

**EXHIBIT F**

**In the Matter Of:**  
**CIN-Q AUTOMOBILES vs. BUCCANEERS**

8:13-cv-1592-EAK-AEP

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**MANUAL ALVARE**

*May 02, 2014*

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1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF FLORIDA  
3 TAMPA DIVISION

4 CASE NO. 8:13-cv-1592-EAK-AEP

5 CIN-Q AUTOMOBILES, INC. And  
6 MEDICAL & CHIROPRACTIC CLINIC,  
7 INC., Florida corporations,  
8 individually and as the  
9 representative of a class of  
10 similarly-situated persons,

11 Plaintiff,

12 vs.

13 BUCCANEERS LIMITED PARTNERSHIP and  
14 JOHN DOES 1-10,

15 Defendants.  
16 \_\_\_\_\_/

17 DEPOSITION OF MANUAL ALVARE  
18 PAGE 1 - 94

19 Friday, May 2, 2014  
20 8:57 a.m. - 11:00 a.m.

21 Cole Scott & Kissane  
22 4301 West Boy Scout Boulevard, Suite 400  
23 Tampa, Florida 33607  
24 -----

25 REPORTED BY:  
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Notary Public  
State of Florida at Large  
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1           The deposition of MANUAL ALVARE was taken pursuant  
2 to Notice by counsel for the Plaintiff on Friday, May 2,  
3 2014, commencing at 8:57 a.m. at Cole Scott & Kissane,  
4 4301 West Boy Scout Boulevard, Suite 400  
5 Tampa, Florida 33607. Said deposition was reported by  
6 Evelyn M. Adrean, RPR, FPR, Notary Public, State of  
7 Florida at Large.

8                               - - - - -

9       THEREUPON:

10               THE REPORTER: Raise your right hand, please.

11               Do you swear or affirm that the testimony you  
12 give today will be the truth, the whole truth and  
13 nothing but the truth?

14               THE WITNESS: I do.

15                               MANUAL ALVARE,  
16 a witness, having been duly sworn to tell the truth, the  
17 whole truth and nothing but the truth, was examined and  
18 testified as follows:

19                               DIRECT EXAMINATION

20       BY MR. SOLBERG:

21           Q       Can you state and spell your name for the  
22 record, please?

23           A       Full name is Manuel Alvare, M-a-n-u-e-l,  
24 Alvare is A-l-v-a-r-e.

25           Q       All right. Let the record reflect that this

1 is the deposition of Manuel Alvare taken pursuant to  
2 subpoena, pursuant to notice of the federal rules of  
3 civil procedure the local rules of the Middle District  
4 of Florida. Good morning.

5 A Morning.

6 Q I'm one of the attorneys representing the  
7 Plaintiff in this case, I'm here with Ross Good. I'm  
8 going to be asking you questions today regarding this  
9 lawsuit and some questions about your background. Have  
10 you ever been deposed before?

11 A Yes.

12 Q How many times?

13 A Once.

14 Q What type of case was it?

15 A It was a -- I was a deponent, it was a  
16 30(b)(6).

17 Q What was the title of the case?

18 A I don't recall.

19 Q Who were you a 30(b)(6) witness for?

20 A Jim Walter Homes.

21 Q Have you ever taken any depositions before?  
22 You are an attorney; correct?

23 A Yes. But no, I've never taken a deposition.

24 Q As I said, I'm going to asking you questions  
25 about this lawsuit. If you don't understand a question,

1 tell me and I'll rephrase it. Please let me finish my  
2 question before you answer, and I'll do the same with  
3 you so we can get a clean record. Your answers have to  
4 be verbal, uh-huh or huh-uh is just too hard for the  
5 court reporter to get. You understand that?

6 A Yes.

7 Q Are you represented by counsel today?

8 A No.

9 Q And are you on any medication that would  
10 interfere with your ability to answer the questions  
11 truthfully and honestly?

12 A No.

13 Q Without telling me the subject matter of any  
14 discussions with any attorneys that you may have had  
15 discussions with in preparation for this case, did you  
16 talk to any attorneys in preparation for this  
17 deposition?

18 A Yes.

19 Q Who did you talk to?

20 A Barry Postman.

21 Q And as you said, Mr. Postman does not  
22 represent you at this deposition; is that correct?

23 A Correct.

24 Q When did you talk to Mr. Postman?

25 A Yesterday.

1 Q Prior to yesterday, when was last time you  
2 talked with Mr. Postman?

3 A Four weeks ago.

4 Q And let me backtrack. When we say  
5 "yesterday," today's date is May 1st. So you talked to  
6 him -- no. Today's May 2nd, so you talked to him May  
7 1st; correct?

8 A Correct.

9 Q Four weeks ago, do you remember the exact  
10 date?

11 A I don't.

12 Q Is that the first time that you talked to Mr.  
13 Postman, four weeks ago?

14 A Yes.

15 Q And what did you discuss with Mr. Postman four  
16 weeks ago?

17 A We discussed the basics of this case.

18 Q What do you understand the basics of this case  
19 to be?

20 A That there's a class action against the Tampa  
21 Buccaneers for violation of the fax campaign that  
22 occurred at the Buccaneers during my tenure.

23 Q Did you review any documents in preparation  
24 for your deposition today?

25 A I did.



1 Q What did you review?

2 A Mr. Postman showed me several documents, one  
3 of which was a letter -- excuse me, two letters from  
4 Mrs. Towzey, Phyllis Towzey.

5 Q Do you recall speaking to Ms. Towzey?

6 A I do recall speaking to Ms. Towzey.

7 Q Did you review any documents other than those  
8 two letter from Phyllis Towzey?

9 A And one e-mail that I sent to Matt Kaiser.

10 MR. SOLBERG: And for the record, Towzey is  
11 spelled -- let's get it right -- T-o-w-z-e-y.

12 BY MR. SOLBERG:

13 Q Do you recall -- and I'm talking in the last  
14 month or two -- when you first were made aware of this  
15 case again? Do you understand that question? You got a  
16 call from Mr. Postman four weeks ago, and what did he  
17 discuss with you?

18 A That there was a case, that what did I recall  
19 from it.

20 Q Do you know whether that's was before or after  
21 the deposition of Steve Tazer (phonetic)?

22 A Who?

23 Q Let me -- strike that. Let me ask it again.  
24 Are you familiar with an individual by th name of --

25 MR. POSTMAN: Matt Kaiser?

1 MR. SOLBERG: I always call him Steve, and I  
2 can never figure out why.

3 BY MR. SOLBERG:

4 Q Matt Kaiser.

5 A Do I recall Matt Kaiser?

6 Q Yes.

7 A Yeah.

8 Q And did you work with Matt Kaiser?

9 A I did.

10 Q And he was on an employee of --

11 MR. SOLBERG: And I'll refer to the Tampa Bay  
12 Buccaneers as BLP, if we agree on that?

13 MR. POSTMAN: That's up to you.

14 BY MR. SOLBERG:

15 Q Was he an employee of BLP?

16 A As I recall, yes.

17 Q Did this discussion with Mr. Postman take --  
18 strike that. Are you aware of whether Matt Kaiser was  
19 deposed in this case?

20 A Mr. Postman advised me that he was.

21 Q And did Mr. Postman tell you to expect a call  
22 from Plaintiff's attorneys regarding this case?

23 A No.

24 Q Have you ever told anybody that Mr. Postman  
25 or -- strike that. Were you advised by any attorneys to



1 expect a call from Plaintiff's in this case?

2 A David Cohen said that I may hear from them.

3 Q Were you ever told not to talk to Plaintiff's  
4 attorneys regarding this case?

5 A No.

6 Q The documents that you reviewed, the two  
7 letters from Ms. Towzey, did you have copies of those in  
8 your own records?

9 A I do not.

10 Q Had you recalled seeing those documents  
11 before?

12 A I don't recall the specific documents, no.

13 Q But you do recall reviewing something from Ms.  
14 Towzey, some letters, some correspondence; is that  
15 correct?

16 A In which timeframe?

17 Q In September of 2009, August, September 2009.

18 A I don't recall receiving any letters, I don't  
19 recall that specific instance. I recall the name.

20 Q And you also recall talking to her?

21 A Correct.

22 Q Did you have more than one conversation with  
23 her?

24 A Not that I recall.

25 Q Do you keep a record of the conversations that

1 you have back -- strike that. Let me lay a little  
2 foundation. When were you employed by BLP, from what  
3 year to what year?

4 A 2009 to 2010.

5 Q When did you start in 2009?

6 A May 2009.

7 Q How did you get the job?

8 A I was contacted by an attorney that  
9 represented the Tampa Bay Buccaneers.

10 Q Who was that?

11 A Tim Hunt.

12 Q Did you interview for the position?

13 A I did.

14 Q Who did you interview with?

15 A Brian Ford and the Glazers.

16 Q What's Mr. Ford's position with BLP?

17 A At the time, he was VP of business  
18 administration.

19 Q And at the time -- he was VP of business  
20 administration during your tenure as -- with BLP;  
21 correct?

22 A Correct.

23 Q By the way, am I correct in referring to them  
24 as BLP, is that your understanding that there's a  
25 proper --

1 A That the proper corporate name is Buccaneers  
2 Limited Partnership, yes.

3 Q Did you interview with anyone other than Mr.  
4 Ford?

5 A Glazers.

6 Q Which ones?

7 A Brian, Ed, and Joel.

8 Q Where did the interviews take place?

9 A Video conference and at the Buccaneers  
10 facility.

11 Q Did you interview with all of them on the same  
12 day?

13 A No.

14 Q How quickly after you interviewed with them  
15 did you get the job?

16 MR. POSTMAN: I'm not going to object to it,  
17 but I don't know the relevance of it, but --

18 MR. SOLBERG: Just background. We're not  
19 going to spend too much more time.

20 A Several weeks.

21 Q You said you worked there from 2009 to 2010.  
22 When did you stop work for them, what month, do you  
23 recall?

24 A July.

25 Q July of 2010?

1 A Correct.

2 Q What were the circumstances of your departure?

3 A It was a mutual agreement to just end the  
4 relationship.

5 Q And your position with BLP was as general  
6 counsel; correct?

7 A Correct.

8 Q Did you have anybody working for you?

9 A I had a legal assistant. Prior to that legal  
10 assistant, I had a paralegal.

11 Q You had an office with BLP; correct?

12 A Correct.

13 Q Where was your office at?

14 A In the facility.

15 Q When you say "the facility" --

16 A At the training facility, One Buc Place.

17 Q You had a computer, I assume?

18 A Yes.

19 Q Did you have a laptop, as well?

20 A Just a laptop.

21 Q Just a laptop. You had an e-mail address, as  
22 well?

23 A Yes.

24 Q What was it, do you recall?

25 A malvare@buccaneers.nfl.com.

1 Q What were your duties with BLP as general  
2 counsel?

3 A Oversee all legal aspects of the company,  
4 review contracts, assist and oversee the human resources  
5 department.

