

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

YVETTE JOY LIEBESMAN, individually and on
behalf of all others similarly situated,

PLAINTIFF,

vs.

No. 4:14-cv-01653-RLW

COMPETITOR GROUP, INC.,

DEFENDANT.

VIDEOTAPED DEPOSITION OF
YVETTE J. LIEBESMAN

MAY 11, 2017

9:00 a.m.

Taken at:

Weinhaus & Potashnick

11500 Olive Boulevard, Suite 133

St. Louis, MO

Nancy N. Abdallah, RPR

<div>Page 2</div> <div>1 APPEARANCES:</div> <div>2</div> <div>3 ON BEHALF OF PLAINTIFF:</div> <div>4 Michael N. Litrownik, Esq.</div> <div>5 685 Third Avenue, 25th Floor</div> <div>6 New York, NY 10017</div> <div>7 212.245.1000</div> <div>8 mlitrownik@outtengolden.com</div> <div>9</div> <div>10 ON BEHALF OF DEFENDANTS:</div> <div>11 Bryan D. LeMoine, Esq.</div> <div>12 Thomas O. McCarthy, Esq.</div> <div>13 McMahon Berger, P.C.</div> <div>14 2730 North Ballas Road, Suite 200</div> <div>15 St. Louis, MO 63131</div> <div>16 314.567.7350</div> <div>17 lemoine@mcmahonberger.com</div> <div>18 mccarthy@mcmahonberger.com</div> <div>19</div> <div>20 Tim Perry, Videographer</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 4</div> <div>1 INDEX OF EXHIBITS</div> <div>2 NUMBER DESCRIPTION MARKED</div> <div>3 Exhibit 1 CV..... 16</div> <div>4 Exhibit 2 Documents Produced by..... 49</div> <div>5 Plaintiff</div> <div>6 Exhibit 3 Declaration..... 108</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>
<div>Page 3</div> <div>1 TRANSCRIPT INDEX</div> <div>2</div> <div>3 APPEARANCES..... 2</div> <div>4</div> <div>5 INDEX OF EXHIBITS..... 4</div> <div>6</div> <div>7 EXAMINATION OF YVETTE J. LIEBESMAN</div> <div>8 BY MR. LEMOINE..... 6</div> <div>9</div> <div>10</div> <div>11 REPORTER'S CERTIFICATE..... 155</div> <div>12</div> <div>13</div> <div>14 EXHIBIT CUSTODY:</div> <div>15 EXHIBITS RETAINED BY COURT REPORTER</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 5</div> <div>1 THE VIDEOGRAPHER: We're now on the</div> <div>2 record. Please note that the microphones are</div> <div>3 sensitive and may pick up whispering and private</div> <div>4 conversations. Please turn off all cell phones</div> <div>5 or place them away from the microphones as they</div> <div>6 can interfere with the deposition audio, and</div> <div>7 recording will continue until all parties agree</div> <div>8 to go off the record.</div> <div>9 My name is Tim Perry, Certified</div> <div>10 Legal Video Specialist, representing Veritext</div> <div>11 Legal Solutions. The date today is May 11th,</div> <div>12 2017, and the time is approximately 9:03 a.m.</div> <div>13 This deposition is being held at</div> <div>14 Weinhaus & Potashnick, located at 11500</div> <div>15 Boulevard, in St. Louis, Missouri, and is being</div> <div>16 taken by counsel for the defendant.</div> <div>17 Caption of this case is Yvette</div> <div>18 Liebesman, et al., versus Competitor Group, Inc.</div> <div>19 Case is being held in the Circuit Court of the</div> <div>20 City of St. Louis, State of Missouri, Case Number</div> <div>21 1622-CC00346. The name of the witness is Yvette</div> <div>22 Liebesman.</div> <div>23 At this time the attorneys present</div> <div>24 in the room will identify themselves and the</div> <div>25 parties they represent. Our court reporter,</div>

<p style="text-align: right;">Page 6</p> <p>1 Nancy Abdallah, representing Veritext, will swear 2 in the witness and we can proceed. Counsel. 3 MR. LITROWNIK: Michael Litrownik, 4 Outten & Golden, LLP, for the plaintiff. 5 MR LEMOINE: Bryan LeMoine, McMahon 6 Berger, for the defendant. 7 MR. McCARTHY: Tom McCarthy, McMahon 8 Berger, for the defendant. 9 THE VIDEOGRAPHER: Thank you. 10 Nancy, please. 11 (Witness sworn.) 12 YVETTE J. LIEBESMAN, of lawful age, 13 called for examination, being by me first duly 14 sworn, as hereinafter certified, deposed and said 15 as follows: 16 EXAMINATION OF YVETTE J. LIEBESMAN 17 QUESTIONS BY MR. LEMOINE: 18 Q. Good morning, Ms. Liebesman. My 19 name is Bryan LeMoine, as we've already 20 established. We're here to take your deposition 21 today in your case against Competitor Group. 22 Have you ever gone by any other 23 names other than Yvette Joy Liebesman? 24 A. No. 25 Q. What's your current address?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And you moved to St. Louis in what 2 year? 3 A. 2008. 4 Q. And did you move to St. Louis for a 5 job? 6 A. Yes. 7 Q. What job was that? 8 A. As a professor of law at St. Louis 9 University School of Law. 10 Q. And is that your current job? 11 A. One of them. 12 Q. What are your other jobs? 13 A. I am also a visiting professor of 14 law at Washington University School of Law. 15 Q. How long have you been at Wash U? 16 A. Since August. 17 Q. August of 2016? 18 A. Correct. 19 Q. Your job at St. Louis University, 20 what is your title? 21 A. My correct title is Professor of 22 Law. 23 Q. So tenured? 24 A. Yes. 25 Q. Congratulations.</p>
<p style="text-align: right;">Page 7</p> <p>1 A. 7570 Cornell Avenue, University 2 City, Missouri, 63130. 3 Q. How long have you lived there? 4 A. Eight years. 5 Q. And where did you live before that? 6 A. Before that I lived at 7606 Teasdale 7 Avenue, University City, Missouri, 63130. 8 Q. And how long were you at 7606 9 Teasdale? 10 A. One year. 11 Q. And prior to that were you in 12 St. Louis, or were you elsewhere? 13 A. I was elsewhere. 14 Q. Where was that? 15 A. Boston, Massachusetts. 16 Q. How long did you live in Boston? 17 A. Approximately 10 months. 18 Q. And were you employed while you were 19 in Boston? 20 A. Yes, I was. 21 Q. Who was your employer? 22 A. Ropes & Gray, LLP. 23 Q. How long did you work for Ropes & 24 Gray? 25 A. Approximately 10 months.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. Thank you. 2 Q. When did you become tenured? 3 A. 2014, I think. 4 Q. Okay. So you moved to take the job 5 in St. Louis in 2008 with SLU. Before that you 6 were with Ropes & Gray in Boston, Massachusetts? 7 A. Correct. 8 Q. Prior to that did you have 9 employment? 10 A. Yes, I did. 11 Q. With whom? 12 A. With Justice Helen Hoens of the 13 Supreme Court of New Jersey. 14 Q. So were you living in New Jersey at 15 that time? 16 A. Yes, I was. 17 Q. Whereabouts? 18 A. Westfield. 19 Q. When did you get your law degree? 20 A. 2006. 21 Q. Did you get it in three years? 22 A. No. 23 Q. How long did it take you? 24 A. Four years. 25 Q. Night school?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. Yes.</p> <p>2 Q. Now, did you get a written offer of</p> <p>3 employment?</p> <p>4 A. Yes.</p> <p>5 Q. Did that include the terms of your</p> <p>6 employment, like salary and benefits and things</p> <p>7 like that?</p> <p>8 A. I don't recall if that was that</p> <p>9 particular letter or a different letter.</p> <p>10 Q. Do you currently have an employment</p> <p>11 contract with St. Louis University?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Does that have the terms and</p> <p>14 conditions of your employment set out in it?</p> <p>15 A. Yes.</p> <p>16 Q. Your salary?</p> <p>17 A. Yes.</p> <p>18 Q. What is your current salary at SLU?</p> <p>19 A. I forgot. It's -- I think it's</p> <p>20 \$129,000 for a nine-month contract. That's</p> <p>21 payable over 12 months.</p> <p>22 Q. And do you receive any other</p> <p>23 compensation from SLU other than your salary?</p> <p>24 A. What do you mean?</p> <p>25 Q. Do you get bonuses? Do you get paid</p>	<p style="text-align: right;">Page 16</p> <p>1 engagements?</p> <p>2 A. I don't -- I cannot remember.</p> <p>3 (Deposition Exhibit Number 1,</p> <p>4 CV, marked for</p> <p>5 identification.)</p> <p>6 BY MR LEMOINE:</p> <p>7 Q. Ms. Liebesman, I'm going to give you</p> <p>8 a copy of what I believe is your current CV.</p> <p>9 Would you mind looking at that and</p> <p>10 telling me whether it is your current CV?</p> <p>11 A. I don't believe it is.</p> <p>12 Q. So you have a more current one?</p> <p>13 A. I believe so. I believe I updated</p> <p>14 it since I -- my most recent presentations are</p> <p>15 not listed.</p> <p>16 Q. Have you updated the St. Louis</p> <p>17 University website with your latest CV?</p> <p>18 A. I'm not sure.</p> <p>19 Q. Okay. I asked you to produce your</p> <p>20 CV in this litigation and you declined.</p> <p>21 Is there any reason you declined?</p> <p>22 MR. LITROWNIK: Objection. Bryan,</p> <p>23 you didn't ask to produce the CV.</p> <p>24 MR LEMOINE: What did I ask for?</p> <p>25 MR. LITROWNIK: I don't know. If</p>
<p style="text-align: right;">Page 15</p> <p>1 for giving -- for speaking engagements, anything</p> <p>2 like that?</p> <p>3 A. Not from SLU, no.</p> <p>4 Q. Do you have other compensation that</p> <p>5 you receive other than from SLU?</p> <p>6 A. Yes.</p> <p>7 Q. From Wash U, I assume?</p> <p>8 A. Yes.</p> <p>9 Q. And does Wash U pay you?</p> <p>10 A. Wash U is paying me \$5,000 to teach</p> <p>11 a class for them.</p> <p>12 Q. And do you get paid for speaking</p> <p>13 engagements?</p> <p>14 A. It depends.</p> <p>15 Q. So yes, you do, sometimes?</p> <p>16 A. Usually it's merely in the form of</p> <p>17 paying for my transportation and lodging.</p> <p>18 Q. No honorariums?</p> <p>19 A. Not that I can recall.</p> <p>20 Q. If you do get an honorarium, does</p> <p>21 your contract require you to pay it to SLU, or do</p> <p>22 you get to keep it?</p> <p>23 A. I get to keep it.</p> <p>24 Q. So you can't at this time recall</p> <p>25 whether you received any honorariums for speaking</p>	<p style="text-align: right;">Page 17</p> <p>1 you want to take out the doc requests, we can go</p> <p>2 through them.</p> <p>3 MR LEMOINE: All right. So number</p> <p>4 46 are the document requests. It states, "A copy</p> <p>5 of your current resume or curriculum vitae."</p> <p>6 MR. LITROWNIK: Okay. I'm mistaken.</p> <p>7 BY MR LEMOINE:</p> <p>8 Q. So I asked you to provide that. Is</p> <p>9 there any reason you didn't provide it to me?</p> <p>10 A. I followed the advice of my counsel.</p> <p>11 Q. Okay. No other reason?</p> <p>12 A. No.</p> <p>13 Q. So if I wanted your current C.V.,</p> <p>14 you wouldn't have any trouble giving it to me?</p> <p>15 A. No. In fact, it may already be</p> <p>16 uploaded onto the website.</p> <p>17 Q. Well, I downloaded this last night,</p> <p>18 so this is the version that I was able to get,</p> <p>19 so ...</p> <p>20 All right. So let's talk about Big</p> <p>21 Shark Bike Club.</p> <p>22 A. Okay.</p> <p>23 Q. Are you a member of Big Shark Bike</p> <p>24 Club?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 18</p> <p>1 Q. How did you become a member of that</p> <p>2 club?</p> <p>3 A. I asked to join, and they said yes.</p> <p>4 Q. Asked who?</p> <p>5 A. I asked, I believe, Mike Weiss.</p> <p>6 Q. Who is Mike Weiss?</p> <p>7 A. Mike Weiss is the owner of the Big</p> <p>8 Shark Bicycle Company, and he is the organizer,</p> <p>9 loosely speaking, of the bike club.</p> <p>10 Q. So did you email Mike or did you</p> <p>11 just talk to him?</p> <p>12 A. I believe I spoke to him.</p> <p>13 Q. Do you remember when that was?</p> <p>14 A. No.</p> <p>15 Q. Before 2011?</p> <p>16 A. Yes.</p> <p>17 Q. When you say Mike is "loosely" the</p> <p>18 organizer of the Big Shark Bike Club, what do you</p> <p>19 mean by "loosely"?</p> <p>20 A. He is very active in the bicycling</p> <p>21 community, and he has the -- you know, he has --</p> <p>22 in order to do that, he has had a club that is</p> <p>23 associated with his shop that is, for the most</p> <p>24 part, run by somebody else, the club is run by</p> <p>25 somebody else.</p>	<p style="text-align: right;">Page 20</p> <p>1 member of those clubs, too?</p> <p>2 A. Yes.</p> <p>3 Q. What clubs are those?</p> <p>4 A. I was a member of Metro East Cycling</p> <p>5 for a little bit.</p> <p>6 Q. Do you remember when that was?</p> <p>7 A. No. That was -- I don't remember.</p> <p>8 Q. So it's safe to say that you've been</p> <p>9 a member of Big Shark Bike Club for at least</p> <p>10 eight years?</p> <p>11 A. Maybe seven.</p> <p>12 Q. So you joined around 2011?</p> <p>13 A. Maybe -- no, I joined before then.</p> <p>14 I probably joined 2010, 2009.</p> <p>15 Q. What are the requirements of being a</p> <p>16 member other than paying your membership fee?</p> <p>17 A. Wearing the team jersey when you</p> <p>18 race.</p> <p>19 Q. And is the team jersey something you</p> <p>20 have to buy?</p> <p>21 A. Yes.</p> <p>22 Q. How much is that?</p> <p>23 A. It's about 50- or \$60.</p> <p>24 Q. Really?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. And who is that?</p> <p>2 A. Amy Strahan.</p> <p>3 Q. So she really manages or runs the</p> <p>4 club?</p> <p>5 A. Yes.</p> <p>6 Q. Is she an employee of Big Shark?</p> <p>7 A. No, not that I'm aware of.</p> <p>8 Q. So do you have to pay a membership</p> <p>9 fee?</p> <p>10 A. Yes.</p> <p>11 Q. How much is that?</p> <p>12 A. It's about 20- or \$30 a year.</p> <p>13 Q. And what does the membership fee get</p> <p>14 you from the club?</p> <p>15 A. Let me think. We get discounts on</p> <p>16 races. It's -- you know, it's for administrative</p> <p>17 purposes to help run the website, things like</p> <p>18 that, I assume. It's just a standard fee. Most</p> <p>19 clubs have them.</p> <p>20 Q. Are you a member of other bicycle</p> <p>21 clubs besides Big Shark?</p> <p>22 A. Not at the moment, no.</p> <p>23 Q. You have been?</p> <p>24 A. Yes.</p> <p>25 Q. And do you have to pay to be a</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. That's cheap. And is that just the</p> <p>2 top, or does that include your cycling shorts?</p> <p>3 What does that include, the team</p> <p>4 jersey?</p> <p>5 A. The team jersey is just the top.</p> <p>6 Q. And do you refer to that as a kit?</p> <p>7 A. Yes.</p> <p>8 Q. So your kit includes the team</p> <p>9 jersey. Does it include anything else?</p> <p>10 A. It includes the shorts, too, if I'm</p> <p>11 going to wear the full kit.</p> <p>12 Q. And do you have "Big Shark" on your</p> <p>13 shorts, too?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know if Big Shark is a</p> <p>16 for-profit company?</p> <p>17 A. I believe it is.</p> <p>18 Q. So as a member of the Big Shark Bike</p> <p>19 Club you get discounts on races; there's an</p> <p>20 administrative fee; when you race, you where the</p> <p>21 team -- you wear the kit.</p> <p>22 What else? Anything else about</p> <p>23 being a member of the bike club?</p> <p>24 A. There's opportunities to do</p> <p>25 different events, you know, to work different</p>

