was.</p>
<p style="text-align: right;">Page 126</p> <p>1 that? 2 A. Initially I did, yes. 3 Q. And did you do that in writing 4 or any other form? 5 A. It was oral. 6 Q. Oral? 7 A. Yes. 8 Q. Actually, it was a Synergy Real 9 Estate credit card; correct? 10 A. It may have been. 11 Q. Okay. Did you provide any other 12 employee with a credit card from one of 13 your companies? 14 MR. DUKES: Object to the form. 15 A. Yes. The CFO probably had a 16 credit card. 17 Q. (By Mr. Bright) Any other 18 women? 19 A. I think the CFO was a woman. 20 Q. Okay. And did the CFO use it 21 for her personal use? 22 A. Never. 23 Q. Well, let me ask it in a</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. With your son? 2 A. Yes. 3 Q. And you had her get private 4 insurance during that period of time, 5 didn't you? 6 A. No. 7 Q. Because you didn't want anybody 8 at the company to know she was pregnant? 9 A. Absolutely not. 10 Q. Did you tell anybody at the 11 company she was pregnant with your child? 12 A. No. 13 Q. Ever? 14 A. No. 15 Q. So she left and had your child 16 and then came back to work for you; right? 17 A. She did come back. 18 Q. Why did you hire her back? 19 A. Sharon and I discussed her 20 leaving the company because she wanted to 21 get more into counseling. Her pay was half 22 what it was when she left BHC, and it was a 23 drive. So she wanted to come back. Of</p>

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33 (Pages 129 to 132)

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<p>1 course, she was qualified, again, and I</p> <p>2 didn't object to her coming back.</p> <p>3 Q. While she was gone, did you have</p> <p>4 sex with her?</p> <p>5 A. Yes.</p> <p>6 Q. And when she came back, did you</p> <p>7 have sex with her?</p> <p>8 A. Yes.</p> <p>9 Q. Who is Kim Thompson?</p> <p>10 A. Kim was a lady who used to work</p> <p>11 for Birmingham Health Care.</p> <p>12 Q. Do you know where she is now?</p> <p>13 A. No.</p> <p>14 Q. Did you have sex with her?</p> <p>15 A. I did not.</p> <p>16 Q. So if she said you did, she</p> <p>17 wouldn't be telling the truth?</p> <p>18 MR. DOWDY: Object to the form.</p> <p>19 A. Kim and I never had sex.</p> <p>20 Q. (By Mr. Bright) How about</p> <p>21 Donieta Foster, do you know her?</p> <p>22 A. I do.</p> <p>23 Q. And who is she?</p>	<p>1 A. No.</p> <p>2 Q. So these people made all of this</p> <p>3 up? None of them are telling the truth?</p> <p>4 MR. DOWDY: Object to the form.</p> <p>5 MR. DUKES: Object to the form.</p> <p>6 Assuming if they even said it.</p> <p>7 A. No. Those --</p> <p>8 Q. (By Mr. Bright) All right.</p> <p>9 Then at some point in time, she had your</p> <p>10 second child; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Let me ask you this: Whose idea</p> <p>13 was it to have the first child?</p> <p>14 A. Sharon's.</p> <p>15 Q. Well, what did she say? What</p> <p>16 kind of discussion did you have about that?</p> <p>17 A. Well, August 2004 Sharon came to</p> <p>18 me and said she wanted to get pregnant, and</p> <p>19 she wanted to have my child. And one week</p> <p>20 later on my birthday, Sharon said, happy</p> <p>21 birthday, I'm pregnant.</p> <p>22 Q. Did y'all have sex during that</p> <p>23 week?</p>
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<p>1 A. Donieta is a lady who works with</p> <p>2 me.</p> <p>3 Q. Did you have sex with her?</p> <p>4 A. I did not.</p> <p>5 Q. And where is she now; do you</p> <p>6 know?</p> <p>7 A. She resides here in Birmingham.</p> <p>8 Q. How about Brandy Herchenbach?</p> <p>9 A. I know Brandy.</p> <p>10 Q. Did you tell her she was</p> <p>11 beautiful and you wanted to marry her?</p> <p>12 A. No.</p> <p>13 Q. You never said that?</p> <p>14 A. No.</p> <p>15 Q. How about Patricia Smith; did</p> <p>16 she work for you?</p> <p>17 A. Patrice Smith?</p> <p>18 Q. That's right.</p> <p>19 A. I know Patrice, she did.</p> <p>20 Q. Does she still work there?</p> <p>21 A. No.</p> <p>22 Q. Did you talk with her about your</p> <p>23 wet dreams?</p>	<p>1 A. My assumption is that she was</p> <p>2 pregnant when she told me she wanted to</p> <p>3 have my child, that she had already planned</p> <p>4 it.</p> <p>5 Q. Well, what did you tell her?</p> <p>6 A. That that wasn't a good idea,</p> <p>7 let's think about that, let's discuss that.</p> <p>8 And Sharon was adamant about wanting to</p> <p>9 have a son named Jonathan.</p> <p>10 Q. Did she tell you anything else</p> <p>11 other than just she wanted to have a son</p> <p>12 named Jonathan?</p> <p>13 A. That she loved me, that she</p> <p>14 wanted to be my wife, that she wanted me to</p> <p>15 leave my wife.</p> <p>16 Q. Well, did you tell her you loved</p> <p>17 her?</p> <p>18 A. Sure. Yes.</p> <p>19 Q. And did you tell her -- did you</p> <p>20 call her your wife?</p> <p>21 A. No.</p> <p>22 Q. You never called her your wife?</p> <p>23 A. Well, I may have at some point,</p>