6 Q Let me backtrack for a second regarding your  
7 educational history. Where did you go to college?

8 A University of Florida.

9 Q What year did you graduate?

10 A 1999.

11 Q What did you graduate with, what kind of  
12 degree?

13 A Economics.

14 Q And you went to a law school; correct?

15 A Yes.

16 Q Where did you go?

17 A St. Thomas University School of Law.

18 Q Where's that at?

19 A Miami, Florida.

20 Q What year did you graduate from that?

21 A 2005.

22 Q And what was your first job after you were --  
23 strike that. You were obviously sworn in as an  
24 attorney; correct?

25 A Correct.

1 Q What was your first job after you were sworn  
2 in?

3 A I was litigation counsel for Jim Walter Homes.

4 Q Can you spell that for me?

5 A Jim Walter? J-i-m --

6 Q Oh, all right. I wasn't understanding you.  
7 I'm sorry.

8 A Walter.

9 Q And I'm also breaking one of the rules, I'm  
10 talking over your answer. Sorry about that. What did  
11 you do for them?

12 A Litigation counsel, managed the litigation,  
13 reviewed contracts.

14 Q How long did you work for Jim Walter?

15 A 3 years.

16 Q So that brings us up to 2008; correct?

17 A 2006 to 2009.

18 Q 2009. And was your next job at BLP?

19 A Correct.

20 Q You said part of your duties with BLP were  
21 reviewing contracts. How would a contract come to your  
22 attention, how would someone access your opinion on a  
23 particular contract?

24 MR. POSTMAN: You can answer questions  
25 generally, because I don't think a general answer



1 would violate the attorney/client privilege, it's  
2 more of a policy or procedure, so in all fairness to  
3 that question. But to the extent that it's  
4 inquiring about specifics, I'm going to instruct you  
5 not to answer. But in all fairness to the question,  
6 it didn't. I just wanted to make sure that you are  
7 aware of the privilege that we are asserting with  
8 regard to this particular issue.

9 Q And so we're clear here, I'm just looking for  
10 procedure. Some matters end up at your desk as general  
11 counsel, what was the normal procedure by which matters  
12 ended up on your desk.

13 A Either handed to me or via e-mail.

14 Q Who did you report to?

15 A Brian Ford.

16 Q Anyone else?

17 A The Glazers.

18 Q Same three you interviewed with?

19 A (Witness nodded head.)

20 Q You have to say yes or no.

21 A Yes.

22 Q Caught you on that one. Did you have a title  
23 besides general counsel?

24 A I carried the title director of human  
25 resources.

1 Q Any other titles, any executive titles?

2 A No, no.

3 Q When these matters would be referred to you,  
4 did you keep a file on them in the normal course of your  
5 duties as a general counsel?

6 A It would depend on the matter.

7 Q When you would review a contract, again in the  
8 normal course, would keep a file on that?

9 MR. POSTMAN: Object to the form. You can  
10 answer.

11 A Not always.

12 Q What would be the circumstances where you  
13 would maintain a file on a particular contract for  
14 review?

15 MR. POSTMAN: Again, I'm going to instruct you  
16 not answer anything specific as it relates to a  
17 specific issue that you may have dealt with. But  
18 again, in all fairness to the question it didn't ask  
19 for a specific issue, it was more of a general  
20 question.

21 THE WITNESS: Can you read the question back?

22 (Court reporter read back the question.)

23 A I can't think of an example.

24 Q All I'm getting at is this: Is there a  
25 tipping point where, yeah, I better keep a file of this



1 particular matter, or was it just item by item you made  
2 a call as to whether to keep a file?

3 A Item by item I made a call.

4 Q On the items that you did keep a file on, was  
5 it a physical file, by that I mean hard copy or was it  
6 an electronic file, or did you keep electronic files?

7 A Depends on how the material's handed to me.  
8 If there was hard copies, I would keep a hard copy file;  
9 if there was -- if it was all electronic, I would  
10 maintain an electronic file.

11 Q Were where these hard copies kept, where were  
12 the files located?

13 A Outside of my office.

14 Q How many file cabinets did you have, do you  
15 remember?

16 A I don't recall.

17 Q Where were the electronic files stored?

18 A On a drive.

19 Q Who did Mr. Ford's report to, the Glazers?

20 A Yes.

21 Q Are there any -- what other executives were  
22 there? Now, you've identify three of the Glazer, Brian  
23 Ford, and yourself who's general counsel and director of  
24 human resources. Are there any other individuals in  
25 management during your tenure from 2009 to 2010 that we

1 haven't named?

2 A What level of management are you talking  
3 about?

4 Q Executive. Let's start at the executive  
5 level, officers.

6 A Only officers would be the owners.

7 Q Presidents, vice presidents, those would be  
8 the Glazers?

9 A Correct.

10 Q Now during your tenure as general counsel,  
11 would you have occasion to refer cases to outside  
12 counsel?

13 A Yes.

14 Q How often did that happen in your tenure?

15 MR. POSTMAN: Again, I'm going to instruct you  
16 not answer specific. But that's a general question,  
17 of which in all fairness to counsel, he's entitled  
18 to an answer.

19 A I don't know how often.

20 Q Was that a call that you were able to make in  
21 your own, or did you need direction from your superiors  
22 to refer a case out?

23 MR. POSTMAN: Again, as it relates to general  
24 answers, procedure, I think it's appropriate to  
25 inquire, but as it relates to specific issues in

1 terms of the mind thinking of how the process worked  
2 and which cases were handled which ways, I think  
3 that could be privileged. So generally, yes;  
4 specifically, I instruct you not to answer.

5 Q Do you understand that?

6 A Repeat the question?

7 Q You're going to refer a case out. Do you have  
8 to get permission from your superiors, or can you do  
9 that on your own?

10 A Can do that on my own.

11 Q Would you advise your superiors that you  
12 had -- and again, in the normal course, not  
13 specifically. Was it the normal course to send memos  
14 regarding cases that were referred to particular  
15 attorney?

16 A Was it the normal course, is that what you  
17 asked?

18 Q Yeah. You refer a case out, do you have to  
19 let anybody know in management that you had done so?

20 MR. POSTMAN: Object to the form.

21 A Yes.

22 Q Who would you have to let know?

23 A Brian Ford.

24 Q Mr. Ford still employed by BLP?

25 A As I understand it, yes.

1 MR. POSTMAN: You're taking his depo at 2:00.  
2 I'll give you that answer, that one I'll give you  
3 for free. The rest I'm going to charge you for.

4 MR. SOLBERG: Off the record.

5 (Brief discussion held off the record.)

6 BY MR. SOLBERG:

7 Q During your tenure as general counsel, did you  
8 have occasion to draft contracts?

9 A Contracts, yes.

10 Q How often; is that something you're doing  
11 every day, something you do once a month, you did three  
12 times in two years.

13 MR. POSTMAN: Form.

14 A I couldn't even tell you, no idea.

15 Q What types of contracts -- the ones that you  
16 did draft, what type of contracts were they, was the  
17 subject matter of them?

18 MR. POSTMAN: So I don't know if he's asking  
19 for a specific one or general.

20 Q I'll tell you what I'm after just to end the  
21 suspense. I mean, you didn't draft player contracts; is  
22 that correct?

23 A No.

24 MR. POSTMAN: That's completely not relevant  
25 to the case, but okay.

1 Q Exactly. Just trying to -- I just want to  
2 know what types of contracts you would draft, a company  
3 providing service to the Bucs?

4 A Yes.

5 Q And do you recall how often you had to do  
6 that?

7 A No.

8 Q What type of service contracts would you  
9 draft?

10 A Depends on the service being provided.

11 Q What kind of services did the Bucs need?

12 A Maintenance contracts, vendor contracts.

13 Q And if you weren't drafting those contracts,  
14 you would be reviewing the contracts that were submitted  
15 to you; correct?

16 MR. POSTMAN: Object to the form.

17 A Correct.

18 MR. SOLBERG: By the way, as I'm looking  
19 through the notes here, another ground rule for  
20 deps, as your counsel will tell you, if you want to  
21 take a break, tell me?

22 THE WITNESS: I do want to take a break. Let  
23 me wrap for the coffee.

24 MR. SOLBERG: There you go.

25 (Short recess from 9:16 to 9:23 a.m.)

1 BY MR. SOLBERG:

2 Q You're currently employed; correct?

3 A Yes.

4 Q And by whom are you employed?

5 A CRS Holding of America.

6 Q When did you start working for them?

7 A August 2010.

8 Q Where are they located?

9 A Based here in Tampa, Florida.

10 Q What do you do for them?

11 A General counsel, corporate secretary.

12 MR. SOLBERG: Let me hand you what's been  
13 marked as Exhibit 1.

14 MR. POSTMAN: To this depo?

15 MR. SOLBERG: Yeah. To your deposition.

16 MR. POSTMAN: Do you remember when I tried --  
17 do you remember, Ross -- you probably weren't there.  
18 I said to him, we can have different exhibits at  
19 every -- no. Then we had 35 at some exhibit depo.