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<p style="text-align: right;">Page 22</p> <p>1 events in the community to raise -- help</p> <p>2 charities that are running various events.</p> <p>3 Q. Okay. Give me examples of those</p> <p>4 that you've worked.</p> <p>5 A. I believe one year I did bicycle</p> <p>6 lead for the Take Step for Kids, Big Brother Big</p> <p>7 Sister 5K. We often have people do Girls on the</p> <p>8 Run.</p> <p>9 Q. You haven't done that, though?</p> <p>10 A. Yes, I have.</p> <p>11 Q. Okay. I just wanted to make sure.</p> <p>12 A. I have been a course marshal for</p> <p>13 Girls on the Run. I'm trying to think what else.</p> <p>14 I forget which ones.</p> <p>15 They're -- you know, some of them</p> <p>16 were through Big Shark and others I volunteer</p> <p>17 through the St. Louis Triathlon Club.</p> <p>18 Q. Are you a member of that, too?</p> <p>19 A. Not anymore.</p> <p>20 Q. Do you ever volunteer at events that</p> <p>21 Big Shark puts on?</p> <p>22 A. What do you mean by "Big Shark"?</p> <p>23 Big Shark, the team, or Big Shark, the ...</p> <p>24 Q. The company.</p> <p>25 A. I don't know whether -- I don't</p>	<p style="text-align: right;">Page 24</p> <p>1 and made sure that people didn't cross and get</p> <p>2 hit by cyclists.</p> <p>3 Q. And who puts on the Gateway Cup?</p> <p>4 A. I'm not sure who the exact owner or</p> <p>5 sponsor -- owner or sponsor is.</p> <p>6 Q. I'm assuming you have a bicycle?</p> <p>7 A. Yes.</p> <p>8 Q. What kind of bicycle do you have?</p> <p>9 A. I have four bicycles.</p> <p>10 Q. Okay. What do you have?</p> <p>11 A. I have a Trek 7100 Hybrid, I have a</p> <p>12 Cannondale Synapse Femme.</p> <p>13 Q. How do you spell those last two?</p> <p>14 A. S-y-n-a-p-s-e F-e-m-m-e.</p> <p>15 Q. What else?</p> <p>16 A. I have a Cannondale CAAD, C-A-A-D,</p> <p>17 8, and I have a Specialized Alez -- A-l-l-a-y, I</p> <p>18 believe -- Evo, E-v-o.</p> <p>19 Q. I know what a hybrid is. Which one</p> <p>20 is the road bike?</p> <p>21 A. Two are road bikes.</p> <p>22 Q. The Cannondales?</p> <p>23 A. The Cannondale and the Specialized.</p> <p>24 Q. And is the other one a Cyclocross</p> <p>25 bike?</p>
<p style="text-align: right;">Page 23</p> <p>1 know, when they put them on, whether they're the</p> <p>2 owner of the event or whether they've been asked</p> <p>3 to run the event by somebody else.</p> <p>4 Q. Okay. Regardless of which, let's</p> <p>5 just assume that either they're being asked to</p> <p>6 run the event or they own the event.</p> <p>7 Have you worked at any of those</p> <p>8 types of events that Big Shark does?</p> <p>9 A. Yes.</p> <p>10 Q. What were those?</p> <p>11 A. Usually it's water stations or</p> <p>12 course marshaling for things like trail runs or</p> <p>13 5Ks or bicycle races that are put on by local</p> <p>14 clubs that need help.</p> <p>15 Q. What was the last event you</p> <p>16 volunteered at?</p> <p>17 A. Let me think. I'm trying to</p> <p>18 remember. I'm trying to recall going back,</p> <p>19 because I -- let me think. I think I volunteered</p> <p>20 last at the Gateway Cup.</p> <p>21 Q. What's that?</p> <p>22 A. That's a four-day bicycling race in</p> <p>23 St. Louis.</p> <p>24 Q. And what did you do?</p> <p>25 A. I did security one day, so I stood</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Yes.</p> <p>2 Q. What's the newest bike you have?</p> <p>3 A. The Specialized.</p> <p>4 Q. The bike you rode in the Rock 'n'</p> <p>5 Roll Marathon in 2011, 2012, is that the</p> <p>6 Cannondale, or was that a different bike?</p> <p>7 A. That was the Synapse.</p> <p>8 Q. So it's fair to say that you're an</p> <p>9 avid cyclist?</p> <p>10 A. I enjoy cycling. I don't race much</p> <p>11 anymore.</p> <p>12 Q. Any particular reason?</p> <p>13 A. It's -- for the most part, I -- I</p> <p>14 was -- for the most part now I mostly do time</p> <p>15 trials, and the course is flooded.</p> <p>16 Q. Right now?</p> <p>17 A. Right now.</p> <p>18 Q. Everything is flooded right now.</p> <p>19 A. Mm-hmm.</p> <p>20 Q. How often do you cycle during a</p> <p>21 week?</p> <p>22 A. I cycle for physical therapy</p> <p>23 purposes, so for that purpose I cycle on a</p> <p>24 flywheel indoors two -- at least two to three</p> <p>25 days a week.</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 Q. Are you still riding outside at all?</p> <p>2 A. No. Very little.</p> <p>3 Q. Are you still a member of Big Shark,</p> <p>4 though?</p> <p>5 A. Yes.</p> <p>6 Q. Now, when you rode in the Rock 'n'</p> <p>7 Roll Marathon in 2011 and 2012, you were a lead</p> <p>8 cyclist, right?</p> <p>9 A. Correct.</p> <p>10 Q. Is that what you did?</p> <p>11 A. Correct.</p> <p>12 Q. What was involved in being a lead</p> <p>13 cyclist?</p> <p>14 A. First, we -- I had to let Amy know</p> <p>15 that I was interested -- or I think it was Amy.</p> <p>16 Maybe it was Mike. At that point they gave our</p> <p>17 names to the person who was coordinating it, I</p> <p>18 believe Jennifer Nanista. She -- with -- with</p> <p>19 our proposed assignments. We heard back that we</p> <p>20 were approved for our proposed assignments.</p> <p>21 Q. Now, when you say "we," did you hear</p> <p>22 back, or did Amy or did Mike?</p> <p>23 A. Amy heard back or -- Mike or Amy,</p> <p>24 one or the other.</p> <p>25 Q. Did you have any correspondence</p>	<p style="text-align: right;">Page 28</p> <p>1 BY MR LEMOINE:</p> <p>2 Q. Was it an opportunity for you to get</p> <p>3 together with the bike club and ride?</p> <p>4 A. Not really, because we weren't</p> <p>5 riding together.</p> <p>6 Q. Okay. So you were riding separately</p> <p>7 and alone during the race?</p> <p>8 A. Correct.</p> <p>9 Q. Could you see any other riders?</p> <p>10 A. It depended.</p> <p>11 Q. On what?</p> <p>12 A. Whether or not my runner was near</p> <p>13 another lead runner.</p> <p>14 Q. So you believe that the opportunity</p> <p>15 to be a lead cyclist was announced at a team</p> <p>16 meeting in 2011?</p> <p>17 A. It was either at a team meeting or</p> <p>18 an email, I forget which. I believe one year it</p> <p>19 was at a team meeting, another year it was an</p> <p>20 email, or perhaps it was both.</p> <p>21 Q. Was that typical? Did they announce</p> <p>22 the opportunities to get together and ride like</p> <p>23 this very often?</p> <p>24 MR. LITROWNIK: Objection to form.</p> <p>25 Who is "they," Bryan?</p>
<p style="text-align: right;">Page 27</p> <p>1 directly with Jennifer Nanista?</p> <p>2 A. I received directly a Thank-You</p> <p>3 email from her.</p> <p>4 Q. One or two?</p> <p>5 A. I forget.</p> <p>6 Q. Any other correspondence with anyone</p> <p>7 from Competitor Group other than that?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Before you keep going, because I</p> <p>10 asked you a question that you were answering, I</p> <p>11 apologize, how -- how did you find out about the</p> <p>12 opportunity to be a lead cyclist at the Rock 'n'</p> <p>13 Roll Marathon in 2011?</p> <p>14 A. I believe it was announced at a team</p> <p>15 meeting.</p> <p>16 Q. Do you know who announced it?</p> <p>17 A. I forget.</p> <p>18 Q. And was it announced as a volunteer</p> <p>19 activity?</p> <p>20 A. I don't recall. I believe it was</p> <p>21 more, "Who wants to ride and do this activity?"</p> <p>22 Q. So really it was an opportunity for</p> <p>23 the bike club to ride and to be involved with</p> <p>24 something else at the same time?</p> <p>25 MR. LITROWNIK: Objection to form.</p>	<p style="text-align: right;">Page 29</p> <p>1 BY MR LEMOINE:</p> <p>2 Q. Did Big Shark routinely provide</p> <p>3 opportunities to its cycling club members to get</p> <p>4 together and ride in a way like -- as a lead</p> <p>5 cyclist? Is that typical?</p> <p>6 A. That -- I don't think you're</p> <p>7 characterizing it correctly. This wasn't an</p> <p>8 opportunity to get to ride together, this was an</p> <p>9 opportunity to perform community service and</p> <p>10 volunteer for what -- for a charitable purpose.</p> <p>11 We have other opportunities for</p> <p>12 riding together. The shop has regular shop rides</p> <p>13 whereby the group gets together and rides.</p> <p>14 Q. Okay. Thank you for clarifying that</p> <p>15 for me. So Big Shark, did they routinely provide</p> <p>16 the cycling club members with opportunities to</p> <p>17 perform community service or to benefit</p> <p>18 charitable organizations?</p> <p>19 A. Yes.</p> <p>20 Q. And was that something that you</p> <p>21 participated in regularly?</p> <p>22 A. When I could.</p> <p>23 Q. Can you give me an example of other</p> <p>24 types of community service or charitable work</p> <p>25 that Big Shark offered you the opportunity to</p>