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1 yes.
 2 Q. In some of these movies you
 3 made, didn't you call her your wife during
 4 the movies?
 5 MR. DUKES: Object to the form.
 6 A. I may have.
 7 Q. (By Mr. Bright) And while I'm
 8 on this part, did you and Sharon exchange
 9 e-mails on a regular basis?
 10 A. Did we?
 11 Q. Yes.
 12 A. Yes.
 13 Q. And did you keep a copy of all
 14 of those e-mails?
 15 A. No.
 16 Q. Did you erase them?
 17 A. I'm not an e-mail keeper.
 18 Q. Well, I mean, my question was
 19 did you erase them? Are they still on your
 20 computer, or did you delete them?
 21 A. I'm sure I probably deleted them
 22 soon after they occurred over the years.
 23 Q. Have you gone back and tried to

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1 Pelham because I thought it was a much
 2 better residence for her.
 3 Q. Did you buy a house for any
 4 other female employee?
 5 A. No.
 6 Q. You say she moved in across the
 7 street from you?
 8 A. Yes.
 9 Q. Was that in a house or an
 10 apartment complex or what?
 11 A. I lived in a house. Sharon
 12 moved into an apartment across the street.
 13 Q. Did she pay for that apartment
 14 rent, or did you pay for it?
 15 A. She paid the rent.
 16 Q. Did you tell the children --
 17 A. And let me clarify. She paid
 18 the rent up until probably she was
 19 pregnant. And then I routinely gave Sharon
 20 money for whatever she might need,
 21 including apartment.
 22 Q. I know. You testified to that
 23 in family court. But you didn't have any

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1 retrieve any of those?
 2 A. No.
 3 Q. Did you ever write on any of her
 4 reports that it was bullshit or anything
 5 similar to that?
 6 A. Not that I recall.
 7 Q. But you could have?
 8 A. No. That's not the kind of
 9 language I use.
 10 Q. All right. Had you bought a
 11 house for her to live in, is that correct,
 12 on -- whatever this is --
 13 A. Caliston, I did.
 14 Q. And when did you purchase that?
 15 A. 2005.
 16 Q. Were you still having sex with
 17 her at that point in time?
 18 A. Yes.
 19 Q. Why did you purchase the house?
 20 A. Sharon had moved across the
 21 street from me. She was driving by the
 22 house on a daily basis. She also had
 23 during that time. So I bought the house in

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1 documentation of it. Do you have any
 2 documentation now?
 3 A. I gave Sharon cash.
 4 Q. I understand that. But would
 5 you withdraw that from your account?
 6 A. I would.
 7 Q. Which account would you withdraw
 8 it from?
 9 A. Whichever account I may have
 10 had.
 11 Q. Have you gone back to try to
 12 find any records of that?
 13 A. I've not gone back to try to
 14 find any records but -- no.
 15 Q. Okay. When was the first trip
 16 you two went on?
 17 A. Probably ten years ago. I don't
 18 recall the first trip.
 19 Q. How many trips did you normally
 20 make a year?
 21 MR. DOWDY: Object to the form.
 22 A. I would make --
 23 Q. (By Mr. Bright) With her.