20 MR. SOLBERG: And I'd ask that you take a look  
21 at that, take your time and take a look at that.

22 BY MR. SOLBERG:

23 Q You had a chance to look at what we've marked  
24 as Exhibit 1 for this deposition?

25 A Yes.



1 Q What is it?

2 A It's an e-mail from Matt Kaiser to me  
3 attaching an agreement with FaxQom.

4 Q And the date of this e-mail is August 3rd,  
5 2009; correct?

6 A Correct.

7 Q And what this says is: Manny -- which is you;  
8 correct?

9 A Correct.

10 Q Attached is the agreement including a fully  
11 executed indemnification. Do you see that?

12 A Yes.

13 Q If you turn to page 2 -- and for the record,  
14 Exhibit 1 is Bates stamped BLP 66 through 69 inclusive.  
15 If you turn to page 2, at the top of it, it's FaxQom,  
16 and it says: Fax broadcast order form. Do you see  
17 that?

18 A Yes.

19 Q Did you review this contract before it was  
20 entered into by BLP?

21 MR. POSTMAN: I'd like to talk to him to see  
22 if it's a privilege issue before he answers the  
23 question.

24 MR. SOLBERG: Go ahead.

25 MR. POSTMAN: I just -- I'm trying to not to

1 fight over something.

2 MR. SOLBERG: Go ahead. Off the record.

3 (Brief recess.)

4 MR. POSTMAN: The question was whether I  
5 assert a privilege, and my understanding is when a  
6 privilege is pending, in order to not fight -- well,  
7 I'll after you hear the answer, you'll understand  
8 why I'm not objecting.

9 MR. SOLBERG: Yeah, I hear you, okay.

10 THE WITNESS: Repeat the question.

11 MR. SOLBERG: Could you?

12 (The reporter read back the question.)

13 A I don't recall reviewing this contract.

14 MR. POSTMAN: So just so you understand, we  
15 can fight over whether it's privileged or not, but  
16 if he doesn't remember, why should we fight over  
17 something that there's no reason to fight over.  
18 Really, I'm just trying to avoid that fight.

19 Q Okay. If we go to the first page of this  
20 exhibit, it says: Please let me know if you need  
21 anything else. That's the second line, do you see that?

22 A Yes.

23 Q Do you recall what that is in reference to?

24 A No.

25 Q Do you recall whether you asked Matt Kaiser



1 for a copy of the executed indemnification agreement?

2 A I don't recall.

3 Q Would that be the normal course when you were  
4 general counsel for BLP that you would ask for a copy of  
5 an indemnification agreement?

6 MR. POSTMAN: Object to form.

7 A In this instance, I don't recall.

8 Q If you look down on this -- I'm on the page --  
9 FaxQom fax broadcast order form. You go to the  
10 schedule, and there's three lines there, just have  
11 dates. The next to lines, the acceptance of this  
12 agreement, do you see that portion of this?

13 A I'm sorry, what page are you on?

14 Q Right here.

15 A Okay.

16 Q You see where I've pointed out on the document  
17 to where I want you to be?

18 A Yes.

19 Q There's initials that are circled there.  
20 There's something that's circled there. Do you see  
21 that?

22 A Yes.

23 Q Do you know whose initials those are?

24 A I do not.

25 Q If you turn to the next page, BLP 68, and the

1 title of this document is called Fax Indemnity  
2 Agreement. Do you see that?

3 A Yes.

4 Q Could you to yourself read that agreement?

5 MR. POSTMAN: You can read it out loud.

6 MR. SOLBERG: Read it to yourself.

7 MR. POSTMAN: Just a joke. Trying to make  
8 some levity here in the middle of --

9 MR. GOOD: Oh, let's get done quickly.

10 MR. POSTMAN: I wouldn't mind getting home.  
11 I'm not stopping you.

12 A Okay.

13 Q Having read that fax indemnity agreement, do  
14 you recall reading that in 2009?

15 A No.

16 Q Says Steven Simms on the bottom, executive VP  
17 of marketing. Do you see that?

18 A Yes.

19 Q Do you have a recollection of who Steven Simms  
20 is other than the title?

21 A I recall the name associated with FaxQom.

22 Q Have you ever talked to Steven Simms?

23 A I believe I may have at one time.

24 Q Do you recall when that conversation would  
25 have taken place?

1 A No.

2 Q Do you recall what you said to him and what he  
3 said to you?

4 A It was in reference to Ms. Towzey's letter.

5 Q That call, do you keep a record of that, when  
6 you were general counsel and you would make the call  
7 such as the call you remember making to Steven Simms,  
8 would you keep a record of that?

9 A Not necessarily.

10 Q If you did keep a record of that, where would  
11 that normally be located? Do you know what I'm saying?

12 A It's in a hard or electronic file.

13 Q Did you keep a hard file for this matter with  
14 Ms. Towzey?

15 A I don't recall.

16 Q Did you keep an electronic file for this  
17 matter with Ms. Towzey?

18 A I don't recall.

19 Q I'm sorry if I've asked you this, I don't  
20 think I have. Did the you draft this fax indemnity  
21 agreement on BLP 68?

22 A I don't recall.

23 Q Do you know why this fax indemnity agreement  
24 was drafted?

25 MR. POSTMAN: I don't know if you know the

1 answer or not. If you know the answer, predicated  
2 upon a conversation with your client, that would be  
3 privileged. If you don't know the answer, then I  
4 don't want to fight over the issue. We could step  
5 outside, but that would be the advise I would  
6 suggest outside.

7 THE WITNESS: Ask the question again.

8 (The reporter read back the question.)

9 MR. POSTMAN: If you know the answer and the  
10 only reason you know the answer is predicated upon  
11 your conversation with your client, I'm going to  
12 instruct you not to answer.

13 A It's privileged.

14 Q Did you request a fax indemnity agreement from  
15 Steve Simms?

16 MR. POSTMAN: I'm going to object and instruct  
17 you not to answer. I don't know if you know or -- I  
18 don't know the answer, but I'm going to instruct --

19 A I don't recall that.

20 MR. POSTMAN: Okay. Simple.

21 MR. SOLBERG: But if he requested one from  
22 Steven Simms, that's not privileged. Steven Simms  
23 is a third party.

24 MR. POSTMAN: Fair enough.

25 MR. SOLBERG: I mean, he answered it, I

1 understand.

2 MR. POSTMAN: You won that one, I agree.

3 MR. SOLBERG: Excellent.

4 MR. POSTMAN: One for you.

5 BY MR. SOLBERG:

6 Q Turning --

7 MR. POSTMAN: So quick to get objections on  
8 the record, I just -- you're right. Conversations  
9 between him and Mr. Simms are not privileged.

10 Q Turning to BLP 69, page 3 of 3 on the bottom,  
11 do you see that?

12 A Yes.

13 Q Take a second and read that to yourself, as  
14 well.

15 A Okay.

16 Q Do you recall who drafted Exhibit A?

17 A No.

18 Q Now, let's go back to the previous page 2 of  
19 3, BLP 68. If you look to the second full paragraph,  
20 you see reference to TCP of 1991 Telephone Consumer  
21 Protection Act. Do you see that?

22 A Yes.

23 Q At this point in time when this agreement  
24 was -- or this e-mail was sent to you on August 3rd,  
25 2009, did you have an understanding as to the TCPA and

1 its requirement.

2 A I don't recall.

3 Q After receiving this e-mail from Mr. Kaiser --  
4 and by the way, Kaiser is K-a-i-s-e-r. After receiving  
5 this from Mr. Kaiser, did you have occasion to review  
6 the TCPA?

7 A I don't recall.

8 Q Going to the first paragraph where it's part  
9 of the indemnification agreement, it says: Indemnify,  
10 defend from any and all legal issues that may arise from  
11 fax broadcasting through FaxQom. Do you see that?

12 A Yes.

13 Q What legal issues were you concerned with?

14 MR. POSTMAN: I'm going to object and instruct  
15 you not to answer as it predicates upon your mental  
16 impression as their counsel.

17 A I don't recall.

18 MR. SOLBERG: For the record -- and I think I  
19 know the answer to this -- but you don't represent  
20 him, correct, you're asserting BLP's attorney/client  
21 privilege.

22 MR. POSTMAN: It's their privilege and his --  
23 by the way, he answered the question. I'm saying it  
24 by saying he doesn't recall so that you know. But  
25 the answer to your question is, in all due respect



1 to Mr. Alvare, it's not his privilege, it's my  
2 client's privilege and him serving as counsel with  
3 regard to his work product, his attorney/client  
4 communication, and his mental impression are my  
5 client's privilege. It would be my client that has  
6 a standing to raise it. But he -- in all fairness,  
7 Wally, he answered by saying he didn't recall,  
8 saving all of us a fight.

9 BY MR. SOLBERG:

10 Q Do you recall whether you retained a copy of  
11 this e-mail when it was sent to you from Mr. Kaiser?

12 A No.

13 Q Would it have been your custom and practice to  
14 review a contract like this before it was signed?

15 MR. POSTMAN: I think you asked that.

16 Q I think I did, but go ahead.

17 MR. POSTMAN: Let me say this: Object to the  
18 form.

19 A Yes.

20 Q And again, at the risk -- I can't remember if  
21 you answered this or not, but do you have a specific  
22 recollection of reviewing this agreement before, for  
23 instance, the August 3rd, 2009 date?

24 A No.

25 Q If you had reviewed that agreement, is that

1 the kind of thing you would make note of in a file?

2 A Not necessarily.

3 Q Let me hand you what's been marked as Exhibit  
4 2.

5 MR. POSTMAN: You pre-marked your exhibits,  
6 look at that. Just for the record, this is a  
7 document that this witness' name does not appear on.

8 MR. SOLBERG: And I'll tell you, I'm  
9 concentrating on the first paragraph, so just read  
10 that part.

11 BY MR. SOLBERG:

12 Q Do you see that -- for the record, Exhibit 2  
13 is an e-mail from Matt Kaiser to Edward Glazer dated  
14 July 9th, 2009. Do you see that at the top of this  
15 e-mail?