<p style="text-align: right;">Page 42</p> <p>1 decided to do was fine with me.</p> <p>2 Q. Do you know whether they've provided</p> <p>3 a statement or an affidavit to your attorneys?</p> <p>4 A. I'm unaware.</p> <p>5 Q. When did they volunteer for the Rock</p> <p>6 'n' Roll Marathon?</p> <p>7 A. I believe the -- volunteered one</p> <p>8 year while I was doing it, I believe, maybe 2011</p> <p>9 or 2012, and they also did it, I believe, perhaps</p> <p>10 also 2013. They did it subsequently to me</p> <p>11 stopping.</p> <p>12 Q. Now, you stopped volunteering for</p> <p>13 the Rock 'n' Roll marathon. Why did you do that?</p> <p>14 A. Because I found out they were a</p> <p>15 for-profit company, and I was not going to be</p> <p>16 giving them free labor.</p> <p>17 Q. When you do volunteer services now,</p> <p>18 do you check to make sure you only volunteer for</p> <p>19 nonprofit organizations?</p> <p>20 A. I -- most of the volunteering</p> <p>21 activities that I do now are ones that I had done</p> <p>22 in the past. I really don't check. I -- usually</p> <p>23 it's pretty self-explanatory on its face, such as</p> <p>24 Go! St. Louis.</p> <p>25 Q. Do you volunteer for Go! St. Louis?</p>	<p style="text-align: right;">Page 44</p> <p>1 obvious.</p> <p>2 Q. And when they do not make it</p> <p>3 obvious, do you verify that they are nonprofit</p> <p>4 organizations?</p> <p>5 A. I do not recall a situation where it</p> <p>6 wasn't obvious or nonobvious.</p> <p>7 Q. Have you performed any volunteer</p> <p>8 services for organizations in the last two years</p> <p>9 that were new to you that you had not volunteered</p> <p>10 for in the past?</p> <p>11 A. Yes.</p> <p>12 Q. Who were they?</p> <p>13 A. I volunteered through St. Louis</p> <p>14 University School of Law on our service day for</p> <p>15 an organization that provides dog food to --</p> <p>16 poor -- poor people and people who can't afford</p> <p>17 dog food for their dogs.</p> <p>18 Q. And you believed it was obvious that</p> <p>19 you were doing charity work at that point,</p> <p>20 nonprofit work?</p> <p>21 A. It was arranged for St. Louis --</p> <p>22 through St. Louis University School of Law for</p> <p>23 the purpose of benefiting charities.</p> <p>24 Q. And when you volunteered for the</p> <p>25 Rock 'n' Roll Marathons in 2011 and 2012, did you</p>
<p style="text-align: right;">Page 43</p> <p>1 A. Yes.</p> <p>2 Q. How often?</p> <p>3 A. I used to volunteer every year in</p> <p>4 some capacity.</p> <p>5 Q. Not anymore?</p> <p>6 A. It depends whether or not I'm</p> <p>7 available on their race day.</p> <p>8 Q. So going back to the question I</p> <p>9 asked you, before you perform volunteer services</p> <p>10 now, do you make sure you do it for a nonprofit</p> <p>11 organization?</p> <p>12 A. What do you mean by "make sure"?</p> <p>13 Q. Do you check to make sure that the</p> <p>14 race sponsor or the race owner are nonprofit</p> <p>15 organizations?</p> <p>16 A. That's difficult to do in most</p> <p>17 situations.</p> <p>18 Q. I'm not trying to be difficult, I'm</p> <p>19 just asking you, is that something that you check</p> <p>20 before you perform volunteer services anymore?</p> <p>21 In other words, do you check to make</p> <p>22 sure that you perform volunteer services only for</p> <p>23 nonprofit organizations?</p> <p>24 A. I don't know the answer -- I --</p> <p>25 oftentimes the ones I'm working for make it</p>	<p style="text-align: right;">Page 45</p> <p>1 believe that you were volunteering for a charity?</p> <p>2 A. I believed I was volunteering for</p> <p>3 either a charity or a nonprofit.</p> <p>4 Q. And why did you believe that?</p> <p>5 A. I did not believe that it -- I did</p> <p>6 not understand that -- and it had been my</p> <p>7 experience that anything other than a nonprofit</p> <p>8 would do these. With all my volunteering, I had</p> <p>9 never had the experience of a large</p> <p>10 organization -- a large behemoth, you know, being</p> <p>11 anything but a nonprofit to do these.</p> <p>12 Q. So you had done lots of volunteering</p> <p>13 in the past for races like this --</p> <p>14 A. Yes.</p> <p>15 Q. -- before 2011?</p> <p>16 A. Yes.</p> <p>17 Q. Where had you volunteered in the</p> <p>18 past for other races like the Rock 'n' Roll</p> <p>19 Marathon?</p> <p>20 A. In 2006, I volunteered for the New</p> <p>21 York Marathon. In 2008, I volunteered for the</p> <p>22 Boston Marathon. In -- for several years I</p> <p>23 volunteered for Go! St. Louis, for the Clayton</p> <p>24 Half Marathon, Girls on the Run.</p> <p>25 Q. When you volunteered for the</p>

<p style="text-align: right;">Page 54</p> <p>1 A. No.</p> <p>2 Q. Do you remember giving a declaration</p> <p>3 in the federal case?</p> <p>4 A. I don't recall.</p> <p>5 Q. So the first time you saw all of</p> <p>6 these documents assembled like this, and by</p> <p>7 "these documents" I mean the ones in Exhibit 2,</p> <p>8 was yesterday?</p> <p>9 MR. LITROWNIK: Objection to form.</p> <p>10 BY MR LEMOINE:</p> <p>11 Q. Was the first time that you saw all</p> <p>12 the documents together in this packet, Exhibit 2,</p> <p>13 yesterday?</p> <p>14 A. I believe so. I don't believe I saw</p> <p>15 them ...</p> <p>16 Q. And when you say you did not</p> <p>17 personally produce certain documents, and there</p> <p>18 was a number of them --</p> <p>19 A. Mm-hmm.</p> <p>20 Q. -- you're saying that you did not</p> <p>21 provide those to your attorney to give to me?</p> <p>22 A. Correct.</p> <p>23 Q. Do you know where those documents</p> <p>24 came from?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 56</p> <p>1 THE VIDEOGRAPHER: Off the record at</p> <p>2 10:24.</p> <p>3 (Recess taken.)</p> <p>4 THE VIDEOGRAPHER: Back on the</p> <p>5 record at 10:27.</p> <p>6 MR LEMOINE: All right. Thank you,</p> <p>7 Mike, for accommodating us here.</p> <p>8 MR. LITROWNIK: Sure.</p> <p>9 MR LEMOINE: -- making a copy of</p> <p>10 this page.</p> <p>11 BY MR LEMOINE:</p> <p>12 Q. So in your package should be a</p> <p>13 document. At the top it says "St. Louis Rock 'n'</p> <p>14 Roll Marathon/Half Marathon Cyclist Leads." It's</p> <p>15 not Bates labeled because it was produced in</p> <p>16 native format.</p> <p>17 Do you recognize this document?</p> <p>18 A. It looks like our assignments for,</p> <p>19 I'm guessing, the 2011.</p> <p>20 Q. For 2011?</p> <p>21 A. I believe this one is 2011.</p> <p>22 Q. Have you seen this document before</p> <p>23 today?</p> <p>24 A. I believe it was one of the ones</p> <p>25 sent to me to tell me what my assignment was.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. Before yesterday, had you ever</p> <p>2 reviewed any of the documents that you say you</p> <p>3 did not personally produce or do not remember</p> <p>4 personally producing?</p> <p>5 A. I don't recall seeing a lot of them</p> <p>6 before.</p> <p>7 Q. So yesterday was the first time?</p> <p>8 A. (Nods head affirmatively.)</p> <p>9 Q. So I want you to look at page 1.</p> <p>10 You can unclip it; it will probably be helpful.</p> <p>11 And the Bates numbers I'm just going to refer to</p> <p>12 as page 1, page 2. They're all marked P00000001,</p> <p>13 and then they go on from there.</p> <p>14 So the second page is the document</p> <p>15 that your counsel produced as native. There's no</p> <p>16 page number on it. It should look like this.</p> <p>17 (Indicating)</p> <p>18 A. It's not in my packet as number 2.</p> <p>19 MR LEMOINE: Is it in yours?</p> <p>20 MR. LITROWNIK: It's not in mine</p> <p>21 either.</p> <p>22 MR LEMOINE: Okay. Do you have a</p> <p>23 copy machine here?</p> <p>24 MR. LITROWNIK: Go off the record?</p> <p>25 MR LEMOINE: Yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Do you know who filled this document</p> <p>2 out or created it?</p> <p>3 A. No. I believe it was either someone</p> <p>4 at -- either Amy Strahan or someone at CGI who</p> <p>5 gave us our assignments. I'm not sure who.</p> <p>6 Q. Do you know anybody who goes by the</p> <p>7 name Mad Max at Big Shark?</p> <p>8 A. Not -- I'm really bad with names.</p> <p>9 Q. It says here that you were assigned</p> <p>10 to the female half marathon?</p> <p>11 A. Correct.</p> <p>12 Q. Is that correct?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. And so in 2011, how many hours do</p> <p>15 you believe that you worked for Competitor Group</p> <p>16 in 2011?</p> <p>17 A. Probably five or six.</p> <p>18 Q. What time did you arrive?</p> <p>19 A. I believe it was before 6 a.m.</p> <p>20 Q. And you arrived downtown at the</p> <p>21 starting line?</p> <p>22 A. Correct.</p> <p>23 Q. And what happened when you arrived?</p> <p>24 A. I parked my car three or four blocks</p> <p>25 away, got my bike off my car, my helmet, my</p>

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<p style="text-align: right;">Page 58</p> <p>1 shoes, made sure I was properly dressed, attached</p> <p>2 the All Access Pass to the front of my bike,</p> <p>3 biked over to the -- I biked over to the check-in</p> <p>4 area for runners in order to use the restroom,</p> <p>5 then headed over to the area just in front of the</p> <p>6 start line where we were instructed to gather.</p> <p>7 Q. Who instructed you to gather there?</p> <p>8 A. Those -- that was in the</p> <p>9 instructions that we received, and I believe we</p> <p>10 received written instructions, which I no longer</p> <p>11 have, that told us exactly where to report.</p> <p>12 Q. Why don't you have them?</p> <p>13 A. They're a piece of paper that got</p> <p>14 thrown out.</p> <p>15 Q. So you received written instructions</p> <p>16 on the day of the race?</p> <p>17 A. No. We received it when we received</p> <p>18 our other -- when we received our other materials</p> <p>19 prior to the race, when we received our neck</p> <p>20 badge, our bike access thing that goes on front,</p> <p>21 when we received our orange vest, safety vests,</p> <p>22 and telling us what we needed to bring, what</p> <p>23 our -- you know, what our -- we had to make sure</p> <p>24 we had a cell phone that was hands free, we had</p> <p>25 to -- where to report, what we were instructed to</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Probably -- I think I already told</p> <p>2 you that. Sometime before 6. I don't know how</p> <p>3 early before 6.</p> <p>4 Q. What happened when you arrived at</p> <p>5 the start line?</p> <p>6 A. We were given instructions by a</p> <p>7 member of -- from Rock 'n' Roll, Competitor</p> <p>8 Group.</p> <p>9 Q. Do you remember who that was?</p> <p>10 A. No.</p> <p>11 Q. What were those instructions?</p> <p>12 A. They were -- she wanted to -- she</p> <p>13 first asked for the folks who were going to be</p> <p>14 following the lead vehicle to come up to her, and</p> <p>15 she explained what their duties were going to be.</p> <p>16 Then for the rest of us, she</p> <p>17 explained things like how far away we were to</p> <p>18 keep from the runners, what our duties were, that</p> <p>19 we were to call in to the announcer, phone in to</p> <p>20 the announcer at certain milestones to let him</p> <p>21 know what -- where -- where the leads were so he</p> <p>22 could report it from the grandstand.</p> <p>23 We had to make sure that people did</p> <p>24 not run -- you know, act almost as a barrier</p> <p>25 between some of the more insane people getting in</p>
<p style="text-align: right;">Page 59</p> <p>1 do, and an admonition that if we failed to follow</p> <p>2 these instructions, we would be pulled off the</p> <p>3 course.</p> <p>4 Q. Did the written instructions say</p> <p>5 anything else?</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you know who prepared those</p> <p>8 written instructions?</p> <p>9 A. No, I do not.</p> <p>10 Q. Were you wearing your Big Shark kit?</p> <p>11 A. Yes.</p> <p>12 Q. Is that something that Big Shark</p> <p>13 asked you to do?</p> <p>14 A. It wasn't -- they asked, but it</p> <p>15 wasn't required.</p> <p>16 Q. How do you know that?</p> <p>17 A. Because there were a couple people</p> <p>18 there not wearing them, and it's never -- it's</p> <p>19 not -- we're a club, we're a club, and we're</p> <p>20 doing a service, and it's nice to have the team's</p> <p>21 logo out there for people to see the service</p> <p>22 we're providing -- we're performing. We do this</p> <p>23 for fun and for community.</p> <p>24 Q. So what time did you arrive at the</p> <p>25 start line?</p>	<p style="text-align: right;">Page 61</p> <p>1 the way, you know, of the runners, that, you</p> <p>2 know, if we were not performing our duties that</p> <p>3 we could be pulled from the course, that we were,</p> <p>4 specifically with the last -- I forget, maybe it</p> <p>5 was the last hundred yards or 200 yards or</p> <p>6 something like that, we were to cease our lead</p> <p>7 activity so that way the photographers could</p> <p>8 capture the runner crossing, you know, in that</p> <p>9 stretch without having the cyclist in the way.</p> <p>10 And there are some other instructions as well</p> <p>11 that I don't recall.</p> <p>12 Q. What were they?</p> <p>13 A. I'm recalling the ones that I can</p> <p>14 most remember.</p> <p>15 Q. How long did those instructions</p> <p>16 take?</p> <p>17 A. I forget. It was probably -- I</p> <p>18 wouldn't even -- I couldn't even guess.</p> <p>19 Q. After you received the instructions,</p> <p>20 what did you do?</p> <p>21 A. We lined up ahead of the racers and</p> <p>22 we kept about -- off to the sides and perhaps</p> <p>23 50 yards from the start line, and then we waited.</p> <p>24 And we waited for the group of the runners we</p> <p>25 were assigned to go past, and then at that point</p>