<p style="text-align: right;">Page 137</p> <p>1 A. Well, with her? Three or four 2 maybe. 3 Q. After the children were born, 4 how many would you make a year with her and 5 the children? 6 A. Sharon and I would travel at 7 least a couple of times a month with our 8 children. 9 Q. Did you buy jewelry for her? 10 A. I have. 11 Q. What jewelry did you buy? 12 A. I recall buying her necklaces, 13 earrings, anklets, things like that. 14 Q. Did you buy rings for her? 15 A. Never a ring. 16 Q. Did you buy clothes for her? 17 A. Countless items of clothing. 18 Q. Did you buy lingerie for her? 19 A. I have. 20 Q. What would be the purpose of 21 buying lingerie for her? 22 MR. DOWDY: Isn't that obvious? 23 MR. DUKES: Object to the form.</p>	<p style="text-align: right;">Page 139</p> <p>1 Now they could talk and reason. 2 And the relationship I know had 3 been prolonged because they were little, 4 infants, and couldn't. And now that they 5 were older, what I wanted to do was 6 concentrate on being their father. 7 And the affair was definitely 8 counterproductive to me being a good father 9 to them, to all of the children, really. 10 So that's why Sharon and I ended the 11 relationship. 12 Q. So as of 2012, who had you told 13 about the affair and the children? 14 A. Well, my father, my mother, of 15 course, my brother. 16 Q. Anyone at work? 17 A. No. 18 Q. In either company? 19 A. No. 20 Q. If you loved her, why didn't you 21 tell anybody at work? 22 A. Because we worked together. And 23 how that would be productive, there is --</p>
<p style="text-align: right;">Page 138</p> <p>1 Q. (By Mr. Bright) I'm serious. I 2 mean, why would you buy an employee 3 lingerie? 4 MR. DUKES: Object to the form. 5 A. Well, I bought lingerie for 6 Sharon, a woman who I was having a 7 relationship with. 8 Q. (By Mr. Bright) Was that to be 9 to wear it for you? 10 A. Well, I bought her items to 11 wear -- lingerie items. Of course, we know 12 the purpose of that, but other items as 13 well to wear any time. 14 Q. Who ended the sexual 15 relationship? 16 A. I ended the sexual relationship 17 the winter of 2012. 18 Q. And why did you end it? 19 A. My children were of an awareness 20 age at that time to where they were little 21 boys now, not infants, who could ask 22 questions and needed more time with their 23 father, absolute time, definitive time.</p>	<p style="text-align: right;">Page 140</p> <p>1 I'm not sure. So, no, I didn't. 2 Q. So in an affair that lasted 3 approximately ten years, you never told a 4 soul at work? 5 A. No. 6 Q. Have you ever called her any 7 derogatory names? 8 A. Never. 9 Q. Ever called her a bitch? 10 A. Never. 11 Q. Ever called her a whore? 12 A. Never. 13 Q. Did you ever tell her if she 14 left she would never work anywhere else? 15 A. Will you repeat that, please? 16 Q. Did you ever tell her if she 17 left work for you she would never work 18 anywhere else? 19 A. Absolutely not. 20 Q. Well, when she left, why did you 21 go sit in her driveway in her car -- in 22 your car? 23 MR. DUKES: Object to the form.</p>

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1 A. Please repeat that.
 2 Q. (By Mr. Bright) Well, I am sure
 3 you are aware that there was a protection
 4 from abuse file charge against you;
 5 correct?
 6 A. Because I sent an e-mail --
 7 Q. Well --
 8 A. -- about her son and her
 9 boyfriend beating mine.
 10 Q. It couldn't be that you were
 11 parked in her driveway?
 12 A. Absolutely not, a complete
 13 falsehood.
 14 Q. So everything she says is a
 15 complete falsehood?
 16 MR. DOWDY: Object to the form.
 17 Q. (By Mr. Bright) Is that what
 18 you are saying?
 19 A. I never heard her say that. And
 20 if she said it, that's a complete
 21 falsehood.
 22 Q. Well, she says you choked her.
 23 Is that a falsehood?