16 A Yes.

17 Q And it's marked BLP 136. Now, on the first  
18 paragraph, this e-mail says: I sent the agreements out  
19 today for the text e-mail and fax campaigns. They  
20 included the indemnifications approved by Manny and  
21 Exhibit A that I put together allowing us to cancel at  
22 any time. Then the sentence continues. Having reviewed  
23 that language, does that refresh your recollection  
24 as to whether you reviewed Exhibit 1?

25 A No.



1 Q Do you have any reason to disbelieve this  
2 statement in here by Mr. Kaiser that you reviewed the  
3 indemnification agreement?

4 MR. POSTMAN: Form.

5 A No.

6 MR. SOLBERG: I'm handing the witness what  
7 we've marked as Exhibit 3, and I'd ask that he take  
8 a look at it.

9 Q Take a look at that. Based on your review of  
10 that, you've seen that letter recently, have you not?

11 A Yes.

12 Q And what is that, what is Exhibit 3?

13 A A letter from the Law Offices of Phyllis  
14 Towzey dated August 20th, 2009 to Brian Ford.

15 Q Do you recall viewing this letter in 2009?

16 A No.

17 Q Would it be unusual for Mr. Ford to receive a  
18 letter like this and refer it to you?

19 A No.

20 Q This letter is addressed to Brian A. Ford,  
21 registered agent for Tampa Bay Football Corporation. Do  
22 you see that?

23 A Yes.

24 Q And it's dated August 20th, 2009?

25 A Yes.

1 Q And the letter states that Ms. Towzey received  
2 fax advertisements on July 19th and August 17th of 2009.  
3 Do you see that within the text of letter?

4 A No. I see July 14th, 2009.

5 Q I stand corrected. July 14th and August 17;  
6 correct?

7 A Correct.

8 Q Were you aware as of August 20th, 2009 that  
9 BLP was advertising for football tickets via facsimile?

10 MR. POSTMAN: Form.

11 A Was I aware?

12 Q Yes.

13 A Yes.

14 Q In this letter, Ms. Towzey discusses the  
15 Telephone Consumer Protection Act. Do you see that?

16 A Yes.

17 Q Do you recall -- strike that. You testified  
18 that you don't recall having this letter being provided  
19 to you by Mr. Ford; is that right?

20 A Correct.

21 Q But you do recall talking to Ms. Towzey at a  
22 certain point in 2009; correct?

23 A Correct.

24 Q Can you recall when you were general counsel  
25 receiving any other letters besides Ms. Towzey's? And I

1 know you testified you don't recall seeing it in 2009,  
2 but can you recall receiving any other complaints  
3 regarding fax advertising by BLP in the 2009, 2010  
4 timeframe?

5 A No.

6 Q This letter specifically quotes from the  
7 Telephone Consumer Protection Act, which for the  
8 deposition I'm going to call TCPA, okay, can we agree on  
9 that?

10 A Yes.

11 Q Can you recall reading any portions of the  
12 TCPA in the 2009 -- let's just date it from June 1st,  
13 2009 to at any point in 2009?

14 MR. POSTMAN: I'm going to object and instruct  
15 you not to answer the question predicated upon the  
16 work product because there would be -- I'm assuming  
17 you did it in furtherance of your job to the extent  
18 that you did do it as counsel for the Buccaneers.

19 MR. SOLBERG: Again, just to flesh out the  
20 records. I'm just asking if he read the TCPA in  
21 2009, the statute, and you're instructing him not to  
22 answer that question?

23 MR. POSTMAN: That answer's yes. Tell you  
24 what, make it easy. Why don't ask him without  
25 answering whether he remembers if he did or he

1        didn't, and then we can not fight over it. But the  
2        short answer is, what work he did just so you  
3        understand, Wally, what work he did in furtherance  
4        of his job as general counsel for the Buccaneers in  
5        2009 whether it's research or otherwise in my  
6        opinion is privileged. But he may not remember, in  
7        which case we're fighting over nothing. So if you  
8        want to ask him if he doesn't remember, it may make  
9        it easy. But if he does remember, the specifics of  
10       what he did, I think is privileged.

11                MR. SOLBERG: We'll take your counsels  
12       suggestion.

13 BY MR. SOLBERG:

14        Q        Do you recall in 2009 whether you reviewed any  
15        portion of the TCPA?

16        A        No.

17                MR. POSTMAN: That makes another fight  
18       somewhat irrelevant.

19        Q        On page 2 of her letter to Brian Ford, dated  
20        August 20th, 2009, the top paragraph, the letter  
21        references a case, Nicholson versus Hooters of Augusta,  
22        Inc. Do you see that?

23        A        Yes.

24        Q        Do you remember whether or not you reviewed  
25        that particular case in 2009 or at any other time?

1 A No.

2 Q It also -- the same paragraph also references  
3 a suit against the Dallas Mavericks. Do you see that  
4 portion of the paragraph?

5 A Yes.

6 Q Did you recall -- do you remember, without  
7 saying -- do you remember whether you made any enquiries  
8 about that particular case?

9 A No, I do not recall.

10 Q Now, Ms. Towzey makes a demand in this letter.  
11 Do you see that?

12 A Yes.

13 Q And that's in the second paragraph of this  
14 letter, and she asks for \$3,000 for the 2 occurrences.  
15 Do you see that?

16 A Yes.

17 Q Would it be the custom and practice of BLP to  
18 refer demand letters to you as general counsel?

19 A Yes.

20 Q And you can't recall whether or not this  
21 letter was referred to you, correct, it very well could  
22 have been?

23 A Correct. I do not recall this particular  
24 letter.

25 Q Did you know Phyllis Towzey prior to 2009?

1 A No.

2 Q And you eventually called Ms. Towzey, as  
3 you've testified; correct?

4 A Yes.

5 Q And do you have any reason to believe as you  
6 sit here today that you didn't review this August 20,  
7 2009 letter before you called Ms. Towzey?

8 A Let me be clear.

9 MR. POSTMAN: Object to form.

10 A I don't recall calling her, I remember  
11 speaking with her.

12 Q Do you recall whether you spoke to her in  
13 person or on the telephone?

14 A Telephone. Who initiated the call, I'm not  
15 clear.

16 Q And in this letter, in the -- an ultimate  
17 paragraph -- love that word -- demand is hereby made  
18 that the Tampa Bay Buccaneers immediately cease and  
19 desist from sending any facsimiles to me in the future.  
20 Do you see that?

21 A Yes.

22 Q Do you remember whether or not that particular  
23 demand ended up on your desk as general counsel?

24 A I don't recall.

25 MR. SOLBERG: This will be my turn. Let's



1 take 2, okay?

2 MR. POSTMAN: Okay.

3 (Short recess from 9:45 to 9:49 a.m.)

4 BY MR. SOLBERG:

5 Q This letter -- and I'm referring to Exhibit  
6 3 -- this also references regulations interpreting the  
7 TCPA, and that's on the top of page 2, do you see that?

8 A Yes.

9 Q Do you have a recollection of whether or not  
10 you reviewed the regulations interpreting TCPA?

11 A I don't recall.

12 Q Let me hand you what's been marked Exhibit 4,  
13 and I would ask that you take a look at this. You had a  
14 chance to look at Exhibit 4?

15 A Yes.

16 Q For the record, exhibit -- strike that. What  
17 is Exhibit 4?

18 A Letter from the Law Offices of Phyllis Towzey  
19 dated September 11th, 2009 sent by fax to Steven Simms.

20 Q And if you look the bottom, it says cc by fax  
21 to Manuel A. Alvare?

22 A Correct.

23 Q Do you have a recollection of receiving this  
24 letter?

25 A No.

1 Q At some point, you testified you talked to Ms.  
2 Towzey; correct?

3 A Correct.

4 Q Do you recall whether that conversation was  
5 before or after this September 11th, 2009 letter?

6 A I don't recall.

7 Q Did you talk to her more than once, can you  
8 recall?

9 A I don't recall.

10 Q Have you provided within the last month or two  
11 any documents to the lawyers for BLP?

12 A Yes.

13 Q What documents did you provide?

14 A A copy of a letter from the attorney general's  
15 from Florida cease and desist.

16 Q Any other letters or documents or electronic  
17 data?

18 A I gave a copy of whatever data I had  
19 generally.

20 MR. POSTMAN: And so that it clear, just for  
21 the record, we produced everything he's given us. I  
22 don't think anything was even privileged, in all  
23 fairness. And I think you have the attorney general  
24 letter, so --

25 Q What day do you recall providing to BLP

1 counsel?

2 A I don't recall.

3 Q Do you recall how much data or letters you  
4 provided, was it expansive, was it just a few things?

5 A It was a number of folders containing whatever  
6 I had in my files from when I left the Buccaneers.

7 Q In the Towzey letters, at least the first two  
8 you reviewed, you don't recall finding those in your  
9 folders?

10 A I don't believe they were in there. I don't  
11 recall if they were in there or not. I didn't spend a  
12 lot of time searching.

13 Q So this letter -- and I'm looking at Exhibit  
14 4 -- was cc'd to you by fax. When you were general  
15 counsel for BLP, was there a procedure by which you  
16 stored items that you received by fax?

17 A Not any different than a hard copy given to  
18 me.

19 Q So when this was provided to you, would it  
20 have been e-mailed to you, would they have taken the fax  
21 and e-mailed to you, or would they have given you a hard  
22 copy, do you recall?

23 A I don't recall.

24 Q Without revealing the subject matter of the  
25 information, do you recall talking to anybody at BLP in

1 2009 regarding this letters from Ms. Towzey?

2 A No.

3 Q And that would include Mr. Ford, you don't  
4 recall talking to Mr. Ford --

5 MR. POSTMAN: Object to form.

6 Q -- regarding the letter?

7 A I don't recall.

8 Q Now, Ms. Towzey's phone number is on top of  
9 certainly Exhibit 4 and also on top of Exhibit 3 on the  
10 letterhead. Do you see that?

11 A Yes.

12 Q As you look at that number, does that refresh  
13 your recollection whether you placed a call to Ms.  
14 Towzey?

15 A No.

16 Q When you called -- strike that. When you  
17 talked to Ms. Towzey, do you have any recollection of  
18 the subject matter of the conversation?