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<p style="text-align: right;">Page 62</p> <p>1 each group chose a runner, that that group would 2 go with that group and each cyclist would choose 3 a runner to stick with. 4 Q. Is that what you did? 5 A. Yes. 6 Q. Did you pick somebody from the half 7 marathon? 8 A. Yes. That was my assignment. 9 Q. Now, could you have changed that 10 assignment? 11 A. No. 12 Q. Why not? 13 A. That's what I was assigned, and -- 14 Q. Did you ask for that assignment? 15 A. I did, but there was no -- I think I 16 did. I asked for a male or female half, and I 17 was assigned a female half. 18 Q. And how long did it take for the 19 female that you followed to complete the race? 20 A. About hour, 10, hour, 15 minutes, I 21 believe. 22 Q. Did the race start on time at 23 7 a.m.? 24 A. I don't recall. It may have started 25 later.</p>	<p style="text-align: right;">Page 64</p> <p>1 to -- I think it was two different steps; one, we 2 had to figure out where to return our vests and 3 then go somewhere else to check out. It was a 4 very -- very weirdly organized, but we had to do 5 two things, and ... 6 Q. So how long did it take you to turn 7 your vest in? 8 A. I don't know. By the time I left 9 there, though, by the time I got back to my car, 10 it was after 10:30. 11 Q. So from 8:15 to 10:30, you were 12 trying to check out? 13 A. Correct. 14 Q. Now, you had another race that day, 15 correct, that you were competing in, the 16 Cyclocross race? 17 A. Yes. 18 Q. Did you make it? 19 A. My race wasn't until 1 in the 20 afternoon. 21 Q. So no problem? 22 A. No problem. 23 Q. Where was the race? 24 A. I forget where it was that day. It 25 was somewhere in St. Louis County.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Do you remember the time you crossed 2 the finish line? 3 A. I didn't cross the finish line. I 4 followed my instructions and stopped following my 5 runner about 200 yards prior to the finish line. 6 Q. So assuming the race started on 7 time, at the rate, you were done following your 8 runner at 8:15? 9 A. I was done with that part of my job 10 at 8:15. 11 Q. So what else did you do after you 12 stopped following one of the lead runners? 13 A. We had -- we had to figure -- we had 14 to find -- it took a while. It took 45 minutes 15 to find where we were supposed to check out and 16 give back our vests. We had to return our vests, 17 and it took quite a while to find where to return 18 our vests, at which point -- at one point we were 19 kicked off -- out of the finish area, which 20 delayed it even further, by some of the security 21 people. They would not let us continue with our 22 bicycles in that area, even though we were 23 supposed to be allowed to. 24 Then we -- once we did that, we had 25 to check in somewhere else, I forget why. We had</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. So it took you 45 minutes to find 2 where to return your vest, and then you had to go 3 someplace else and you had to check out. 4 What did you have to do when you 5 went to the someplace else? 6 A. I had to give them my name and let 7 them know that we were finished. 8 Q. Do you remember what time it was 9 when you did that? 10 A. No. 11 Q. Did you go to the food or the 12 beverage tent after the race? 13 A. I don't recall. 14 Q. Do you remember socializing with any 15 of the other members of the bike club while you 16 were still there until 10:30? 17 A. No. The only person I spoke with 18 while I was doing all that was the runner who I 19 had been shadowing found me and thanked me. 20 Q. So you were just on your own? 21 A. Pretty much. We all were. 22 Q. No other bike club members with you? 23 A. Not that I recall. 24 Q. So it took you two hours and 15 25 minutes to check out and get back to your car?</p>

17 (Pages 62 - 65)

<p style="text-align: right;">Page 66</p> <p>1 A. It was very crowded and I was moving 2 a bicycle through the crowds. 3 Q. So the answer is yes, it took you 4 two hours and 15 minutes to check out and get 5 back to your car? 6 A. Yes. I believe. 7 Q. You don't recall specifically? 8 A. No. 9 Q. And other than returning your vest 10 and letting somebody know that you were finished, 11 is there anything else that you were doing during 12 that time after you completed following the lead 13 runner? 14 A. I don't recall. 15 Q. How did you know you needed to go to 16 the second place and check out? 17 A. They were part of the instructions 18 we were given. 19 Q. Did everybody that was in the bike 20 club that you know of went and checked out at the 21 second location? 22 A. I don't recall and I never asked 23 anybody. 24 Q. Now, when you volunteered in 2011, 25 did you have any expectation that you would be</p>	<p style="text-align: right;">Page 68</p> <p>1 believe that you would receive? 2 A. I don't recall. 3 Q. Did you receive everything that you 4 thought you would? 5 A. At that time, yes. 6 Q. Before you signed up to volunteer, 7 did you have any expectation that you would 8 receive anything other than what you received -- 9 A. No. 10 Q. -- in 2011? 11 Now, you're contending that you were 12 an employee of Competitor Group in 2011 and 2012, 13 correct? 14 A. Correct. 15 Q. You're not contending you're still 16 an employee, are you? 17 A. No. 18 Q. How long were you an employee of 19 Competitor Group? 20 MR. LITROWNIK: Objection to form. 21 MR LEMOINE: What's wrong with that 22 question? 23 MR. LITROWNIK: You can answer. 24 A. I was an employee for part of two 25 days, nonconsecutive days.</p>
<p style="text-align: right;">Page 67</p> <p>1 paid or receive any compensation? 2 MR. LITROWNIK: Objection to form. 3 BY MR LEMOINE: 4 Q. When you volunteered for the 5 Rock 'n' Roll Marathon in 2011, did you have any 6 expectation that you would be paid money for your 7 time? 8 A. I did not expect to be paid money. 9 Q. And why not? 10 A. That was not on the list of things I 11 could expect to receive. 12 Q. Well, you understood that you were 13 volunteering, correct, for free, your time? 14 MR. LITROWNIK: Objection to form. 15 BY MR LEMOINE: 16 Q. Did you understand that you were 17 going to go there and volunteer your time? 18 A. Under the assumption -- misguided 19 assumption that this was a nonprofit operating 20 for charity. 21 Q. I understand that, but the answer is 22 yes? 23 A. I believed I would be receiving a 24 T-shirt and the Baggie and other items. 25 Q. Is there anything else that you</p>	<p style="text-align: right;">Page 69</p> <p>1 BY MR LEMOINE: 2 Q. How long were you an employee in 3 terms of hours? 4 A. Somewhere between eight and 10 5 hours, if one also includes the work I did on -- 6 in 2012 in helping others get their -- organizing 7 their work -- the bags. 8 Q. Did Competitor Group ask you to help 9 others with their bags? 10 A. I was the substitute. They had 11 asked Amy to do that, and Amy couldn't do it and 12 I substituted for her. 13 Q. So did Competitor Group ask you to 14 do that work? 15 A. Not directly. They asked the team 16 to do that work, and Amy could not do that. 17 Q. How do you know they asked the team 18 to do that work? 19 A. The email that Amy sent me, which is 20 part of the pack, says that she was responsible 21 for getting us our credentials, and she could not 22 do it. 23 Q. So you were an employee for two 24 nonconsecutive days, one day in 2011, one day in 25 2012, for eight to 10 hours?</p>

18 (Pages 66 - 69)

<p style="text-align: right;">Page 70</p> <p>1 A. Total.</p> <p>2 Q. Total. And approximately two hours</p> <p>3 and 30 minutes of that time was spent actually</p> <p>4 riding your bike?</p> <p>5 MR. LITROWNIK: Objection to form.</p> <p>6 I'm -- hang on. I don't think you asked about</p> <p>7 2012.</p> <p>8 MR LEMOINE: Well, I'm asking now.</p> <p>9 MR. LITROWNIK: Okay. I want to</p> <p>10 make sure you understand the question.</p> <p>11 BY MR LEMOINE:</p> <p>12 Q. Do you understand the question?</p> <p>13 A. Yes.</p> <p>14 Q. I can make it better.</p> <p>15 How many hours did you actually ride</p> <p>16 your bike for the Rock 'n' Roll Marathon in 2011</p> <p>17 and 2012?</p> <p>18 A. In 2012 there was -- I forget why,</p> <p>19 but I had to go back up the course and look for</p> <p>20 somebody, and I forget why. I am not sure</p> <p>21 whether that was part of my job with Competitor</p> <p>22 Group or another.</p> <p>23 So for 2012 it was longer, but I'm</p> <p>24 unsure whether the extra riding was part of my</p> <p>25 official duties or not. I don't remember who</p>	<p style="text-align: right;">Page 72</p> <p>1 A. We were instructed to do so.</p> <p>2 Q. By whom?</p> <p>3 A. It was in the emails that we were</p> <p>4 sent and on the written instructions.</p> <p>5 Q. In those written -- written</p> <p>6 instructions you received in 2012?</p> <p>7 A. Mm-hmm. It was just a piece of</p> <p>8 paper.</p> <p>9 Q. That you received in your --</p> <p>10 A. In our packet.</p> <p>11 Q. -- packet. You don't have that</p> <p>12 either?</p> <p>13 MR. LITROWNIK: You've got to</p> <p>14 articulate.</p> <p>15 A. No, I did not -- do not. Sorry.</p> <p>16 No, I do not.</p> <p>17 BY MR LEMOINE:</p> <p>18 Q. So do you remember what time you</p> <p>19 arrived?</p> <p>20 A. I just answered that. Some time</p> <p>21 before 6 a.m.</p> <p>22 Q. I know, but that's fairly relative,</p> <p>23 so I'm looking for a specific time.</p> <p>24 A. I don't know. Maybe 5:30, maybe</p> <p>25 earlier, maybe a little later. We had to be at</p>
<p style="text-align: right;">Page 71</p> <p>1 asked. It may have been someone in the booth, it</p> <p>2 may have been someone on the ground, it may have</p> <p>3 been part of Competitor Group, it may not have</p> <p>4 been.</p> <p>5 Q. 13.1 miles is a half marathon,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. So the first person that you</p> <p>9 followed in 2011 took an hour and 15 minutes to</p> <p>10 complete the race?</p> <p>11 A. I believe.</p> <p>12 Q. What about the second person that</p> <p>13 you followed in 2012, is that also a half</p> <p>14 marathoner?</p> <p>15 A. It was also a half marathoner.</p> <p>16 Q. How long did they take to complete</p> <p>17 the race?</p> <p>18 A. Probably approximately the same</p> <p>19 amount of time.</p> <p>20 Q. So let's talk about 2012. What time</p> <p>21 did you arrive for the 2012 Rock 'n' Roll</p> <p>22 Marathon?</p> <p>23 A. Some time before 6 a.m. I forget</p> <p>24 exactly when.</p> <p>25 Q. And how did you know to arrive then?</p>	<p style="text-align: right;">Page 73</p> <p>1 the start line I believe by about 6 a.m.</p> <p>2 Q. So you don't remember when you</p> <p>3 arrived, it was just some time before 6?</p> <p>4 A. Yes.</p> <p>5 Q. And what happened when you arrived</p> <p>6 in 2012 some time before 6 a.m.?</p> <p>7 A. Similar to what happened in 2011, we</p> <p>8 arrived. I actually had a couple of bags for</p> <p>9 folks who were unable to pick theirs up and I had</p> <p>10 to distribute those.</p> <p>11 We again received instructions, and</p> <p>12 the lead -- the folks for the lead vehicles were</p> <p>13 pulled off, and they were told in front of all of</p> <p>14 us what their instructions were.</p> <p>15 Then we were again told the same</p> <p>16 instructions that we heard in 2011, that we were</p> <p>17 to find our assigned runners and stay by them and</p> <p>18 stay a certain distance ahead of them in order to</p> <p>19 act as clearance in case there were people on the</p> <p>20 roads or cars and to -- it was a way for the</p> <p>21 audience, the folks along the course, to be able</p> <p>22 to actually spot the leads, that we were to call</p> <p>23 in after certain mile markers where our -- the</p> <p>24 numbers of our runners and where they were. That</p> <p>25 meant stopping and making the call or sending the</p>

<p style="text-align: right;">Page 74</p> <p>1 text and then biking to catch up with our runner.</p> <p>2 And then, you know, taking care --</p> <p>3 you know, doing that until about 100, 200 yards</p> <p>4 before the finish and then allowing the runner to</p> <p>5 cross without us there.</p> <p>6 Q. So you received your instructions.</p> <p>7 A. (Nods head affirmatively.)</p> <p>8 Q. Do you remember how long it took to</p> <p>9 get your instructions?</p> <p>10 A. No.</p> <p>11 Q. Do you remember what you did after</p> <p>12 you received your instructions?</p> <p>13 A. We did as we were instructed. We</p> <p>14 waited up along the course for -- probably within</p> <p>15 a hundred yards of the start for the group that</p> <p>16 we were supposed to be escorting to arrive. And</p> <p>17 we chose -- as they came up, we would, you know,</p> <p>18 pick a specific runner and stay by them.</p> <p>19 Q. And you did that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you pick another female</p> <p>22 half-marathon runner?</p> <p>23 A. That's what I was assigned.</p> <p>24 Q. And by "assigned," did you have a</p> <p>25 choice in what you were assigned to? Did you</p>	<p style="text-align: right;">Page 76</p> <p>1 A. There was no -- if there were too</p> <p>2 many people, there was no guarantee any of us</p> <p>3 would even be chosen.</p> <p>4 Q. So you could have been selected to</p> <p>5 do something else?</p> <p>6 A. I would have been given -- I don't</p> <p>7 know. It didn't happen.</p> <p>8 Q. Well, I'm just asking, because it</p> <p>9 sounds like you're saying that there's a</p> <p>10 possibility that you might not be a lead</p> <p>11 cyclist --</p> <p>12 A. Correct.</p> <p>13 Q. -- that you wanted something else?</p> <p>14 A. Maybe not something else, maybe just</p> <p>15 not do anything. If I wanted to do something</p> <p>16 else, it wouldn't have been through the club.</p> <p>17 Q. You would have had to go through</p> <p>18 Competitor Group?</p> <p>19 A. Correct.</p> <p>20 Q. And when you signed up with your</p> <p>21 club to be a lead cyclist in 2011, did you have</p> <p>22 any communication with Competitor Group at that</p> <p>23 time?</p> <p>24 A. I don't believe so.</p> <p>25 Q. Did you fill out any application or</p>
<p style="text-align: right;">Page 75</p> <p>1 make a request?</p> <p>2 A. You could make a request, but there</p> <p>3 was no guarantee that you would get that request.</p> <p>4 Q. How did you know that?</p> <p>5 A. We were told that.</p> <p>6 Q. By whom?</p> <p>7 A. By -- I believe that was during the</p> <p>8 meeting we were told that we could request, but,</p> <p>9 obviously, if too many people wanted a certain</p> <p>10 task, then they'd move us to a different one.</p> <p>11 Q. What meeting?</p> <p>12 A. One of the Big Shark team meetings.</p> <p>13 Q. So at the Big Shark team meeting in</p> <p>14 2012, there was a discussion about the Rock 'n'</p> <p>15 Roll Marathon, volunteering?</p> <p>16 A. Not so much a discussion as a</p> <p>17 statement.</p> <p>18 Q. Okay. And who made the statement?</p> <p>19 A. I believe it was Amy.</p> <p>20 Q. And she told you you could make a</p> <p>21 request for an assignment, but there was no</p> <p>22 guarantee?</p> <p>23 A. Correct.</p> <p>24 Q. Did you know you were going to ride</p> <p>25 your bike?</p>	<p style="text-align: right;">Page 77</p> <p>1 registration form?</p> <p>2 A. I thought perhaps I had, but I</p> <p>3 registered for so many things online that I may</p> <p>4 have been mistaken.</p> <p>5 Q. Did you receive any emails from</p> <p>6 Competitor Group confirming that you would be a</p> <p>7 volunteer in 2011?</p> <p>8 A. I don't recall. And I did not see</p> <p>9 any that I had in my emails.</p> <p>10 Q. Did you have any of the cyclists</p> <p>11 from the Big Shark Bicycle Club fail to show up</p> <p>12 in 2011 for the volunteer?</p> <p>13 A. I don't recall.</p> <p>14 Q. What about 2012?</p> <p>15 A. I don't recall.</p> <p>16 Q. Do you remember if anybody got sick</p> <p>17 the night before in 2012 and failed to show up?</p> <p>18 A. I don't recall.</p> <p>19 Q. Were you told there would be any</p> <p>20 consequences for failing to show up for the lead</p> <p>21 cyclist role in 2011 or 2012?</p> <p>22 A. I don't recall.</p> <p>23 Q. Did you ever receive any</p> <p>24 communications from Competitor Group other than</p> <p>25 the Thank You email that you received from</p>