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1 A. Absolute lie.
 2 Q. She said you didn't have sex
 3 until after she was hired. Is that a
 4 falsehood?
 5 A. Not true.
 6 Q. She said you parked in her
 7 driveway and harassed her. That's not
 8 true?
 9 A. Never.
 10 Q. She said you threatened her.
 11 That's not true either?
 12 A. Never.
 13 Q. So all of those things she's
 14 said are not true?
 15 A. Those things are untrue.
 16 Q. And yet this is somebody you
 17 loved and had sex with for ten years?
 18 MR. DOWDY: Object to the form.
 19 A. Yes.
 20 Q. (By Mr. Bright) Did you ever
 21 get an indication that she would lie to you
 22 while you were having sex with her for ten
 23 years?

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1 MR. DUKES: Object to the form.
 2 A. What you are reporting to me is
 3 shocking to me, too, that she would say
 4 that.
 5 Q. (By Mr. Bright) My question to
 6 you was do you recall an incident where she
 7 lied to you?
 8 A. Sharon never gave me an
 9 indication that she would say the things
 10 that she said, no.
 11 Q. Were there indications where she
 12 lied to you during your ten years of having
 13 sex with her?
 14 MR. DUKES: Object to the form.
 15 A. I do recall an occasion, yes.
 16 Q. (By Mr. Bright) And what is
 17 that?
 18 A. Sharon told me she had been
 19 married once. And then she came in and
 20 said she had lied, that she had been
 21 married twice and she was ashamed, that the
 22 person was a drug dealer, that he hit her
 23 and abused her. She was ashamed, and she

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1 didn't tell me.
 2 So she said she loved me, she
 3 wanted to marry me, and she wanted to tell
 4 me her complete past. And then she told me
 5 about the man named Lou Blanco.
 6 Q. Is that the only time you can
 7 think of?
 8 A. That's the only time I can think
 9 of when Sharon told me she had lied to me.
 10 Q. Do you have some kind of
 11 jealousy about Mike Foles?
 12 A. Absolutely not.
 13 Q. Do you know about Mike Foles?
 14 A. I know his name now because my
 15 son said that the man abused him and got in
 16 his bed and hit him.
 17 Q. Well, I mean, you were there
 18 when the counselor said it was your son who
 19 was the abuser; right?
 20 MR. DUKES: Object to the form.
 21 A. No.
 22 Q. (By Mr. Bright) So you don't
 23 know where that came from?

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1 A. She did not say my son was an
 2 abuser. She said that my other son,
 3 told her that may have gotten in
 4 his bed. told me that his mother and
 5 you told him to say it.
 6 Q. And me?
 7 A. Yes.
 8 Q. Okay. Did he tell you when that
 9 happened?
 10 A. The time that he told me this
 11 was over the course of a year and a half
 12 that he had been telling me that he was
 13 told to lie on his brother and on me, and
 14 he was afraid.
 15 Q. And so he tells his mother you
 16 told him to lie, and he's afraid of you --
 17 he's never told you that?
 18 MR. DUKES: Object to the form.
 19 MR. DOWDY: Object to the form.
 20 A. I don't believe said that.
 21 And if he did, he said it out of fear.
 22 Q. (By Mr. Bright) Have you ever
 23 been to any -- to see any psychiatrists or

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1 the children.
 2 Q. Well, I'm asking if you have
 3 ever been there for any particular reason.
 4 A. Not that I recall.
 5 Q. So you wouldn't know if they had
 6 records of marijuana being in your blood?
 7 A. I have never done marijuana in
 8 my life or any other drug, period.
 9 Q. When you said a little while ago
 10 you introduced Dr. Waltz as your wife, when
 11 did you do that -- or you called her your
 12 wife, I'm sorry, when was that?
 13 MR. DUKES: I will object to the
 14 form. Go ahead.
 15 A. I don't recall the exact times.
 16 Q. (By Mr. Bright) Well, would it
 17 be a year ago? Ten years ago? Two years
 18 ago?
 19 A. I don't recall.
 20 Q. And did you introduce her to
 21 anybody else as your wife?
 22 A. No.
 23 MR. DUKES: Object to the form.