19 A Yes.

20 Q What was the subject matter of the  
21 conversation.

22 A That she had improperly received a fax from  
23 the Buccaneers fax campaign.

24 Q What else do you recall from the conversation?

25 A I let her know that this was a matter that

1 FaxQom had indemnified us from and that she would need  
2 to deal with them regarding the matter directly.

3 Q How did you know that FaxQom had indemnified  
4 BLP, as you state?

5 MR. POSTMAN: So just the only thing I'm  
6 concerned about is, you may have known based upon  
7 conversations you would have had with individuals  
8 whom you represented at their general counsel. If  
9 that's the extent of how you know that information,  
10 I need to instruct you not to answer because there's  
11 a privilege.

12 MR. SOLBERG: Well, in response to that, he  
13 told Ms. Towzey -- he just testified he told her  
14 that BLP would be indemnified from FaxQom regarding  
15 the fax. So I'm entitled to know what his basis was  
16 for telling her that.

17 MR. POSTMAN: I don't believe that's correct.  
18 Listen, we're arguing over something that's a  
19 contract which says it, I think that's the answer.  
20 But I'm not allowing him to waive any privilege, so  
21 that it's clear as it relates to communications he  
22 may have had. So if the answer to the question is  
23 predicated upon conversations you would have had,  
24 I'm going to instruct you not to answer. If the  
25 answer is predicated upon anything else, specifics

1 of which I can't think of, but you can answer. Do  
2 you understand what I'm suggesting is the privilege?

3 A I do, I do.

4 MR. COHEN:

5 MR. SOLBERG: Can you read that question back?  
6 I think was a question way back when.

7 (The reporter read back the question.)

8 A I simply recall of my conversation with Ms.  
9 Towzey. I don't recall how I knew that.

10 Q But you do recall telling her that BLP would  
11 be indemnified by FaxQom; correct?

12 A Correct.

13 Q Do you recall anything else that Ms. Towzey  
14 said to you or you said to her?

15 A No.

16 Q Do you recall her talking about being provided  
17 \$3,000 for the -- having been sent those faxes by the  
18 Buccaneers?

19 MR. POSTMAN: Form.

20 A No.

21 Q Do you recall ever having a conversation with  
22 Ms. Towzey where you were trying to persuade her not to  
23 file a lawsuit?

24 MR. POSTMAN: Form.

25 A No.



1 Q You're not testifying that those -- that may  
2 have not taken place, you're just testifying that you  
3 don't recall that; is that correct?

4 MR. POSTMAN: Object to form.

5 A That's correct.

6 Q Do you recall ever telling Ms. Towzey that her  
7 August 20th letter had been forwarded to you by Mr.  
8 Ford?

9 A Repeat that question?

10 Q Do you recall telling Ms. Towzey in your  
11 conversation with her that her August 20th letter had  
12 been forwarded to you by Mr. Ford for your attention?

13 MR. POSTMAN: Form.

14 A I don't recall.

15 Q Do you remember telling Ms. Towzey that you  
16 were going to look into how it was that she received a  
17 fax from FaxQom regarding the Buccaneers tickets?

18 MR. POSTMAN: Form.

19 A No.

20 Q Do you recall telling Ms. Towzey -- or  
21 apologizing to Ms. Towzey on behalf of the organization  
22 for any inconvenience or annoyance caused by the sending  
23 of the fax advertisements?

24 MR. POSTMAN: Form.

25 A No.

1 Q In your tenure as general counsel, do you  
2 recall ever having any conversation -- first of all,  
3 start with telephone conversation with any recipient of  
4 a fax advertising Bucs tickets, that they were unhappy  
5 or expressing their displeasure of receiving a fax  
6 advertisement?

7 A No. Other than Ms. Towzey.

8 Q Were you ever made aware that other fax  
9 recipients had complained regarding the receipt of a fax  
10 advertisements excluding any -- well, leave it with  
11 that. Were you ever made aware of any other fax  
12 recipients complaining about receiving fax  
13 advertisements for Bucs tickets during the time you were  
14 general counsel?

15 A Not that I recall.

16 MR. POSTMAN: I was going to tell him to the  
17 not to answer, but -- no reason to fight if we don't  
18 have to fight.

19 Q Do you remember telling Ms. Towzey that you  
20 would look into how it was that she received a fax  
21 advertisement from BLP?

22 MR. POSTMAN: Form.

23 A I don't recall.

24 Q After your conversation with Ms. Towzey -- and  
25 let me you this: Do you recall a timeframe for your

1 conversation with Ms. Towzey? Can we agree that it was  
2 after her August 20th 2009 letter to BLP?

3 MR. POSTMAN: Object to the form. You can  
4 answer.

5 A We can agree to that, sure.

6 Q Is that understanding?

7 A Again, I don't recall the timeframe of when it  
8 occurred. Presumably, it was after her initial letter.

9 Q You didn't know her before?

10 A Correct.

11 Q After your conversation with Ms. Towzey, did  
12 you have occasion to talk to Steve Simms; is that when  
13 that conversation would have occurred, after you talked  
14 to Towzey?

15 A Correct.

16 Q And again, can you give me the specifics of  
17 your conversation with Simms, what did you say to him  
18 and what did he say to you?

19 MR. POSTMAN: Form.

20 A I don't recall the specifics, but generally  
21 that FaxQom had indemnified the Buccaneers and that this  
22 was a matter he needed to take care of. His response to  
23 me was, absolutely, we've managed -- we've handled tons  
24 of these, she's got no basis for her claims, I'll take  
25 care of it.

1 Q Did you ever express Mr. Simms remarks in that  
2 regard to Ms. Towzey either through an e-mail or through  
3 a telephone call?

4 A I don't recall other than the general, you  
5 know, we were being indemnified by FaxQom.

6 Q Let me hand you what's been marked as Exhibit  
7 6.

8 MR. POSTMAN: We're not doing 5; right? Is  
9 there a 5 that I missed. I don't care. He likes to  
10 throw me curve because, Ross, doesn't he? We went  
11 from 4 to 33 the last time; right?

12 MR. SOLBERG: Always confusing yourself.

13 MR. POSTMAN: That's okay. You go to make  
14 sure I'm paying attention, you got it.

15 MR. SOLBERG: You caught me. It's Exhibit 5.

16 BY MR. SOLBERG:

17 Q Please take a look at what's been marked as  
18 Exhibit 5.

19 A Okay.

20 Q And Exhibit 5 is a letter to you dated  
21 September 16th, 2009 from The Law Offices of Phyllis J.  
22 Towzey; is that correct?

23 A Correct.

24 Q Do you have a recollection of receiving this  
25 letter?

1 A No.

2 Q Have you discussed this letter -- without  
3 giving me the content of the discussions, have you  
4 discussed this letter with any of the attorneys for BLP  
5 recently?

6 A Yes.

7 Q Who did you discuss it with?

8 A Barry Postman.

9 Q Anyone else?

10 A No.

11 Q What did you say to Mr. Postman and what did  
12 he say to you regarding this letter?

13 A He asked if I recall the letter, and I said  
14 no, I do not recall the letter.

15 Q Did he ask anything else?

16 A No.

17 Q If you look at the second paragraph. You --  
18 and I quote, "You advised me that fax advertisements for  
19 the Bucs are sent by an outside vendor, "FaxQom," and  
20 told me you were looking into how this occurred."

21 Do you see that?

22 A Yes.

23 Q Do you recall making those remarks to Ms.  
24 Towzey during a conversation with her?

25 A No.

1 Q Do you have any reason to believe that you  
2 didn't make those remarks to Ms. Towzey?

3 MR. POSTMAN: Form.

4 A No.

5 Q To make a long story short here, have you  
6 reviewed Exhibit 5 in its entirety?

7 A Yes.

8 Q Do you have a recollection of any -- anything  
9 in that letter -- as of 2009 -- and again it's dated  
10 September 16th, 2009. As you sit here today, do you  
11 have any recollection of reading that letter in 2009?

12 A No.

13 Q Let me hand you what's been marked as Exhibit  
14 6.

15 MR. POSTMAN: I appreciate you having copies  
16 for me.

17 Q Have you had a chance to review Exhibit 6?

18 A Yes.

19 Q For the record, it's Bates stamped BLP 280.  
20 What is Exhibit 6?

21 A It's a string of e-mails.

22 Q And the top one is from Matt Kaiser to  
23 sales@faxqom.com. Do you see that?

24 A Yes.

25 Q And below that is an e-mail from you. Do you



1 see that?

2 A Yes.

3 Q And that's dated September 1st, 2009; correct?

4 A Correct.

5 Q And the subject matter is blast fax number  
6 removal, importance high. Do you see that?

7 A Yes.

8 Q And you say: "Need to get this number taken  
9 out of the blast ASAP, 727-892-9925. Thanks.

10 Do you see that?

11 A Yes.

12 Q Do you recall writing this e-mail?

13 A No.

14 Q Do you have an understanding as to why you  
15 would have directed Mr. Kaiser to get this number out of  
16 the blast fax blast ASAP?

17 A General, yes.

18 Q What's your general understanding?

19 A This was, you know, in the fax blast campaign,  
20 there were, you know, thousands and thousands of faxes  
21 going out and this was a one off that fell into -- you  
22 know, somehow it was on the list, it made the list and  
23 probably needed to be removed.

24 Q And so again, as of the date of your e-mail to  
25 Mr. Kaiser which is also dated September 1st, 2009, you

1 were aware that BLP was sending fax blast advertising  
2 the sale of football tickets; correct?

3 MR. POSTMAN: Object to the form.

4 A I recall the fax blast campaign, yes.

5 Q Did you have any involvement in the fax blast  
6 campaign?

7 A No, not that I recall.

8 Q Did you have a lot of dealings with Matt  
9 Kaiser?

10 A No.

11 Q Did you have dealings -- strike that. Do you  
12 recall who else was involved in marketing when you were  
13 at BLP?