20 (Pages 74 - 77)

1 Jennifer Nanista in 2011 and 2012?
 2 A. I don't recall.
 3 Q. You rode your bike with the female
 4 half marathoner in 2012?
 5 A. Correct.
 6 Q. And it took an hour and 15 minutes,
 7 that's what you're guessing?
 8 A. Thereabouts.
 9 Q. And then for some reason you went
 10 back out on the course?
 11 A. I was asked to go back on the
 12 course.
 13 Q. How long did that take?
 14 A. I don't recall. It could have been
 15 a half-hour or an hour, I forget. I don't
 16 recall.
 17 Q. And you don't know whether
 18 Competitor Group asked you to do that?
 19 A. I don't recall who asked me to do
 20 it.
 21 Q. After you were back out on the
 22 course for an hour or a half an hour, what did
 23 you do?
 24 A. I was specifically -- you mean what
 25 did I do while I was there or after I did that?

1 Q. So you finished with your lead
 2 cyclist -- or your lead runner -- and then for
 3 half an hour to an hour you went back on the
 4 course, you don't know why?
 5 A. I went to look for somebody or --
 6 and I don't recall who or why.
 7 Q. And then what happened?
 8 A. Then I went back again through
 9 the -- to the finish.
 10 Q. And after you went to the finish,
 11 what did you do?
 12 A. Then I turned in my vest.
 13 Q. Where did you do that?
 14 A. I forget. We were told to turn it
 15 in.
 16 Q. How long did it take you to get your
 17 vest turned in?
 18 A. I forget.
 19 Q. After you turned in your vest, what
 20 did you do?
 21 A. I forget.
 22 Q. Do you remember what time you got
 23 back to your car?
 24 A. No.
 25 Q. So the eight to 10 hours is a guess?

1 A. Yes.
 2 Q. In terms of how long you actually
 3 volunteered, it's a guess?
 4 A. It's a guess.
 5 Q. Now, did you expect to be paid for
 6 your time for volunteering in 2012?
 7 A. I expected to receive what they said
 8 I would receive.
 9 Q. And what was that?
 10 A. The bag and the T-shirt and a few
 11 other souvenir-type things.
 12 Q. And you received everything you
 13 expected to receive?
 14 A. At that time, yes.
 15 Q. You were not paid any money for your
 16 time?
 17 A. No, I was not.
 18 Q. So the whole time that you were at
 19 the Rock 'n' Roll Marathons in 2011 and 2012,
 20 were you actually working?
 21 A. It was work.
 22 Q. There was no time where you spent
 23 just socializing or talking to people or eating
 24 or drinking or anything like that?
 25 A. Not that I recall. Perhaps a few

1 minutes grabbing a banana, but ...
 2 Q. Before or after the race?
 3 A. After.
 4 Q. So you had access to the food and
 5 the beverage tent?
 6 A. I don't recall there being a tent.
 7 Q. Wherever they were serving food and
 8 beverages, you had access to that?
 9 A. It was along the finish chute and it
 10 was just a matter of grabbing something as I made
 11 my way along the chute.
 12 Q. And in 2012, was your experience
 13 similar to 2011, in that you were basically on
 14 your own and not with the rest of your club?
 15 A. Correct.
 16 Q. Why did you decide to volunteer
 17 again in 2012?
 18 A. It was -- I thought I was helping
 19 out some very good charities and it was a good
 20 experience the first time.
 21 Q. In that eight to 10 hours that you
 22 say that you were working, does that include the
 23 time that you spent picking up packets for others
 24 in 2012?
 25 A. I didn't actually do the packet