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1 psychologists or any kind counseling?
 2 A. Never.
 3 Q. Well, you were court-ordered to
 4 counseling at one point in time, weren't
 5 you?
 6 A. No.
 7 Q. No? You didn't have to fulfill
 8 some counseling to be able to have a charge
 9 lowered?
 10 MR. DUKES: Object to the form.
 11 A. I think I went to a class.
 12 Q. (By Mr. Bright) What kind of
 13 class was it?
 14 A. Maybe a driving class.
 15 Q. Have you ever been to Shelby
 16 Baptist Emergency Room?
 17 A. Shelby Baptist? That's where my
 18 son was born, so, yes.
 19 Q. In the emergency room?
 20 A. I don't recall being in the
 21 emergency room at Shelby Baptist. I recall
 22 being at Shelby Baptist for the birth of my
 23 son. But I may have been there with one of

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1 A. There were pet names that Sharon
 2 and I may have called each other from time
 3 to time.
 4 MR. BRIGHT: Let's take a break.
 5 (Whereupon, a brief recess was
 6 taken from 12:40 p.m. until 1:27 p.m.)
 7 MR. DUKES: Before I forget, we
 8 have been talking about so many acronyms
 9 and so forth, I would like to read and
 10 sign.
 11 MR. BRIGHT: Would like to what?
 12 I'm sorry.
 13 MR. DUKES: Read and sign.
 14 MR. BRIGHT: Okay.
 15 Q. (By Mr. Bright) Did you ever
 16 tell Dr. Waltz that she was overpaid?
 17 A. No.
 18 Q. Or that she was nothing without
 19 you?
 20 A. No.
 21 Q. That you made her?
 22 A. No.
 23 Q. Did you ever tell her that you

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1 expected her to perform wifely duties?
 2 A. No.
 3 Q. When I asked you before about
 4 lawsuits against you or any of your
 5 companies, did you tell me about all of the
 6 lawsuits?
 7 MR. DUKES: Object to the form.
 8 A. I'm not aware of any lawsuits
 9 against my company.
 10 Q. (By Mr. Bright) Did you get
 11 sued by White, Arnold & Dowd?
 12 A. We did.
 13 MR. DOWDY: It's not against his
 14 company, though.
 15 MR. BRIGHT: Who was it against?
 16 Well, I said him or his companies.
 17 Q. (By Mr. Bright) So you got sued
 18 personally by White, Arnold & Dowd?
 19 A. Yes.
 20 Q. And what happened to that
 21 lawsuit?
 22 A. It was dismissed.
 23 Q. And did you hire them to

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1 what you told us before.
 2 A. Well, that is inaccurate. And I
 3 think they were referring to her lawsuit.
 4 Q. Her lawsuit?
 5 A. Or whatever she had stated in
 6 her claim, EEOC claim.
 7 Q. Well, this is your position
 8 statement, is it not?
 9 A. It is in reference to her EEOC
 10 claim.
 11 Q. Well, actually -- I will finish
 12 the sentence. Dr. Waltz and Mr. Dunning
 13 did not develop a romantic relationship
 14 until approximately March of 2003 when they
 15 entered into a purely consensual long-term
 16 relationship.
 17 Now, are you saying Sharon said
 18 that?
 19 A. No. I remember the conversation
 20 about this. And my attorney --
 21 MR. DUKES: Wait a minute. Let
 22 me stop you.
 23 THE WITNESS: Sure. Sure.

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1 represent you on the EEOC charge initially?
 2 A. I did.
 3 Q. And did you give them
 4 information to report to the EEOC?
 5 A. Yes.
 6 Q. And did you read their report?
 7 A. Did I read the EEOC report?
 8 Q. The report that White, Arnold &
 9 Dowd wrote back on your behalf to the EEOC?
 10 MR. DUKES: The position
 11 statement?
 12 MR. BRIGHT: Yes.
 13 A. Yes.
 14 Q. (By Mr. Bright) You did read
 15 it?
 16 A. I'm sure I did.
 17 Q. Was it true and accurate?
 18 A. Yes, as far as I recall.
 19 Q. Well, in this report, let's see,
 20 it says, Dr. Waltz and Mr. Dunning did not
 21 develop a romantic relationship until
 22 approximately March of 2003.
 23 Is that -- that's different than