14 A In marketing?

15 Q Yeah. And I'm assuming -- and you can correct  
16 me if I'm wrong -- Matt Kaiser, it's your understanding  
17 he was involved in marketing for BLP; is that correct?

18 MR. POSTMAN: Form.

19 A My understanding is, he was doing business  
20 development.

21 Q And part of business development is selling  
22 tickets for the Bucs games, isn't that right?

23 A Presumably, yes.

24 Q Do you know who Matt Kaiser worked with?

25 A He worked with Ed Glazer directly.

1 Q Is Ed Glazer one of the people that you  
2 reported to?

3 A Yes.

4 Q Having seen the date on this e-mail, September  
5 1st, 2009, and Ms. Towzey's first letter dated August  
6 20th, 2009, is it your understanding now that you would  
7 have had a conversation with her or would have been made  
8 aware of her letters between those two days, August  
9 20th, 2009 and September 1st, 2009?

10 A I'm sorry, I'm not understanding your  
11 question.

12 Q If you look at Exhibit 6, at some point, you  
13 became aware that there was a complaint regarding faxes  
14 received at 727-892-9925; correct?

15 A Correct.

16 Q And directing your attention to Exhibit 5, if  
17 you look the letterhead and you see 727-892-9925. Do  
18 you see that?

19 A Yes.

20 Q That's Ms. Towzey's fax number; right?

21 A That's what her letterhead says, yes.

22 Q Unless her letterhead's incorrect, which we  
23 don't think it is, that's her letterhead. So based on  
24 those facts, would you agree that at some point between  
25 August 20th, 2009 and September 1st, 2009, you became

1 aware of Ms. Towzey's complaints and directed Kaiser to  
2 remove that number from the fax blast list?

3 A Yes.

4 Q At this point in time, September 1st, 2009, do  
5 you recall whether anybody else in the BLP organization  
6 was aware of Ms. Towzey's complaint besides you and Matt  
7 Kaiser?

8 MR. POSTMAN: I'm going to object and instruct  
9 you not to answer to the extent you have knowledge  
10 of it because it would be based on communications  
11 you would have had with your client as their  
12 counsel.

13 MR. SOLBERG: No, no, no. I'm not asking what  
14 was said, I'm asking him, was anybody else in the  
15 organization aware that there was a complaint  
16 regarding a blast fax. I'm not going to -- I  
17 won't -- if it's attorney/client, we won't get into  
18 the subject matter, but I think I can ask him was  
19 anyone else aware of it. So with that  
20 clarification --

21 MR. POSTMAN: Here's the problem. In order to  
22 answer that question in the affirmative -- and I  
23 don't know the answer to the question. In order to  
24 answer that question in the affirmative, it would  
25 clearly indicate that he had a conversation about a

1 specific subject matter. Do you want me to find  
2 out -- I ask can ask him.

3 MR. SOLBERG: Go ahead.

4 (Brief recess.)

5 MR. POSTMAN: The short answer is, he doesn't  
6 remember, so I'll let him answer the question under  
7 oath. There's no reason to fight over it if we  
8 don't need to fight over it. As long as we agree  
9 that it's not a waiver. Can we agree that it's not  
10 a waiver, counsel, or any future waiver. Because if  
11 not -- if so, then I have to tell him not to answer.

12 MR. SOLBERG: I've seen this issue come up.  
13 And as far as a waiver goes, my questions would  
14 relate to the specific document in front of us. And  
15 so we've -- and again, he directed Mr. Kaiser to get  
16 that number removed from the fax blast list, and I  
17 don't think there's any privilege attaching any more  
18 to that direction, obviously.

19 MR. POSTMAN: Well, because it was given --  
20 because Matt sent it to a third party. In all  
21 fairness to you, we've produced it because if you  
22 send it to a third party, you can't claim privilege  
23 which is why I gave it to you. But you can  
24 have him answer the question. We don't have to  
25 fight over this issue any longer.



1 MR. SOLBERG: Do you remember the question?

2 MR. POSTMAN: He probably doesn't remember it,  
3 but I bet \$5 she can probably find it. Want to bet,  
4 Wally?

5 (The reporter read back the question.)

6 MR. POSTMAN: Object to form.

7 A I don't recall.

8 Q After the September 1st, 2009 e-mail to Matt  
9 Kaiser, do you recall having a second conversation with  
10 Ms. Towzey regarding -- strike that. You've testified  
11 you can only recall one conversation with Ms. Towzey; is  
12 that correct?

13 A I just remember speaking to her generally. I  
14 don't recall whether there was one, two, four.

15 Q Okay.

16 A You're asking me questions that were half a  
17 decade ago.

18 MR. POSTMAN: I like that. Half a decade.

19 (Brief discussion held off the record.)

20 Q Are you aware of whether Ms. Towzey's number  
21 was removed from the fax blast list after your e-mail to  
22 Matt Kaiser?

23 A I don't know.

24 Q Did you have any -- and without giving me the  
25 subject matter yet, did you have any conversations with



1 Matt Kaiser subsequent to your September 1st, 2009  
2 e-mail regarding Ms. Towzey that you can recall?

3 MR. POSTMAN: That's a yes and no. I think I  
4 can allow you to answer that question yes or no.

5 A Do I recall having any conversations with Matt  
6 Kaiser?

7 Q Regarding Ms. Towzey's complaints.

8 A No, I don't recall.

9 MR. SOLBERG: Let me hand you what's been  
10 marked Exhibit 8. And yes, we are skipping Exhibit  
11 7, Barry.

12 MR. POSTMAN: I think you're skipping Exhibit  
13 6 and 7 -- no, 7. I gave 6 to --

14 MR. BORUCKE: I have 6.

15 MR. SOLBERG: Generally look through that.

16 BY MR. SOLBERG:

17 Q Have you had a chance to review Exhibit 8?

18 A Yes.

19 Q And that's titled Craig Cinque versus  
20 Buccaneer's Limited Partnership. It's a complaint, Case  
21 No. 0921839. Do you see that?

22 A Yes.

23 Q Class action complaint. Do you recall being  
24 served with this class action complaint?

25 A No.

1 Q When -- was it the normal custom and  
2 practice -- strike that. When you were general counsel  
3 for BLP, do you recall being served with any complaints  
4 during your tenure?

5 A No.

6 Q Were complaints generally served on the  
7 registered -- well, strike that. Were any -- was BLP  
8 sued between -- during your tenure as GC that you can  
9 recall? And obviously you have a complaint in front of  
10 you.

11 A I recall accepting service, but I don't recall  
12 what the subject matter was that I accepted service for.

13 Q How often did that happen when you were  
14 general counsel?

15 A I don't remember.

16 Q More than five times?

17 A I couldn't even guess.

18 Q Do you have any specific recollection of being  
19 served with this complaint?

20 A No.

21 Q Do you have any specific recollection of  
22 reading this complaint?

23 A No.

24 Q Neither in 2009 or 2014?

25 A In 2014, I recall reviewing it with Ross on

1 the telephone.

2 Q And is that the first time you can recall ever  
3 reviewing this complaint?

4 A Yes.

5 Q Let me hand you what's been marked Exhibit 9,  
6 and I'd ask you to take a look at that. And as you  
7 review that, I can tell you the question is going to be  
8 the same. Do you recall being served with that  
9 complaint, and do you recall reviewing that complaint in  
10 2009. Compound, though the question may be, I think you  
11 can answer.

12 A No.

13 Q No to both?

14 A Correct.

15 Q Without revealing the specifics of any  
16 conversation you may have had with any BLP personnel, do  
17 you recall discussing these particular complaints with  
18 any BLP personnel?

19 MR. POSTMAN: You can answer that yes or --

20 A I don't remember.

21 MR. POSTMAN: I was going to say answer it yes  
22 or no, but the specifics would be privileged.

23 Q If such a conversation had taken place, would  
24 it be your custom and practice to maintain notes  
25 regarding that conversation?

3 Q Would it be your custom and practice to  
4 maintain these complaints in a file in your office?

7 Q What kind of file would it be, a hard file, an  
8 electronic file?

10 Q Physically, where would the file be in  
11 relation to your office?

13 MR. SOLBERG: Let me hand you what's been  
14 marked as Exhibit 10. And I'd ask that you take a  
15 look at this.

17 BY MR. SOLBERG:

20 Q And what is Exhibit 10?

24 Q And if you move on down you'll see that  
25 there's a verification --

1 MR. SOLBERG: Off record for a second.

2 (Brief discussion held off the record.)

3 BY MR. SOLBERG:

4 Q And we're looking at Exhibit 10, verified  
5 return of service. Directing your attention to the  
6 middle paragraph, what this says: Ms. Judith Clark is  
7 averring that she delivered a true copy of the summons,  
8 complaint, and amended complaint to you as general  
9 counsel. Do you see that?

10 A Yes.

11 Q Do you have a recollection of that taking  
12 place?

13 A No.

14 Q Do you have any reason to believe it didn't  
15 take place?

16 A No.

17 Q And again, the date of this service would have  
18 been September 10th, 2009; correct?

19 A That's what it says on the return of service.

20 Q Not that you can remember the day, but you  
21 don't have any recollection --

22 A No.

23 Q -- of not being around on September 10th,  
24 2009?

25 MR. POSTMAN: Object to form.

1 A I don't recall.

2 Q Do you remember retaining outside counsel to  
3 handle that particular case, Exhibits 8 and 9?

4 A No.

5 MR. POSTMAN: This might be privileged, but we  
6 don't dispute the fact because of the notice of  
7 appearance that was filed in the case. I mean, I'm  
8 not going to -- I don't want to fight with you,  
9 Wally, there's no dispute that there was a response  
10 to the complaint. If you're asking for us to agree  
11 that there -- was take judicial notice of a state  
12 court action, I'm happy to agree with that just so  
13 we can move beyond what might be privileged issues.

14 MR. SOLBERG: I'll end the suspense. I'll  
15 hand him the letter.

16 BY MR. SOLBERG:

17 Q Let me hand you what's been marked Exhibit 12.  
18 And I'd ask that you take a look at Defendant's Exhibit  
19 12 which is Bates stamped BLP 789 and BLP 790.