<p style="text-align: right;">Page 82</p> <p>1 pickup, I did package -- packet distribution. I</p> <p>2 just had to get the ones from Big Shark that had</p> <p>3 not been picked up by the riders and bring them</p> <p>4 to the course.</p> <p>5 Q. So does that eight to 10 hours</p> <p>6 include that time?</p> <p>7 A. Yes.</p> <p>8 Q. So 2012 was a little different</p> <p>9 because Amy Strahan was not there?</p> <p>10 A. Correct.</p> <p>11 Q. So when you arrived, did you have</p> <p>12 any role in organizing the members of the bike</p> <p>13 club or anything like that?</p> <p>14 A. I don't recall.</p> <p>15 Q. What equipment did you use to</p> <p>16 perform the work that you allege you performed</p> <p>17 for Competitor Group?</p> <p>18 A. Alleged?</p> <p>19 Q. That's what you say in your</p> <p>20 petition. It's a fancy word we use.</p> <p>21 A. I -- what work did I perform or what</p> <p>22 equipment did I use?</p> <p>23 Q. What equipment --</p> <p>24 A. What was the question again?</p> <p>25 Q. Well, I'll say it a different way.</p>	<p style="text-align: right;">Page 84</p> <p>1 perform these volunteer services for Competitor</p> <p>2 Group?</p> <p>3 A. No.</p> <p>4 Q. Did you have to check out at the end</p> <p>5 of the race in 2012?</p> <p>6 A. I don't recall.</p> <p>7 Q. So other than turning in your vest</p> <p>8 in 2012, you can't remember what else you did?</p> <p>9 A. Correct.</p> <p>10 Q. After the race, of course.</p> <p>11 A. After the race.</p> <p>12 Q. You were -- did you have any</p> <p>13 interaction with any of the other volunteers in</p> <p>14 2011 or 2012 besides the bike club?</p> <p>15 A. I don't understand.</p> <p>16 Q. Did you talk to any volunteers other</p> <p>17 than those from the bike club in 2011 or 2012?</p> <p>18 A. I recognized a few friends who</p> <p>19 cleared me.</p> <p>20 Q. Were they volunteering?</p> <p>21 A. Some were, some were not.</p> <p>22 Q. Did you speak with them?</p> <p>23 A. No. I was on the bike. I -- they</p> <p>24 cheered me and I waved to them. Maybe I said</p> <p>25 their name.</p>
<p style="text-align: right;">Page 83</p> <p>1 What equipment did you use to</p> <p>2 perform the volunteer services that you performed</p> <p>3 in 2011 and 2012 for Competitor Group?</p> <p>4 A. I used my bicycle, my helmet, my</p> <p>5 shoes. I used my phone, I used my earpiece for</p> <p>6 my phone, my Bluetooth earpiece for my phone, my</p> <p>7 cycling gloves. I used the vest that was</p> <p>8 provided, I used the credentials that were</p> <p>9 provided, I used the All Access Pass that was</p> <p>10 provided for my bicycle. I may be missing</p> <p>11 something, but I believe that, for the most part,</p> <p>12 that's the equipment that I used.</p> <p>13 Q. And the vest you had to return?</p> <p>14 A. Correct.</p> <p>15 Q. But the credentials and the All</p> <p>16 Access Pass you kept?</p> <p>17 A. Correct.</p> <p>18 Q. You wore your Big Shark kit,</p> <p>19 right --</p> <p>20 A. Correct.</p> <p>21 Q. -- in 2011 and 2012?</p> <p>22 A. Correct.</p> <p>23 Q. In 2012 -- and I apologize if I've</p> <p>24 already asked this question. In 2012, did you</p> <p>25 fill out any application or registration to</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Other than those few friends, did</p> <p>2 you speak with any of the other volunteers in</p> <p>3 2011 or 2012?</p> <p>4 A. Yes. I spoke with -- in 2011 I</p> <p>5 spoke with the volunteer or paid worker, whoever</p> <p>6 she was at security, to allow me access to the</p> <p>7 rest -- to the porta johns to use the restroom.</p> <p>8 And --</p> <p>9 Q. How did you know she was a</p> <p>10 volunteer?</p> <p>11 A. I don't. I -- if you listened to</p> <p>12 what I just said, the volunteer or worker or</p> <p>13 whoever.</p> <p>14 Q. I didn't hear the "or".</p> <p>15 A. I said "or".</p> <p>16 Q. Sorry. The security worker --</p> <p>17 security worker who may or may not have been a</p> <p>18 volunteer?</p> <p>19 A. Correct.</p> <p>20 Q. And that was 2011?</p> <p>21 A. Yes. And then in 2012, at the</p> <p>22 finish line one of the security folks hassled --</p> <p>23 harassed -- started harassing me about having my</p> <p>24 bike in the finisher chute.</p> <p>25 Q. Anyone else?</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 A. Those are the only two that are</p> <p>2 memorable to me. There may have been others that</p> <p>3 I don't remember.</p> <p>4 Q. Do you know what other volunteers</p> <p>5 for Competitor Group in the St. Louis Rock 'n'</p> <p>6 Roll Marathons were doing, what roles were they</p> <p>7 performing, what duties did they have, who gave</p> <p>8 them ...</p> <p>9 A. I saw people at water stations that</p> <p>10 I knew, I saw people doing security. I do not</p> <p>11 know if they were paid volunteers or unpaid</p> <p>12 volunteers or paid workers or unpaid workers,</p> <p>13 whatever you want to classify them as. I saw</p> <p>14 people moving barricades, I saw people preventing</p> <p>15 others from coming onto the course.</p> <p>16 I -- one year, I forget which, I</p> <p>17 went with a friend of mine to the expo to pick up</p> <p>18 her packet because she was running in it, and we</p> <p>19 saw people doing the packet pickup, you know,</p> <p>20 handing out the packets and the T-shirts,</p> <p>21 et cetera. I do not know if these were</p> <p>22 volunteers or if they were paid workers.</p> <p>23 Q. When you were riding your bike, did</p> <p>24 you have anybody that was supervising you?</p> <p>25 A. What do you mean?</p>	<p style="text-align: right;">Page 88</p> <p>1 Competitor Group?</p> <p>2 A. Yes.</p> <p>3 Q. How do you know that?</p> <p>4 A. They said, "I'm from Competitor</p> <p>5 Group."</p> <p>6 Q. You don't have a written agreement</p> <p>7 with Competitor Group regarding your volunteer</p> <p>8 services in 2011 or 2012, correct?</p> <p>9 A. Correct.</p> <p>10 Q. You don't have a copy of the</p> <p>11 instructions that you were given in 2011 or 2012?</p> <p>12 A. No, I do not.</p> <p>13 Q. Other than grabbing a banana in 2012</p> <p>14 that you recall, did you attend any other</p> <p>15 race-day activities after you finished riding the</p> <p>16 course in 2011 or 2012?</p> <p>17 A. Not that I recall.</p> <p>18 Q. I'm assuming you didn't claim</p> <p>19 anything that you received from Competitor Group</p> <p>20 in 2011 or 2012 as income on your tax return,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. Did you know that Competitor Group</p> <p>24 was the owner of the Rock 'n' Roll Marathon</p> <p>25 before you volunteered in 2011 or 2012?</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Did you have somebody from</p> <p>2 Competitor Group that was instructing you as to</p> <p>3 how you were supposed to ride your bike in 2011</p> <p>4 or 2012?</p> <p>5 A. I was given instructions by the</p> <p>6 supervisor at the beginning, and when I -- when</p> <p>7 the -- we were also told to follow all</p> <p>8 instructions given to us by the MC, and the MC at</p> <p>9 one point told me that there was too much noise</p> <p>10 on the course for him to hear us, and we were to</p> <p>11 text him instead.</p> <p>12 And that was the instruction that I</p> <p>13 followed from that point forward, was to text the</p> <p>14 mile marker, column marker, I forget which, and</p> <p>15 the race that we were following and the bib</p> <p>16 number of our person.</p> <p>17 Q. Was the MC from Competitor Group?</p> <p>18 A. I don't know.</p> <p>19 Q. The person who gave you instructions</p> <p>20 at the beginning, I think you said it was someone</p> <p>21 from Competitor Group?</p> <p>22 A. Yes.</p> <p>23 Q. You don't remember who?</p> <p>24 A. (Nods head affirmatively.)</p> <p>25 Q. Are you certain they were from</p>	<p style="text-align: right;">Page 89</p> <p>1 A. No.</p> <p>2 Q. Who did you believe owned the race?</p> <p>3 A. I didn't know who owned the race.</p> <p>4 Q. So when was the first time you heard</p> <p>5 of Competitor Group? Was it in that article you</p> <p>6 read?</p> <p>7 A. I believe so.</p> <p>8 Q. It wasn't when somebody announced</p> <p>9 they were from Competitor Group when they were</p> <p>10 giving you instructions?</p> <p>11 A. I don't believe so.</p> <p>12 Q. So the first that you remember ever</p> <p>13 really knowing about the company, Competitor</p> <p>14 Group, was when you read this article about</p> <p>15 Competitor Group acquiring the Rock 'n' Roll</p> <p>16 Marathon series?</p> <p>17 A. I -- for all I knew, when the person</p> <p>18 said they -- I did not know Competitor Group was</p> <p>19 the owner, I -- I did not know who they were or</p> <p>20 what they did. And based on my past knowledge</p> <p>21 and experience of races, I had no idea if they</p> <p>22 were the race organizer or the race owner. So</p> <p>23 even her telling me she was from Competitor Group</p> <p>24 told me nothing about whether or not that was who</p> <p>25 owned it.</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 94</p> <p>1 Q. You were an employee?</p> <p>2 A. Yes.</p> <p>3 Q. Of the basketball team?</p> <p>4 A. Yes.</p> <p>5 Q. What was the name of that team?</p> <p>6 A. The Rhode Island Gulls.</p> <p>7 Q. Other than those two and obviously</p> <p>8 Competitor Group, is there any other jobs you've</p> <p>9 had where you didn't go through an interview</p> <p>10 process or fill out an application?</p> <p>11 A. At this moment I don't recall.</p> <p>12 There may have been others, but those are the</p> <p>13 only two I remember.</p> <p>14 Q. How did Competitor Group know that</p> <p>15 you were going to show up and volunteer in 2011</p> <p>16 and 2012, if you know?</p> <p>17 A. Based on the information, they were</p> <p>18 given my name and my contact information, which</p> <p>19 you have shown us.</p> <p>20 Q. Is that page 2?</p> <p>21 A. There's no page number on it. It's</p> <p>22 blank.</p> <p>23 Q. Right.</p> <p>24 A. They were given a list of our names</p> <p>25 and contact information and emails.</p>	<p style="text-align: right;">Page 96</p> <p>1 I don't remember. I don't believe I did, but I</p> <p>2 don't remember.</p> <p>3 Q. Did you provide them your full</p> <p>4 address?</p> <p>5 A. I don't know if they received it in</p> <p>6 an email from anybody or not.</p> <p>7 Q. Do you know who maintained records</p> <p>8 of the work that you performed in 2011 or 2012,</p> <p>9 if anyone?</p> <p>10 A. No. I do not know.</p> <p>11 Q. You didn't maintain any records of</p> <p>12 what you did, correct, the hours that you worked?</p> <p>13 A. No.</p> <p>14 Q. The duties that you performed?</p> <p>15 A. No.</p> <p>16 Q. Now, where did you perform these</p> <p>17 services? Was it exclusively in the city of</p> <p>18 St. Louis?</p> <p>19 A. I believe so. I believe that the</p> <p>20 half-marathon course was entirely within the city</p> <p>21 of St. Louis.</p> <p>22 Q. And other than performing the lead</p> <p>23 cyclist role for Competitor Group in 2011 to</p> <p>24 2012, did you do anything else for Competitor</p> <p>25 Group?</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. And so you're talking about the</p> <p>2 document that's the second page of Exhibit 2,</p> <p>3 page 1 being this one here.</p> <p>4 A. This is the cover page.</p> <p>5 Q. Correct. That's Exhibit 1 -- or</p> <p>6 Exhibit 2, page 1, and then this would be the</p> <p>7 second page of Group Exhibit 2.</p> <p>8 A. Even though this has P2 on it.</p> <p>9 There's no number on this one.</p> <p>10 Q. I understand.</p> <p>11 And that document that you're</p> <p>12 looking at right now has your name, email, and</p> <p>13 telephone number?</p> <p>14 A. My last name is misspelled, but yes.</p> <p>15 Q. Did you provide any other</p> <p>16 information to Competitor Group before showing up</p> <p>17 in 2011 or 2012?</p> <p>18 A. I do not recall.</p> <p>19 Q. Did you provide your age?</p> <p>20 A. I do not recall.</p> <p>21 Q. Did you verify your eligibility to</p> <p>22 work in the United States with Competitor Group?</p> <p>23 A. I do not recall.</p> <p>24 Q. You might have?</p> <p>25 A. I don't think -- I don't believe so.</p>	<p style="text-align: right;">Page 97</p> <p>1 A. Yes. As I already discussed, I was</p> <p>2 responsible for ensuring that all the team</p> <p>3 members had their bags in 2012 and had their</p> <p>4 credentials.</p> <p>5 Q. And Amy Strahan asked you to do</p> <p>6 that?</p> <p>7 A. Correct.</p> <p>8 Q. You said earlier that you believed</p> <p>9 that your services were helping to support</p> <p>10 charities.</p> <p>11 A. Correct.</p> <p>12 Q. What did you think that your</p> <p>13 services were doing for charity?</p> <p>14 A. I believed that the charities were</p> <p>15 receiving financial support through the entry</p> <p>16 fees, et cetera, of the organization, that this,</p> <p>17 like many other charity runs and stuff, was for</p> <p>18 their benefit and the proceeds were going to the</p> <p>19 charities.</p> <p>20 Q. Do you know whether the charities</p> <p>21 did, in fact, benefit from the Rock 'n' Roll</p> <p>22 Marathon in 2011 or 2012?</p> <p>23 A. After the fact I learned that they</p> <p>24 paid for the privilege of doing so and that they</p> <p>25 received zero monetary compensation or donations.</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 106</p> <p>1 A. I don't recall.</p> <p>2 Q. Do you believe your work as a lead</p> <p>3 cyclist was necessary for the Rock 'n' Roll</p> <p>4 events in 2011 and 2012 in St. Louis?</p> <p>5 A. Yeah. I believe it led to a better</p> <p>6 race for the runners and the spectators, and it</p> <p>7 was necessary in order for the MC to be able to</p> <p>8 notify the crowds at the finish line, where the</p> <p>9 racers were.</p> <p>10 Q. Do you know whether Competitor Group</p> <p>11 has run races without lead cyclists?</p> <p>12 A. I'm unaware.</p> <p>13 Q. Do you know if other bike clubs</p> <p>14 showed up to perform the lead cyclist role in</p> <p>15 2011 or 2012?</p> <p>16 A. There were members of other bike</p> <p>17 clubs, but they agreed to ride on behalf of Big</p> <p>18 Shark.</p> <p>19 Q. Did they also wear the kit?</p> <p>20 A. Yes.</p> <p>21 Q. Did Big Shark post any photos of the</p> <p>22 Rock 'n' Roll Marathon event in 2011 or 2012 on</p> <p>23 their website?</p> <p>24 A. We don't have a website as a team.</p> <p>25 Q. Do you know if Big Shark posted any</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. It's not something that you</p> <p>2 investigate? No?</p> <p>3 A. I do not know.</p> <p>4 Q. No, it's --</p> <p>5 A. I do not -- I do not investigate,</p> <p>6 no.</p> <p>7 (Deposition Exhibit Number 3,</p> <p>8 Declaration, marked for</p> <p>9 identification.)</p> <p>10 BY MR LEMOINE:</p> <p>11 Q. Ms. Liebesman, I'm going to hand you</p> <p>12 what's been designated Exhibit 3. Please take a</p> <p>13 look at it and tell me if you recognize it.</p> <p>14 A. It looks like the declaration I</p> <p>15 signed.</p> <p>16 Q. Do you recognize the exhibit that's</p> <p>17 attached to it as well?</p> <p>18 A. Yes.</p> <p>19 Q. And what is that?</p> <p>20 A. That's the thank you from Jennifer</p> <p>21 Nanista for operating -- for our work as a -- as</p> <p>22 lead cyclists, in which she says that it would</p> <p>23 have been difficult, if not impossible, to have</p> <p>24 the event without our assistance.</p> <p>25 Q. Is this an email you received on or</p>
<p style="text-align: right;">Page 107</p> <p>1 photos on its website?</p> <p>2 A. I don't believe so.</p> <p>3 Q. Did Big Shark do anything other than</p> <p>4 have its riders out in their kits for the 2011 or</p> <p>5 2012 Rock 'n' Roll Marathons?</p> <p>6 A. Such as?</p> <p>7 Q. Sponsor the event in any way, have a</p> <p>8 tent.</p> <p>9 A. I don't believe so.</p> <p>10 Q. But you don't know?</p> <p>11 A. I don't know.</p> <p>12 Q. Do you have any idea why charities</p> <p>13 actually participate in the Rock 'n' Roll</p> <p>14 Marathon events?</p> <p>15 A. No, I do not know why.</p> <p>16 Q. Have you talked to any charities</p> <p>17 about their participation in the Rock 'n' Roll</p> <p>18 Marathon events?</p> <p>19 A. No.</p> <p>20 Q. Do you support any charities that</p> <p>21 still participate in the Rock 'n' Roll events</p> <p>22 through time or money or ...</p> <p>23 A. I do not know, because I'm unaware</p> <p>24 of which charities pay money to Rock 'n' Roll for</p> <p>25 the purpose of being named as sponsoring charity.</p>	<p style="text-align: right;">Page 109</p> <p>1 about November 1st, 2011?</p> <p>2 A. Yes.</p> <p>3 Q. Is this an email that you forwarded</p> <p>4 to your attorney on or about December 19th, 2014?</p> <p>5 A. Yes.</p> <p>6 Q. And Jennifer Nanista says in the</p> <p>7 third sentence, "I can honestly say that it would</p> <p>8 have been much more difficult, if not impossible,</p> <p>9 to accomplish what we did without your</p> <p>10 assistance."</p> <p>11 That's what she precisely said,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Now, were you one of the ones who</p> <p>15 dragged fencing across streets, placed cones,</p> <p>16 herded participants, and chased off cars?</p> <p>17 A. I herded participants, but I did not</p> <p>18 have to do any of the others.</p> <p>19 Q. I see in the declaration, if you go</p> <p>20 back to the first page, it notes that you</p> <p>21 volunteered for the 2011 race on October 23rd,</p> <p>22 2011, correct?</p> <p>23 A. Yes.</p> <p>24 Q. So that was the date that you say</p> <p>25 you were employed by Competitor Group in 2011?</p>

28 (Pages 106 - 109)