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1 MR. DUKES: Don't say anything
 2 that you -- any communication that you had
 3 with your attorney.
 4 THE WITNESS: Sure.
 5 A. The position was that was her
 6 statement, and that's what we would answer.
 7 Q. (By Mr. Bright) Well, nowhere
 8 in here does it say anything about a
 9 romantic relationship beginning any earlier
 10 than March of 2003.
 11 A. Well, it's certainly the truth.
 12 Q. Okay. So this report is
 13 inaccurate?
 14 MR. DUKES: Object to the form.
 15 A. Again, my understanding is that
 16 the attorney was only answering the claim
 17 that she had made.
 18 Q. (By Mr. Bright) So you didn't
 19 try to go back and correct any of that?
 20 MR. DOWDY: Object to the form.
 21 A. I leave the lawyering to my
 22 attorneys.
 23 Q. (By Mr. Bright) Okay. So when

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1 it says that here, that you entered into a
 2 purely consensual long-term relationship,
 3 that's incorrect?
 4 MR. DOWDY: Object to the form.
 5 A. The relationship --
 6 Q. As of March 2003.
 7 A. The relationship started in
 8 2002.
 9 Q. All right. How many videos have
 10 you made of Dr. Waltz --
 11 MR. DUKES: Object to the form.
 12 Q. -- either by phone or some other
 13 method?
 14 A. Will you clarify that?
 15 Q. Well, on your phone, does it
 16 have a video thing that you can take
 17 videos?
 18 A. You said of Dr. Waltz. I made
 19 videos of her, our children, sometimes us,
 20 so --
 21 Q. I'm specifically referring to
 22 Dr. Waltz, just her.
 23 A. Well, whatever we've made, I

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1 A. Many years ago.
 2 Q. Well, why would you delete them?
 3 A. Because they were sexual videos.
 4 They were very incriminating. And Sharon
 5 would send them to me because she said she
 6 wanted me think about her when I was at
 7 home with my wife or away from her, so she
 8 sent me videos of herself to watch.
 9 Q. And we have absolutely no proof
 10 of that?
 11 MR. DOWDY: Object to the form.
 12 A. The proof is what I just told
 13 you.
 14 Q. (By Mr. Bright) Okay. When you
 15 first met Dr. Waltz, would you describe --
 16 I mean, how much did you weigh?
 17 A. 200 pounds maybe.
 18 Q. Were you overweight?
 19 A. I think I wasn't. Maybe I was.
 20 Q. Did you smoke?
 21 A. Never smoked.
 22 Q. Do you drink?
 23 A. I do drink.

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1 think they are in evidence. I don't know.
 2 One, two.
 3 Q. One or two? And do you know
 4 when they were made?
 5 A. Probably they were related to a
 6 birthday or a vacation.
 7 Q. Have you ever made sexual videos
 8 of her?
 9 A. No.
 10 Q. If she says you have, is she
 11 incorrect?
 12 A. She's absolutely incorrect.
 13 Sharon has made many of herself when I
 14 wasn't there and sent them to me.
 15 Q. So do you have those?
 16 A. No.
 17 Q. What happened to those videos?
 18 A. I deleted them.
 19 Q. So your testimony is she sent
 20 you sexual videos and you deleted them?
 21 A. Yes.
 22 Q. And when was the first time that
 23 happened?

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1 Q. What do you drink?
 2 A. I occasionally drink maybe a
 3 glass of wine, maybe a Scotch.
 4 Q. Have you ever drank at the
 5 office of Birmingham Health Care?
 6 A. No.
 7 Q. Or of Synergy, any of their
 8 offices?
 9 A. No.
 10 Q. All right. I asked you about
 11 all of your business entities. Have you
 12 told me about all of those?
 13 A. I don't know if we have
 14 discussed them all, no.
 15 Q. What other business entities are
 16 there?
 17 A. Well, I own two restaurants we
 18 haven't discussed.
 19 Q. Anything else?
 20 A. We discussed Synergy Medical,
 21 Synergy Real Estate. And Dunning Partners
 22 would be the restaurants. And I think
 23 that's it.

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1 Q. Dunning Partners is the
2 restaurants?
3 A. Yes.
4 Q. And what are the two
5 restaurants?
6 A. La Dolce Vita and Villaggio.
7 Q. Villaggio?
8 A. Villaggio.
9 Q. Where is that located,
10 Villaggio?
11 A. Villaggio is at Ross Bridge.
12 Q. All right. And Dunning
13 Partners, are there any other partners in
14 that?
15 A. No.
16 Q. Just you?
17 A. Yes.
18 Q. And you own 100 percent?
19 A. Yes.
20 Q. And do you own all of that
21 restaurant?
22 MR. DUKES: Object to the form.
23 Which one?