20 A Okay.

21 Q And this is a letter from Hill, Ward, &  
22 Henderson, Attorneys at Law. Do you see that?

23 A Yes.

24 Q Who are Hill, Ward, & Henderson?

25 A They were the outside counsel for Buccaneers



1 Limited Partnership.

2 Q And this is a letter addressed to Steve Simms  
3 signed by Timothy Hunt. Do you see that?

4 A Yes.

5 Q And is this the same Hunt that you were  
6 referencing earlier in your deposition regarding  
7 interviewing for the BLP position of general counsel?

8 A Yes.

9 Q And what this letter is doing -- it'll speak  
10 for itself -- but it's telling Mr. Simms to indemnify  
11 Defendant and hold harmless the Buccaneers Limited  
12 Partnership. Do you see that?

13 MR. POSTMAN: Object to the form.

14 A Yes.

15 Q And on the second page, cc, Manny Alvare;  
16 correct?

17 A Correct.

18 Q And do you -- having reviewed this letter, do  
19 you recall referring this case to Hill, Ward, &  
20 Henderson?

21 A I do not recall.

22 Q Would that have been your decision to do that  
23 or would that have been somebody -- in the normal  
24 course, would that have been your decision or somebody  
25 else's in the BLP organization?

1 A My decision.

2 Q And you just don't recall making that  
3 decision?

4 A No.

5 Q And this letter is dated October 2nd, 2009;  
6 correct?

7 A Correct.

8 Q And so as of October 2nd, 2009, BLP was aware  
9 that they were being sued regarding -- it was alleged,  
10 anyway, in complaints that they were sending fax  
11 advertisements in violation of TCPA; is that your  
12 understanding?

13 MR. COHEN: Form.

14 A That's my understanding.

15 Q Once this case was referred to Hill, Ward, 7  
16 Henderson, without giving me the specifics, did you have  
17 any involvement in the defense of the case?

18 A I don't recall.

19 Q Do you recall ever having to gather documents  
20 to provide to Hill, Ward, & Henderson regarding this  
21 case?

22 A I don't recall.

23 Q If there was a request to produce or any other  
24 documents in the case, would it have been your custom  
25 and practice to maintain those documents in a file?

1 A Yes.

2 Q Do you know whether you did so in this  
3 particular case?

4 A I don't recall.

5 Q Where would that file have been kept, same as  
6 the other files we talked about?

7 A Same as the other files.

8 MR. SOLBERG: Let the record reflect that I've  
9 handed the witness Exhibit 11, and I'd ask that you  
10 take a look at that.

11 THE WITNESS: Okay.

12 BY MR. SOLBERG:

13 Q Have you had a chance to look at Exhibit 11?

14 A Yes.

15 Q And is that the attorney general letter that  
16 you referenced earlier in your deposition?

17 A Yes.

18 Q And dated June 3rd, 2010; correct?

19 A Correct.

20 Q From June Clarkson, an assistant attorney  
21 general. And this letter at the last paragraph states:  
22 You are hereby advised to immediately cease and desist  
23 from transmitting any further unsolicited facsimiles to  
24 avoid penalties.

25 Do you see that?

1           A       Yes.

2           Q       Did this letter find its way onto your desk  
3 when you were general counsel for BLP?

4           A       I would say yes, but I don't recall  
5 specifically. It did, because I had a copy of it in my  
6 files as I went back to look at them over the last  
7 several weeks.

8           Q       You still have files relating to your tenure  
9 at BLP?

10          A       I have copies of the files, yes.

11          Q       And all those files have been produced to Mr.  
12 Postman?

13          A       Correct.

14                 MR. POSTMAN: Again, we've supplemented our  
15 disclosure with the information that we received  
16 that's related to the case.

17          Q       Do you recall any steps that were taken by BLP  
18 in response to this letter? And I don't want to know  
19 about attorney discussions, I want to know that after  
20 receipt of this letter, what did BLP do regarding the  
21 fax advertisement program?

22          A       I have no idea. I don't remember.

23          Q       And you departed in 2010 -- I'm sorry, I can't  
24 recall the exact date.

25          A       I believe it was the beginning of July.

1 Q So responding to this particular letter would  
2 have passed on to whoever was going to be handling your  
3 job after you left?

4 MR. POSTMAN: Object to form.

5 A Correct.

6 MR. POSTMAN: Lack of predicate.

7 Q Do you recall contacting the Florida attorney  
8 general after receipt of this letter?

9 A I do not.

10 Q Do you know whether anybody in the BLP  
11 organization contacted the Florida AG after receipt of  
12 this letter?

13 MR. POSTMAN: If you know predicated upon  
14 conversations with your client, the Buccaneers, I  
15 instruct you not to answer.

16 A I don't recall.

17 Q Do you know whether the Buccaneers ceased and  
18 desisted from transmitting facsimiles after receipt of  
19 this letter?

20 MR. POSTMAN: Again, if you know based upon  
21 conversations you would have had with the  
22 Buccaneers, I'm going to instruct you not to answer.

23 Q And here's what I'm after, even before you  
24 answer. I mean, either they did or they didn't; I mean,  
25 it's a black, white question.

1           A       I understand the question, I simply don't  
2       remember.

3           Q       Fair enough. Do you remember having a -- well  
4       first of all, do you recognize Ross Good?

5           A       Yes.

6           Q       I don't know if you've ever seen him before,  
7       but you know that's Ross Good; correct?

8           A       Correct.

9           Q       And you had a conversation with Ross Good in  
10      April 2014 regarding this case --

11          A       Correct.

12          Q       -- generally; correct? And you -- you found  
13      Mr. Good on a Linked In account; correct?

14          A       He actually viewed my profile which triggered  
15      me to look at his profile, and then he shot me a note  
16      saying he'd like to speak with me. Hope you enjoyed  
17      looking at my profile, I'd like to speak with you about  
18      this matter.

19          Q       And you agreed to; correct?

20          A       Yes.

21          Q       Did you tell anyone at BLP that you were going  
22      to talk to Mr. Good regarding the case?

23          A       Not prior to speaking with him, no.

24          Q       And you, of course, understood the  
25      attorney/client privilege prior to talking to Mr. Good?



1           A       Yes. I even mentioned that to Mr. Good on the  
2 telephone.

3           Q       And you didn't divulge any attorney/client  
4 privilege information to Good during that conversation,  
5 did you?

6           A       I don't believe that I did.

7           Q       Do you recall the date that conversation took  
8 place?

9           A       No.

10                  MR. SOLBERG: Let's take two again.

11                  (Short recess from 10:29 to 10:40 a.m.,  
12 at which point Mr. Addison disconnected  
13 via speakerphone.)

14                  MR. SOLBERG: I've just handed what's been  
15 marked Exhibit 16 to Mr. Alvare, and I ask that he  
16 take a look at that.

17                  MR. POSTMAN: This has not been produced  
18 previously.

19                  MR. SOLBERG: It's been filed. Look at the  
20 top. Off the record.

21                  (Brief discussion held off the record.)

22 BY MR. SOLBERG:

23           Q       Have you had a chance to review Exhibit 16?

24           A       Yes.

25           Q       What is it?

1           A       It's a string of e-mails between Ross Good and  
2 myself.

3           Q       And does this refresh your recollection as to  
4 when this conversation occurred?

5           A       Based on these dates, presumably, yes.

6           Q       Which is what?

7           A       April 3, Thursday, April 3rd, 2014.

8           Q       And do you recall being at work on that day?

9           A       Yes.

10          Q       Can you specifically recall what you and Mr.  
11 Good talked about?

12          A       Generally, we talked about -- he asked me  
13 about my knowledge of Ms. Towzey, he asked if -- I told  
14 him that, you know, I had not -- I didn't recall the  
15 name except that the week prior to, I had spoken with  
16 Barry Postman and Dave Cohen, and that the name rung a  
17 bell, I had had conversations with Ms. Towzey; that, you  
18 know, FaxQom was supposed to handle that and indemnify  
19 the Buccaneers; he asked me about the Cin-Q litigation,  
20 I said I don't recall the name at all, he says, do you  
21 have -- here's the case number, I said, well, let's look  
22 it up, I looked it up while on the phone with him on  
23 the -- it was on County Court site; looked at the  
24 docket, and it basically showed that the complaint was  
25 filed some time in September, a motion to dismiss was

1 filed, I believe, in October, thereafter, there was no  
2 activity until well after I was gone after I'd left the  
3 Buccaneers.

4 Q In --

5 MR. POSTMAN: Are you done?

6 THE WITNESS: Yes.

7 BY MR. SOLBERG:

8 Q Is it correct that the conversation lasted  
9 less than 20 minutes?

10 A That's correct.

11 Q And again, you did not divulge any  
12 attorney/client privilege information to Mr. Good to the  
13 best of your knowledge; correct?

14 A To the best my knowledge. He had asked me,  
15 you know, what I would have done with the case if it  
16 was -- if I recalled being served with, I said I would  
17 have handed it to Tim Hunt over at Hill, Ward,  
18 Henderson. Beyond that he made the comment that if I  
19 was -- if he was going to depose me, that I would take  
20 the position that, you know, anything beyond this was  
21 privileged, and I said that's correct.

22 Q After your conversation with Mr. Good, did you  
23 inform Mr. Postman that you had had that conversation?

24 A Yes.

25 Q When did you inform him?

1 A Same day.

2 Q What did you tell Mr. Postman regarding that  
3 conversation?

4 A Generally, the same information I just gave  
5 you.

6 Q You didn't tell Mr. Postman that you thought  
7 you had divulged attorney/client privilege information,  
8 did you?

9 A No, I did not.

10 Q And the reason you didn't tell him that is  
11 because you didn't do that; correct?

12 A I don't --

13 MR. POSTMAN: Form.

14 A -- believe that I did.

15 Q Did Mr. Postman tell you not to talk to  
16 Plaintiff's attorneys or that he had asked Plaintiff's  
17 attorneys not to contact you after that conversation  
18 with Mr. Good?