<p style="text-align: right;">Page 110</p> <p>1 A. Yes.</p> <p>2 Q. And the same is true October 21st,</p> <p>3 2012; that's the date you say you were employed</p> <p>4 by Competitor Group?</p> <p>5 A. I believe so. Those were the dates</p> <p>6 of the races, yes.</p> <p>7 Q. Now, at the time that you were</p> <p>8 volunteering in these two races, you were still</p> <p>9 employed at SLU, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Is SLU a full-time position?</p> <p>12 A. Yes.</p> <p>13 Q. How many hours a week do you work at</p> <p>14 SLU?</p> <p>15 A. It depends on the week.</p> <p>16 Q. Okay.</p> <p>17 A. During -- it depends on my teaching</p> <p>18 load for that semester, it depends on our</p> <p>19 activities. My writing is also considered --</p> <p>20 research and writing also considered part of my</p> <p>21 employment as is service activities.</p> <p>22 Q. What do you mean by "service</p> <p>23 activities"?</p> <p>24 A. We are supposed to do service to the</p> <p>25 school and to the university and to the</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Yes.</p> <p>2 Q. I want you to look to -- hold on.</p> <p>3 Paragraph 4, it says in 2011, after you expressed</p> <p>4 interest in being a volunteer for the race, you</p> <p>5 received forwarded email from a CGI employee</p> <p>6 setting out the steps to register, which included</p> <p>7 a link to the volunteer website.</p> <p>8 A. Mm-hmm.</p> <p>9 Q. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall that?</p> <p>12 A. I recall it. I do not recall the</p> <p>13 actual registration. I do not recall if I</p> <p>14 actually did it or not. I register for many of</p> <p>15 these events, both as a -- you know, sometimes as</p> <p>16 a runner, sometimes as a participant, sometimes</p> <p>17 merely letting people know that, you know, when</p> <p>18 they ask for volunteers, that I will do it. It</p> <p>19 may have -- you know, so I thought I had, but</p> <p>20 perhaps I did not.</p> <p>21 Q. Why don't you look at Exhibit 2, and</p> <p>22 at the bottom it's P18.</p> <p>23 A. Okay. Okay.</p> <p>24 Q. Do you recognize --</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 111</p> <p>1 community, and that involves a lot of different</p> <p>2 things, such as I volunteer for Stand Down at --</p> <p>3 for Homeless Veterans twice a year, I participate</p> <p>4 in service activities that are run through the</p> <p>5 school, I attend faculty meetings. My work --</p> <p>6 that's -- that's a small part. I spend a lot of</p> <p>7 the time research and writing. My scholarship</p> <p>8 was also part of what's considered my work for</p> <p>9 SLU.</p> <p>10 My teaching load, depending on the</p> <p>11 semester, can be anywhere from three to seven</p> <p>12 hours a semester week actual teaching. That</p> <p>13 includes plus an additional, plus there's class</p> <p>14 prep and grading assignments and meeting with</p> <p>15 students and coaching the court teams and</p> <p>16 advising students and a lot of other things.</p> <p>17 Q. Do you keep track of your volunteer</p> <p>18 time, your service activities?</p> <p>19 A. No.</p> <p>20 Q. You don't have to?</p> <p>21 A. No.</p> <p>22 Q. It's just an expectation of SLU that</p> <p>23 you will do that?</p> <p>24 A. Mm-hmm.</p> <p>25 Q. Yes?</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. -- P18 and P19?</p> <p>2 A. Yes.</p> <p>3 Q. What are they?</p> <p>4 A. They are instructions that Scott</p> <p>5 Ogilvie had passed on to us regarding</p> <p>6 registration.</p> <p>7 Q. So do you recall whether you filled</p> <p>8 this out?</p> <p>9 A. I do not recall.</p> <p>10 Q. Scott Ogilvie sent this to you</p> <p>11 through Facebook?</p> <p>12 A. Yes.</p> <p>13 Q. But it came to your Georgetown.edu</p> <p>14 email address?</p> <p>15 A. That's a forwarding email. That's</p> <p>16 the one that's registered to my Facebook page.</p> <p>17 Q. Did you receive a confirmation</p> <p>18 email?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you know who Liz Davis is?</p> <p>21 A. I am very bad with just names.</p> <p>22 Q. So in the declaration you say that</p> <p>23 you, to the best of your recollection,</p> <p>24 registered/volunteered through the website, is</p> <p>25 that correct?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. To the best of my recollection.</p> <p>2 Q. You do remember regi --</p> <p>3 A. No, I do not. I do not -- I do not</p> <p>4 remember registering specifically for that event.</p> <p>5 I do not recall.</p> <p>6 Q. In paragraph 5 you state, "Miss</p> <p>7 Nanista confirmed to the Big Shark coordinator</p> <p>8 that she is the volunteer coordinator for other</p> <p>9 CGI races beyond merely the St. Louis series</p> <p>10 event."</p> <p>11 How do you know that?</p> <p>12 A. I believe -- I believe she had -- I</p> <p>13 thought she had indicated to us that she -- we --</p> <p>14 you know, she -- that our group was one of the</p> <p>15 best she had worked with.</p> <p>16 Q. Do you know who she told that to?</p> <p>17 A. I do not know.</p> <p>18 Q. Did you ever talk to Ms. Nanista?</p> <p>19 A. No, not -- I did not talk -- ever</p> <p>20 talk directly to Miss Nanista.</p> <p>21 Q. So this would have been information</p> <p>22 you got from someone else?</p> <p>23 A. Yes. Or it was in a -- it was</p> <p>24 somehow conveyed to us. I don't know how.</p> <p>25 Q. On paragraph 9 flowing over onto</p>	<p style="text-align: right;">Page 116</p> <p>1 A. I forget.</p> <p>2 Q. Did you receive it during this</p> <p>3 lawsuit?</p> <p>4 A. I do not recall.</p> <p>5 Q. Do you know what information it was</p> <p>6 that you reviewed to determine that?</p> <p>7 A. No.</p> <p>8 Q. Paragraph 11 you state before,</p> <p>9 during, and after the race you "observed other</p> <p>10 event volunteers who were easily recognized by</p> <p>11 their race crew shirts, Access Passes and/or</p> <p>12 because they were working at a water station."</p> <p>13 Again, you believe these to be</p> <p>14 volunteers, but you're not sure one way or</p> <p>15 another?</p> <p>16 A. I know some of them were volunteers</p> <p>17 because I recognized them and I knew that they</p> <p>18 were volunteering specifically at water stations</p> <p>19 that they were assigned.</p> <p>20 Q. And those were your friends you</p> <p>21 referenced earlier in the deposition?</p> <p>22 A. Yes.</p> <p>23 Q. Did Competitor Group in any way tell</p> <p>24 you directly that it was a nonprofit</p> <p>25 organization?</p>
<p style="text-align: right;">Page 115</p> <p>1 page 3 --</p> <p>2 A. Mm-hmm.</p> <p>3 Q. -- you state that you observed that</p> <p>4 nonbike escort volunteers, including expo</p> <p>5 volunteers, runner corral volunteers, and course</p> <p>6 marshals were also provided with volunteer</p> <p>7 credentials.</p> <p>8 Did you see those credentials on</p> <p>9 them?</p> <p>10 A. I saw the same type of hang tag, not</p> <p>11 saying lead cyclist, but I saw credentials</p> <p>12 hanging around the people's necks.</p> <p>13 Q. Do you know or don't know whether</p> <p>14 those people were actually volunteers?</p> <p>15 A. I do not know.</p> <p>16 Q. Paragraph 11 --</p> <p>17 A. I believed -- I'm sorry, go on.</p> <p>18 Q. Please.</p> <p>19 A. I believe they were volunteers based</p> <p>20 on information I received later that showed</p> <p>21 the -- for example, what activities they were</p> <p>22 looking -- what people they were looking for that</p> <p>23 they needed volunteers for after the fact.</p> <p>24 Q. When did you receive that</p> <p>25 information?</p>	<p style="text-align: right;">Page 117</p> <p>1 A. No.</p> <p>2 Q. But for your belief that you were</p> <p>3 supporting a nonprofit or charitable cause, would</p> <p>4 you have volunteered for the Rock 'n' Roll</p> <p>5 Marathon in 2011 or 2012?</p> <p>6 A. No.</p> <p>7 Q. Why do you say that so emphatically?</p> <p>8 A. Because when I found out and prior</p> <p>9 to deciding to file the lawsuit, I said I was not</p> <p>10 going to be volunteering for them in 2013 because</p> <p>11 I did not work for non -- for for-profit</p> <p>12 companies in that manner.</p> <p>13 Q. Is that something that you've long</p> <p>14 believed, or is this a recent conviction of</p> <p>15 yours?</p> <p>16 A. It's nothing I never had to consider</p> <p>17 before now.</p> <p>18 Q. Okay. So just trying to understand</p> <p>19 what you're saying. It's -- it's your position</p> <p>20 that you would never perform volunteer services</p> <p>21 for a for-profit organization if you knew they</p> <p>22 were a for-profit organization?</p> <p>23 A. I didn't say that.</p> <p>24 Q. Okay. What -- what are you trying</p> <p>25 to say, then?</p>

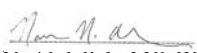
<p style="text-align: right;">Page 118</p> <p>1 A. I'm saying that I would not have 2 worked for Competitor Group for free in 2011 or 3 2012 if I had known that they were a large, 4 behemoth corporation that made a lot of money off 5 unpaid labor. 6 Q. So if it was a smaller for-profit 7 that didn't make a lot of money, would that 8 trouble you? 9 A. I don't know. I have not been hit 10 with that situation; I've never considered it. 11 Q. So it's the fact that Competitor 12 Group is so large that troubles you? 13 A. No. 14 Q. What, specifically, about Competitor 15 Group troubles you, then? 16 A. That they are using a lot of people 17 and not paying them and making money off of this. 18 How I choose to spend my time is up 19 to me, and I would not choose to give my time to 20 Competitor Group had I known that they were a 21 for-profit company. 22 MR. LITROWNIK: Bryan, is it a good 23 time to break for lunch? I don't know if you're 24 moving on to another ... 25 MR LEMOINE: I'm fine.</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. That answers my question. 2 Let's take a look at the documents 3 in Exhibit 2, please. They start with P002, and 4 then there's a lot more zeros, but ... 5 A. I got the idea. 6 Q. Yeah. I believe it's P002 and 003. 7 Do you recognize this document? 8 A. Yes. 9 Q. What is it? 10 A. It is an email. 11 Q. Who is the email from, or is it a 12 series of emails? 13 A. It is a series of emails between me 14 and Amy Strahan. 15 Q. Amy Strahan is who we talked about 16 earlier. She manages or coordinates the Big 17 Shark Bike Club, correct? 18 A. Correct. 19 Q. Has she been doing that for years, 20 to your knowledge? 21 A. Yes. 22 Q. So the first email is on P003, and I 23 assume that this was an email to all the Big 24 Shark high school club members? 25 A. Yes, I assume -- well, I -- I don't</p>
<p style="text-align: right;">Page 119</p> <p>1 THE VIDEOGRAPHER: Off the record at 2 11:55. 3 (Lunch recess.) 4 THE VIDEOGRAPHER: Back on the 5 record at 12:53. 6 BY MR LEMOINE: 7 Q. Competitor Group solicited your bike 8 club, they didn't solicit you correctly, is that 9 correct? 10 MR. LITROWNIK: Object. 11 BY MR LEMOINE: 12 Q. Or didn't -- they didn't solicit you 13 directly, is that correct? 14 A. Yes. 15 Q. How much time, approximately, have 16 you spent on this case? 17 MR. LITROWNIK: Objection to the 18 form. 19 (Reporter requests clarification.) 20 MR. LITROWNIK: Objection to form. 21 A. I don't know. 22 BY MR LEMOINE: 23 Q. Do you expect to receive an 24 incentive payment in the case? 25 A. What's an incentive payment?</p>	<p style="text-align: right;">Page 121</p> <p>1 know. I would assume so. I can only make a 2 guess -- guess that that is true. 3 Q. You're on the Big Shark email list, 4 I assume? 5 A. Yes. 6 Q. So Amy writes, "Hey, guys, response 7 has been good so far for the Rock 'n' Roll 8 Marathon bike leads, but still looking for nine 9 more leads. Please, this is a great op for Big 10 Shark." 11 I assume she meant "great 12 opportunity"? Is that what you read? 13 A. That's how I interpret it. 14 Q. Was that the first that you heard of 15 the event, or was this a second or third time? 16 Do you remember? 17 A. Well, based on the next email, it 18 appears that it is not the first time that I have 19 heard of it. 20 Q. Okay. 21 A. Which reads, "Thanks for 22 coordinating, Amy. I think you already have me 23 down." So that would, based on that sentence, 24 appear to me that it was not the first time I had 25 heard of this.</p>

<p style="text-align: right;">Page 122</p> <p>1 Q. And you asked Amy, "Which group am I 2 escorting," correct? 3 A. Mm-hmm. 4 Q. And Amy responds, "Mike did the 5 initial assignments." Who is Mike? 6 A. I believe that's Mike Weiss. 7 Q. It also says, "You'll be getting a 8 confirmation email from the race corporation as 9 well," and you respond to that email on 10 October 17th that you never got anything. 11 A. Mm-hmm. 12 Q. Do you remember whether you ever got 13 anything from Competitor Group? 14 A. I don't recall. And then it says 15 later on that either she or -- or the race 16 coordinators. She doesn't call them competitor, 17 she says, "the race coordinators," "the race 18 corporation" and then "race promoters" and 19 whatever, that somebody will be back in touch 20 with us. 21 Q. The next email, P00 -- well, before 22 we move on, is this an email that you downloaded 23 from your Gmail account? 24 A. Which one? 25 Q. P002 and 003.</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. Did you compete in the Bubba 2 Cyclocross race that day? 3 A. I don't recall. 4 Q. Is there anything that you could 5 look at that would help you remember whether you 6 competed in that race that day? 7 A. There may be somewhere a website 8 that lists what race, the race results, 9 somewhere. 10 Q. But you don't have anything in your 11 possession? 12 A. Not that I'm aware of. 13 Q. Is the Bubba Cyclocross event 14 something that Big Shark does? 15 A. I don't -- not a hundred percent 16 sure who puts them on, who -- they're a series of 17 weekly races. 18 Q. Is that something that you 19 participate in through Big Shark? 20 A. I -- yeah. Well, yeah, I 21 participate as a rider. It's a race, so I 22 participate as a racer. 23 Q. All right. So next is 006 and 007. 24 A. Mm-hmm. 25 Q. Do you recognize these -- these</p>
<p style="text-align: right;">Page 123</p> <p>1 A. Yes. 2 Q. And you provided this to your 3 counsel? 4 A. Yes. 5 Q. Are these emails you still maintain 6 in your Gmail account? 7 A. I believe so. 8 Q. The next email, P0 -- series of 9 emails, P004 and 005, do you recognize these 10 emails? 11 A. Yes. 12 Q. What are they? 13 A. They're emails from Mike Weiss 14 asking if we want to be cyclists. 15 Q. October 3rd, 2011 was the first 16 email from Mike, correct, in this document? 17 A. October 3rd, 2011, yes. 18 Q. Yes. And then you respond directly 19 to Mike Weiss on October 3rd, 2011. 20 A. Yes. 21 Q. Okay. What's Bubba CX. 22 A. That is the Cyclocross race. 23 Q. You said it was at noon? 24 A. I thought -- yeah, noon. It looks 25 like my race was at noon that day.</p>	<p style="text-align: right;">Page 125</p> <p>1 documents, this email? 2 A. Yes. 3 Q. What is this? 4 A. This is an email from Jennifer 5 Nanista thanking us for working at the Rock 'n' 6 Roll Marathon. 7 Q. Was this the first email you ever 8 received from Jennifer Nanista? 9 A. I believe so. 10 Q. Did you respond to her? 11 A. I don't recall. 12 Q. Let's go to the next set of 13 documents, 008 and 009. So we'll start at the 14 back and move forward. 15 Do you recognize the emails that are 16 in 008 and 009? 17 A. These look like race instructions -- 18 partial race instructions for 2012. 19 Q. And this was sent by Amy Strahan to 20 you, correct? 21 A. To me and others. 22 Q. The third paragraph says, "As for 23 your responsibility, please wear a Big Shark kit. 24 And for a few of you who might not have any, 25 please contact me."</p>