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1 Q. (By Mr. Bright) What I am
2 asking you is do you rent Villaggio at Ross
3 Bridge? Is that your restaurant, Dunning
4 Partners?
5 A. Yes, that's my restaurant. Yes.
6 Q. There is no other entity
7 involved in that whatsoever?
8 A. No.
9 Q. Okay. I mean, do you lease the
10 space?
11 A. I do.
12 Q. From who?
13 A. Signature, yes.
14 Q. Do you have any businesses in
15 Georgia?
16 A. I have a business I call on that
17 is headquartered in Georgia, yes.
18 Q. And what is that business?
19 A. MGE.
20 Q. And what is that?
21 A. It's a record company.
22 Q. And who owns that business?
23 A. My wife and I.

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1 Q. MGE, is it MGE, LLC, or is it a
2 corporation or is it just you doing
3 business as MGE?
4 A. It's one of those. I'm not
5 sure, so I'm not going to say that. It's
6 one. It's an LLC or an Inc. I'm not sure.
7 Q. How long has that been in
8 existence?
9 A. Perhaps a year, maybe a little
10 more.
11 Q. And what does that business do?
12 A. Well, I write. A place to
13 protect those writings. And I write music,
14 produce music. So does my wife.
15 Q. Why is it in Georgia?
16 A. Well, it was better for the type
17 business it is we felt to be headquartered
18 there.
19 Q. Is there anybody else involved
20 besides you and your wife?
21 A. No.
22 Q. Do you have a living -- any
23 living quarters in Atlanta?

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1 A. No.
2 Q. Do you just travel back and
3 forth to do that business -- or tell me how
4 that operates.
5 A. Yes, we record there. We market
6 the business there. The attorney for the
7 business is there. The office -- the
8 mailing address is there. So, yes, the
9 business is headquartered there. We pay
10 taxes there.
11 Q. Okay. You didn't mention that
12 business in the family court testimony, did
13 you?
14 A. I'm not sure.
15 Q. Well, to your knowledge, did
16 Birmingham Health Care transfer to you or
17 any of your companies all of their real
18 estate holdings?
19 A. No.
20 Q. Do you have any knowledge what
21 they still hold?
22 A. They own substantial real
23 estate. I'm not sure what all it is. But