<p style="text-align: right;">Page 126</p> <p>1 Is that how you knew you needed to</p> <p>2 wear your Big Shark kit, Amy instructed you?</p> <p>3 A. I'm not sure if this was the first</p> <p>4 time we were told that we should wear our kits.</p> <p>5 Q. But you understood that you were</p> <p>6 supposed to --</p> <p>7 A. Yes.</p> <p>8 Q. -- in both '11 and '12?</p> <p>9 A. Yes.</p> <p>10 Q. And then Amy gives some instructions</p> <p>11 here at the bottom the way it worked out last</p> <p>12 year, is that correct, in that paragraph below?</p> <p>13 A. Yes.</p> <p>14 Q. Is that accurate, to the best of</p> <p>15 your recollection, about what happened?</p> <p>16 A. It's not the same instructions that</p> <p>17 we were provided by the person at the line.</p> <p>18 Mostly for the end, the having to do with the</p> <p>19 photographers, that's slightly inaccurate, but it</p> <p>20 captures the general idea that we were to be away</p> <p>21 from the runners a short distance before the</p> <p>22 finish line.</p> <p>23 Q. The next email is from Amy to you</p> <p>24 and others, correct?</p> <p>25 A. Which are you saying? Which do you</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. Which we don't -- you don't recall?</p> <p>2 A. Correct.</p> <p>3 Q. So the next, 10 and 11, this looks</p> <p>4 to be an email from Amy Strahan to you, among</p> <p>5 others, again?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. Related to the Rock 'n' Roll</p> <p>8 St. Louis Marathon in 2012?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. Was this a solicitation you received</p> <p>11 to volunteer for 2012?</p> <p>12 A. Yes. I'm looking for my name that</p> <p>13 will confirm. Yes.</p> <p>14 Q. And Amy writes in her last sentence</p> <p>15 in the first paragraph, "We will be representing</p> <p>16 Big Shark, so all volunteers must wear some</p> <p>17 combination of their Big Shark apparel."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. I think you told me earlier that it</p> <p>21 wasn't necessary for you to wear your Big Shark</p> <p>22 apparel, but Amy's email seems to contradict</p> <p>23 that. Is that true?</p> <p>24 A. Well, in the first one in 2011, it</p> <p>25 didn't say it was necessary --</p>
<p style="text-align: right;">Page 127</p> <p>1 mean?</p> <p>2 Q. The next email that's in that</p> <p>3 same --</p> <p>4 A. Are you -- oh, in the same thread,</p> <p>5 not the next, as in 10.</p> <p>6 Q. No.</p> <p>7 A. Okay.</p> <p>8 Q. As in the same --</p> <p>9 A. As in page 8?</p> <p>10 Q. Yes.</p> <p>11 A. Okay.</p> <p>12 Q. So are these the written</p> <p>13 instructions that you received from Amy Strahan</p> <p>14 before the race in 2012?</p> <p>15 A. Yes.</p> <p>16 Q. It looks like it's quoted.</p> <p>17 A. It looks like that, yes.</p> <p>18 Q. And so it says here that "The</p> <p>19 cyclists -- the half-marathon cyclists should be</p> <p>20 done by 8 a.m.," but you were 15 minutes later</p> <p>21 than that?</p> <p>22 A. That would be for a very fast race.</p> <p>23 Q. Okay.</p> <p>24 A. For a very half-assed half marathon,</p> <p>25 and assuming they started on time.</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. Correct.</p> <p>2 A. -- the one we just read.</p> <p>3 Q. We're just talking about 2012 now.</p> <p>4 A. She may have said "must," as far as</p> <p>5 I know, and everyone wore it. I'm not sure,</p> <p>6 there perhaps may have been somebody who wasn't.</p> <p>7 I don't think anybody who showed up to volunteer</p> <p>8 who wasn't wearing it would have been denied the</p> <p>9 ability, denied --</p> <p>10 Q. Well, did anybody --</p> <p>11 A. -- wearing it.</p> <p>12 Q. -- show up not wearing their Big</p> <p>13 Shark kit?</p> <p>14 A. I don't recall. For that matter, it</p> <p>15 was cold and many of us wore jackets over our</p> <p>16 kits.</p> <p>17 Q. Did they have "Big Shark" on them?</p> <p>18 A. Not necessarily.</p> <p>19 Q. Does yours?</p> <p>20 A. One does and one doesn't.</p> <p>21 Q. Do you remember which one you</p> <p>22 rode --</p> <p>23 A. No.</p> <p>24 Q. -- rode with?</p> <p>25 Would the pictures help?</p>

<p style="text-align: right;">Page 138</p> <p>1 correct?</p> <p>2 A. That's what it looks like.</p> <p>3 Q. I think we've seen the email -- the</p> <p>4 first email from October 16th on page 95 before.</p> <p>5 Let's go to page 96. Amy writes in</p> <p>6 that middle -- the third paragraph in the middle</p> <p>7 email there, dated October 18th, 2012. She</p> <p>8 writes, "She does mention the hands free in her</p> <p>9 email, but I know not everybody used one or had</p> <p>10 one last year."</p> <p>11 Were you under the impression that</p> <p>12 you could or didn't need to have a Bluetooth</p> <p>13 hands-free device?</p> <p>14 A. I believe so.</p> <p>15 Q. And then the next email is from you</p> <p>16 dated October 18th, 2012. Talking -- generally</p> <p>17 speaking here, correct me if I'm wrong, that</p> <p>18 people can pick stuff up at your house after</p> <p>19 4 p.m. on Saturday, before the race?</p> <p>20 A. Correct.</p> <p>21 Q. And so you filled in for Amy because</p> <p>22 she couldn't go to the race anymore, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Go to the next page on 97. The</p> <p>25 middle email dated October 18th, 2012, at</p>	<p style="text-align: right;">Page 140</p> <p>1 yourself to a runner, regardless of gender, once</p> <p>2 that runner starts to pull away."</p> <p>3 Was that your experience?</p> <p>4 A. No.</p> <p>5 Q. What was your experience?</p> <p>6 A. We followed -- that we were locked</p> <p>7 into the assignments as listed.</p> <p>8 Q. So did you get an email from Amy</p> <p>9 after that telling you you were locked into your</p> <p>10 assignment?</p> <p>11 A. That was verbally told to us at the</p> <p>12 start.</p> <p>13 Q. By?</p> <p>14 A. The person who gave us our</p> <p>15 instructions at the start.</p> <p>16 Q. And you don't remember who that is?</p> <p>17 A. No.</p> <p>18 Q. If you look at page 102 and 103, the</p> <p>19 email that starts at the bottom of 102 from Amy</p> <p>20 Strahan, October 19th, 2012, at 3:39 p.m., do you</p> <p>21 see that email?</p> <p>22 A. Yes, I do.</p> <p>23 Q. And you received this email,</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 139</p> <p>1 11:40 p.m., Amy writes, "Here is the roster I</p> <p>2 sent along to Competitor Group."</p> <p>3 Now, I'm not sure which roster that</p> <p>4 is because I think there are two. There's the</p> <p>5 page -- the second page of this exhibit, and then</p> <p>6 there was another one. Let me see if I can find</p> <p>7 it.</p> <p>8 Do you know which roster that you</p> <p>9 produced as 2011 versus 2012?</p> <p>10 A. Let me see.</p> <p>11 Q. If you look at page 119.</p> <p>12 A. I think that's the 2011 roster.</p> <p>13 Q. Page 119 is?</p> <p>14 A. Yes.</p> <p>15 Q. And then the second page without any</p> <p>16 page number on it is the 2012 roster.</p> <p>17 A. I believe so. I'm not a hundred</p> <p>18 percent sure, though.</p> <p>19 Q. Okay. So going on in that same</p> <p>20 email from October 8th, 2012, at 11:40 p.m., from</p> <p>21 Amy to this group, including you, Amy writes,</p> <p>22 "Unless Jennifer, our contact, has locked us --</p> <p>23 locked into -- has us locked into the assignments</p> <p>24 as listed, we found out last year that as lead</p> <p>25 cyclists it is easier to just self-assign</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. If you look at the end of that</p> <p>2 email, before the "Many thanks," she writes,</p> <p>3 "Represent the Shark well," with an exclamation</p> <p>4 point. It's on the next page.</p> <p>5 A. Okay. Okay.</p> <p>6 Q. Is that something Amy typically said</p> <p>7 when you were going to ride together?</p> <p>8 A. I don't know.</p> <p>9 Q. You don't know. Do you know what</p> <p>10 she meant by that?</p> <p>11 A. Don't be an asshole.</p> <p>12 Q. Okay.</p> <p>13 A. Follow instructions.</p> <p>14 Q. Go to the last page of this group,</p> <p>15 106, please. It looks like "nidbrown@gmail.com."</p> <p>16 Do you know who that is?</p> <p>17 A. I'd have to look at the roster.</p> <p>18 Q. Okay.</p> <p>19 A. Do you want me to look at the</p> <p>20 roster?</p> <p>21 Q. Sure.</p> <p>22 A. I don't know who Nick is. I may</p> <p>23 know him by face. I'm bad with names.</p> <p>24 Q. He sent you an email at 2:23 a.m.</p> <p>25 "Just threw up, might not make it," and then at</p>

36 (Pages 138 - 141)

<p style="text-align: right;">Page 154</p> <p>1 SIGNATURE</p> <p>2 The deponent will read and sign the transcript of</p> <p>3 said examination under oath.</p> <p>4</p> <p>5 TRANSCRIPT DELIVERY</p> <p>6 Mr. Lemoine ordered the original, regular</p> <p>7 delivery.</p> <p>8 Copies: Mr. Litrownik.</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> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 156</p> <p>1 Veritext Legal Solutions</p> <p>2 515 Olive Street - Suite 300</p> <p>3 St. Louis, MO 63101</p> <p>4 Phone: 314-241-6750</p> <p>5 May 24, 2017</p> <p>6 To: Michael N. Litrownik</p> <p>7 Case Name: Liebesman, Yvette Joy, etc. v. Competitor Group, Inc.</p> <p>8 Veritext Reference Number: 2607297</p> <p>9 Witness: Yvette J. Liebesman Deposition Date: 5/11/2017</p> <p>10 Dear Sir/Madam:</p> <p>11 Enclosed please find a deposition transcript. Please have the witness</p> <p>12 review the transcript and note any changes or corrections on the</p> <p>13 included errata sheet, indicating the page, line number, change, and</p> <p>14 the reason for the change. Have the witness' signature at the bottom</p> <p>15 of the sheet notarized and forward errata sheet back to us at the</p> <p>16 address shown above, or email to production-midwest@veritext.com.</p> <p>17</p> <p>18 If the errata is not returned within thirty days of your receipt of</p> <p>19 this letter, the reading and signing will be deemed waived.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Sincerely,</p> <p>24</p> <p>25 Production Department</p>
<p style="text-align: right;">Page 155</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 STATE OF MISSOURI)</p> <p>3) SS:</p> <p>4 COUNTY OF ST. LOUIS)</p> <p>5 I, NANCY N. ABDALLAH, duly commissioned</p> <p>6 and qualified, do hereby certify that the within</p> <p>7 named witness, Yvette Joy Liebesman, was by me</p> <p>8 first duly sworn to testify the truth, the whole</p> <p>9 truth, and nothing but the truth in the cause</p> <p>10 aforesaid; that the testimony then given by the</p> <p>11 above-referenced witness was by me reduced to</p> <p>12 stenotypy in the presence of said witness;</p> <p>13 afterwards transcribed, and that the foregoing is</p> <p>14 a true and correct transcription of the testimony</p> <p>15 so given by the above-referenced witness.</p> <p>16 I do further certify that this</p> <p>17 deposition was taken at the time and place in the</p> <p>18 foregoing caption specified and was completed</p> <p>19 without adjournment.</p> <p>20 I do further certify that I am not a</p> <p>21 relative, counsel or attorney for either party,</p> <p>22 or otherwise interested in the event of this</p> <p>23 action.</p> <p>24 </p> <p>25 Nancy N. Abdallah, MO CCR Number 888, RPR</p>	<p style="text-align: right;">Page 157</p> <p>1 DEPOSITION REVIEW</p> <p>2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT NO: 2607297</p> <p>4 CASE NAME: Liebesman, Yvette Joy, etc. v. Competitor Group</p> <p>5 DATE OF DEPOSITION: 5/11/2017</p> <p>6 WITNESS' NAME: Yvette J. Liebesman</p> <p>7 In accordance with the Rules of Civil</p> <p>8 Procedure, I have read the entire transcript of</p> <p>9 my testimony or it has been read to me.</p> <p>10 I have made no changes to the testimony</p> <p>11 as transcribed by the court reporter.</p> <p>12</p> <p>13 _____ Date Yvette J. Liebesman</p> <p>14 Sworn to and subscribed before me, a</p> <p>15 Notary Public in and for the State and County,</p> <p>16 the referenced witness did personally appear</p> <p>17 and acknowledge that:</p> <p>18 They have read the transcript;</p> <p>19 They signed the foregoing Sworn</p> <p>20 Statement; and</p> <p>21 Their execution of this Statement is of</p> <p>22 their free act and deed.</p> <p>23 I have affixed my name and official seal</p> <p>24 this _____ day of _____, 20____.</p> <p>25 _____ Notary Public</p> <p> _____ Commission Expiration Date</p>

40 (Pages 154 - 157)

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Attachment A

<p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS</p> <p>2 ASSIGNMENT NO: 2607297</p> <p>3 CASE NAME: Liebesman, Yvette Joy, etc. v. Competitor Group DATE OF DEPOSITION: 5/11/2017</p> <p>4 WITNESS' NAME: Yvette J. Liebesman</p> <p>5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me.</p> <p>7 I have listed my changes on the attached Errata Sheet, listing page and line numbers as 8 well as the reason(s) for the change(s).</p> <p>9 I request that these changes be entered as part of the record of my testimony.</p> <p>10</p> <p>11 I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my 12 testimony and be incorporated therein.</p> <p>13 _____ Date Yvette J. Liebesman</p> <p>14</p> <p>15 Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear 16 and acknowledge that:</p> <p>17 They have read the transcript; They have listed all of their corrections 18 in the appended Errata Sheet; They signed the foregoing Sworn 19 Statement; and Their execution of this Statement is of 20 their free act and deed.</p> <p>21 I have affixed my name and official seal 22 this _____ day of _____, 20____.</p> <p>23 _____ Notary Public</p> <p>24</p> <p>25 _____ Commission Expiration Date</p>	<p>Page 158</p>
<p>1 ERRATA SHEET VERITEXT LEGAL SOLUTIONS MIDWEST</p> <p>2 ASSIGNMENT NO: 2607297</p> <p>3 PAGE/LINE(S) / CHANGE /REASON</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 _____ Date Yvette J. Liebesman</p> <p>21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____</p> <p>22 DAY OF _____, 20____.</p> <p>23 _____ Notary Public</p> <p>24</p> <p>25 _____ Commission Expiration Date</p>	<p>Page 159</p>