<p style="text-align: right;">Page 161</p> <p>1 I know they own real estate.</p> <p>2 Q. Do you have any idea how much</p> <p>3 they transferred to you or any of your</p> <p>4 companies?</p> <p>5 A. Well, they never transferred</p> <p>6 anything to me or any of my companies.</p> <p>7 Q. Well, you told me one of your</p> <p>8 companies bought --</p> <p>9 A. Bought.</p> <p>10 Q. Well, transfer or buy.</p> <p>11 A. Not the same thing.</p> <p>12 Q. Okay. Whatever. Has anybody --</p> <p>13 how about bought? How much have you bought</p> <p>14 from them?</p> <p>15 A. I bought a parcel of real estate</p> <p>16 from them that I've testified to earlier.</p> <p>17 Q. Just one parcel?</p> <p>18 A. Yes.</p> <p>19 Q. The Metro Clinic, did you or one</p> <p>20 of your companies purchase that from --</p> <p>21 A. Never.</p> <p>22 Q. Who would that be purchased --</p> <p>23 you are saying that no one ever bought that</p>	<p style="text-align: right;">Page 163</p> <p>1 shares, as I recall.</p> <p>2 Q. Did he receive any compensation</p> <p>3 for that?</p> <p>4 A. I think he did.</p> <p>5 Q. And what type of compensation?</p> <p>6 A. It would have been a dividend.</p> <p>7 Q. Did he know about your</p> <p>8 relationship with Dr. Waltz?</p> <p>9 A. No.</p> <p>10 Q. Did you ever take Dr. Waltz to</p> <p>11 his --</p> <p>12 A. Mr. Bright, the paper is in</p> <p>13 your --</p> <p>14 Q. I'm sorry. Did you ever take</p> <p>15 Dr. Waltz to his condo in Florida?</p> <p>16 A. We have visited it.</p> <p>17 Q. Sir?</p> <p>18 A. We have visited the condo, yes.</p> <p>19 Q. Okay. And did he know you were</p> <p>20 taking her there?</p> <p>21 A. No.</p> <p>22 Q. When was that?</p> <p>23 A. It will be a guess. I don't</p>
<p style="text-align: right;">Page 162</p> <p>1 from Birmingham Health Care? None of your</p> <p>2 companies?</p> <p>3 A. Never.</p> <p>4 Q. Northside Dental Clinic?</p> <p>5 A. Never.</p> <p>6 Q. And I asked you about Judge</p> <p>7 Kallon, if he was ever -- had he ever had</p> <p>8 any shares or any participation in any of</p> <p>9 your companies.</p> <p>10 A. No, that's not what you asked.</p> <p>11 MR. DOWDY: No, that's not what</p> <p>12 you asked.</p> <p>13 Q. (By Mr. Bright) Well, tell me,</p> <p>14 did he ever have any shares or any</p> <p>15 participation in any of your companies?</p> <p>16 A. Yes.</p> <p>17 Q. Which one?</p> <p>18 A. Synergy Real Estate.</p> <p>19 Q. Synergy Real Estate?</p> <p>20 A. Yes.</p> <p>21 Q. And what was his participation</p> <p>22 in that?</p> <p>23 A. I think the Judge owned two</p>	<p style="text-align: right;">Page 164</p> <p>1 recall. Many, many years ago.</p> <p>2 MR. BRIGHT: If you will give me</p> <p>3 just a minute, I think I am through.</p> <p>4 Q. (By Mr. Bright) Dunning</p> <p>5 Partners Limited, is that part of the</p> <p>6 Synergy companies?</p> <p>7 A. No. Dunning Partners Limited</p> <p>8 are independent.</p> <p>9 Q. Does it have employees, Dunning</p> <p>10 Partners Limited?</p> <p>11 A. Yes.</p> <p>12 Q. How many employees does it have?</p> <p>13 A. I think it has part- and</p> <p>14 full-time employees, maybe two full-time</p> <p>15 employees.</p> <p>16 Q. Okay. Any part-time?</p> <p>17 A. Yes. Several part-time</p> <p>18 employees.</p> <p>19 Q. Okay. The Reliant Real Estate</p> <p>20 Group, is that the one you told me you</p> <p>21 owned 51 percent in?</p> <p>22 A. No.</p> <p>23 Q. Do you own any interest in that?</p>

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42 (Pages 165 to 167)

<p style="text-align: right;">Page 165</p> <p>1 A. Never.</p> <p>2 MR. BRIGHT: All right. That's</p> <p>3 all I have got.</p> <p>4</p> <p>5 EXAMINATION BY MR. DUKES:</p> <p>6 Q. I'm not sure if I heard you</p> <p>7 correctly or not, but let me try to clear</p> <p>8 two things up.</p> <p>9 When did the sexual relationship</p> <p>10 with Dr. Waltz end -- your sexual</p> <p>11 relationship with Dr. Waltz, when did it</p> <p>12 end?</p> <p>13 A. 2012.</p> <p>14 Q. Okay. Do you recall when in</p> <p>15 2012?</p> <p>16 A. I think February.</p> <p>17 Q. And Synergy Medical, the</p> <p>18 defendant in this action, is that an LLC or</p> <p>19 is that -- or is it incorporated?</p> <p>20 A. It's incorporated.</p> <p>21 MR. DUKES: Okay. That's all I</p> <p>22 have.</p> <p>23 MR. DOWDY: No questions.</p>	<p style="text-align: right;">Page 167</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA)</p> <p>4 JEFFERSON COUNTY)</p> <p>5</p> <p>6 I hereby certify that the above and</p> <p>7 foregoing deposition was taken down by me</p> <p>8 in stenotype, and the questions and answers</p> <p>9 thereto were transcribed by means of</p> <p>10 computer-aided transcription, and that the</p> <p>11 foregoing represents a true and correct</p> <p>12 transcript of the deposition given by said</p> <p>13 witness upon said hearing.</p> <p>14 I further certify that I am duly</p> <p>15 licensed by the Alabama Board of Court</p> <p>16 Reporting as a Certified Court Reporter as</p> <p>17 evidenced by the ACCR number following my</p> <p>18 name below.</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Diana B. Williams, CCR, CLR</p> <p>23 Certificate No: AL-CCR-104</p> <p>My Commission expires</p>
<p style="text-align: right;">Page 166</p> <p>1 (Whereupon, the deposition ended</p> <p>2 at 1:50 p.m.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</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</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	

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