19 A Yes.

20 Q And has any Plaintiff's attorney attempted to  
21 contact you after that conversation with Mr. Good?

22 A No.

23 MR. SOLBERG: You know what, give me a minute,  
24 and I think there at an end here. I just want to  
25 walk through my notes real quick. So if you want to

1 take a minute, take a minute.

2 (Pause.)

3 MR. SOLBERG: I'm all set. Thank you very  
4 much.

5 MR. POSTMAN: A few questions, Mr. Alvare.

6 CROSS EXAMINATION

7 BY MR. POSTMAN:

8 Q When Mr. Good contacted you, did he know based  
9 upon your understanding of the questions that were asked  
10 that you were the former general counsel of the  
11 Buccaneers?

12 A Yes.

13 Q Did you tell him early on in the conversation,  
14 perhaps when it began, that you were aware or that you  
15 were -- you were not going to divulge -- I'm sorry,  
16 strike that. Did Mr. Good tell you that we had asserted  
17 the attorney/client privilege with regard to your  
18 communications with any person who worked for the  
19 Buccaneers in prior depositions?

20 A I don't recall that.

21 Q Did Mr. Good ask you questions about the  
22 lawsuit that took place in August of -- the one that was  
23 filed in August of 2009?

24 A Yes.

25 Q Did he ask you about how you would have

1 handled that -- I understand that you didn't remember,  
2 but did he ask you how you would have handled that case?

3 A Yes.

4 Q Did he ask you questions that would have  
5 elicited your -- I understand you don't remember it, but  
6 did he ask you questions that would have elicited your  
7 mental impressions of that case?

8 A Yes.

9 Q Did he want to know from your understanding  
10 based on the questions that were asked how that case was  
11 defended by the Buccaneers; I understand you didn't  
12 remember it, but was that what he was seeking to find?

13 MR. SOLBERG: Objection as to form, what he's  
14 thinking to find.

15 MR. POSTMAN: Fair enough. I think that's  
16 actually a fair objection.

17 BY MR. POSTMAN:

18 Q Were the questions that were asked of you by  
19 Mr. Good seeking information about how the Buccaneers  
20 defended the lawsuit that was filed in August of 2009?

21 MR. SOLBERG: Objection as to form.

22 A Yes.

23 Q Did Mr. Good ask you questions about the  
24 documents that were responsive to request for  
25 productions or documents that were related to the fax



1 campaign in 2009?

2 A Yes.

3 Q Did he want to know how the Buccaneers kept  
4 their documents or whether documents existed or didn't  
5 exist?

6 A Yes.

7 Q Now, in all fairness, you didn't remember a  
8 good portion of the things that took place half a decade  
9 ago, but Mr. Good was seeking this information; fair  
10 statement?

11 MR. SOLBERG: Objection to form.

12 A Fair.

13 Q You knew not to disclose information that was  
14 covered by the attorney/client privilege, but is it fair  
15 to say that Mr. Good was seeking information that would  
16 have been protected by that privilege?

17 MR. SOLBERG: Objection to form.

18 A Repeat the question?

19 Q Sure. You told us that you have not divulged  
20 anything that was covered by the privilege and you told  
21 us that you were aware of the privilege at the time the  
22 conversation took place. My question was:  
23 Understanding that I wasn't there and you were there,  
24 was Mr. Good seeking information from you about how the  
25 Buccaneers defended the 2009 lawsuit, your mental

1 impressions of that lawsuit, or communications or work  
2 product with regard to that lawsuit?

3 MR. SOLBERG: Objection to form, objection  
4 call for speculation, objection, it calls for legal  
5 conclusions.

6 MR. POSTMAN: You can answer.

7 A My recollection of my conversation with Mr.  
8 Ross -- with Ross was that he was trying to get an  
9 understanding of what happened to the documents, why  
10 there were no documents, what happened to -- you know,  
11 how did we maintain our documents, and he appeared very  
12 frustrated as to why there was nothing in support of --  
13 there were not documents that had been produced, he  
14 believes, I guess, as I understood, that there were  
15 documents that existed but that they had not been  
16 produced. So he was very frustrated -- expressed his  
17 frustrations as to the manner in which the Buccaneers  
18 handled internally the documents relative to these  
19 matters.

20 Q And was he inquiring of you about how the  
21 Buccaneers handled internally the documents regarding  
22 these matters?

23 A Yes.

24 Q Did he ask questions specifically about how  
25 the Buccaneers defended the August 2009 lawsuit?

1 MR. SOLBERG: Objection: That's vague, how  
2 they defended.

3 A Don't know that. He asked general questions  
4 about what would occurred at that time, at which time I  
5 told him that, you know, if I had received a lawsuit, I  
6 would have referred it to outside counsel.

7 Q I just want to follow-up on one other issue.  
8 You told us, I think, or in response to questions from  
9 opposing counsel that with Mr. Good, you looked at the  
10 docket --

11 A Yes.

12 Q -- the 2009 docket. And you told us that  
13 based upon the review of the docket, after a motion to  
14 dismiss was filed, the case was inactive?

15 A Correct.

16 Q And that's -- you're just relying upon what  
17 the docket shows as it relates to this, and that's what  
18 you and Mr. Good talk about?

19 A Correct.

20 Q You and him had the conversation that, in  
21 essence, after the motion to dismiss was filed, I think  
22 you said October of 2009, there was no activity about  
23 that lawsuit until you left the employ of the  
24 Buccaneers; is that correct?

25 A Correct.

1 Q So based upon your understanding of the  
2 docket, there was nothing that was actively being  
3 addressed with regard to that litigation; fair  
4 statement?

5 A Fair.

6 MR. POSTMAN: Let me take a quick break, if I  
7 can. I think I'm done, but I just want to talk to  
8 my client.

9 (Short recess from 10:50 to so 10:52 a.m.)

10 MR. POSTMAN: I have nothing else.

11 REDIRECT EXAMINATION

12 BY MR. SOLBERG:

13 Q Now you testified -- do you recall being asked  
14 questions by Mr. Postman regarding your mental  
15 impressions of the case?

16 MR. POSTMAN: My mental impressions?

17 Q No, his. Your mental impressions of the case.  
18 Mr. Postman ask you: Do you think you were being asked  
19 questions by Mr. Good of your mental impressions of the  
20 case against BLP. Do you recall being asked that  
21 question?

22 A Yes.

23 Q Did you have any mental impressions of the  
24 case?

25 A I don't recall the case.

1 Q And you -- as you said, it was half a decade  
2 ago before you would have been served with that  
3 complaint; correct?

4 A Correct.

5 Q And when the case came in, you testified  
6 earlier today you didn't even remember getting service  
7 of the complaint; correct?

8 A Correct.

9 Q Is it fair to say again you have no mental  
10 impressions of that case to give if anyone asked you for  
11 them; is that correct?

12 A That's correct.

13 Q Regarding Mr. Good's frustration with document  
14 production by BLP, didn't he specifically tell you what  
15 he was frustrated about was BLP produced a decent amount  
16 of documents, about 180 pages worth, within 12 hours of  
17 the deposition of Steve -- Matt Kaiser?

18 MR. POSTMAN: Wasn't 12 hours.

19 A I don't recall that. I remember him  
20 specifically saying, you know, asking about at the time  
21 that the litigation was filed why there wasn't some type  
22 of litigation hold or other preservation of the  
23 documents.

24 Q And you, of course, had no idea because you  
25 hadn't been involved -- hadn't been GC for BLP since

1 2010; correct?

2 A Correct.

3 Q And again, you don't remember him talking  
4 about the production of documents just before the  
5 deposition of Matt Kaiser as the source of his  
6 frustration?

7 A No.

8 Q And this conversation took place less than a  
9 month ago; correct?

10 A Yes.

11 Q You were told -- you testified on direct that  
12 you had been told to expect a call from Plaintiff's  
13 counsel; correct?

14 A That they may reach out to me.

15 Q Were you ever directed not to talk to  
16 Plaintiff's counsel?

17 A No.

18 Q Did you ever ask Mr. Postman or anybody else  
19 representing BLP in this case whether or not you should  
20 talk to Plaintiff's counsel?

21 A No. In fact, when I got on the phone with  
22 Mr. -- with Ross -- it's Mr. Good; right? I asked -- I  
23 was unclear as to who he represented in the case, so I  
24 had to clarify that up front.

25 Q And so you knew he represented the Plaintiffs?



1 A Yes.

2 Q And when you looked at him up on Linked In,  
3 were you able to see what law firm he worked for?

4 A I did briefly.

5 Q In any event, at the outset of your  
6 conversation, you knew Mr. Good was one of Plaintiff's  
7 attorneys; correct?

8 A After he clarified on the telephone, yes.

9 Q And Mr. Postman asked whether Mr. Good was  
10 asking you specific questions relative to the ongoing  
11 litigation with BLP that you're here on today; correct?

12 A Correct.

13 MR. POSTMAN: Form.

14 Q What specific questions did Mr. Good ask you?

15 A I don't recall specifically right now.

16 Q So he asked you specific questions, but you  
17 can't recall what they were?

18 A He asked what I'd done -- you know, what I did  
19 at the time of the -- you know, when the litigation was  
20 filed, do I recall when the lawsuit was filed, what did  
21 I do at that time, what documents did I produce, what  
22 occurred at that time.

23 Q And the answers --

24 MR. POSTMAN: Wait, hold on. Let him finish.

25 If you're going to ask the question, you got to live

1 with the answer.

2 A That's about all I can recall from our  
3 conversation.

4 Q And in fact, if he had asked you a question  
5 that you thought as an attorney that was eliciting  
6 attorney/client privileged information, you would have  
7 told him as much and not answered; correct?

8 A Sure, if I remembered it. But at the end of  
9 the day, I didn't recall it, so it wasn't an issue.

10 Q Exactly. You had no attorney/client  
11 privileged information to give to Mr. Good or anybody  
12 else, is that correct, regarding your mental  
13 impressions, not documents, regarding your mental  
14 impressions?

15 A That's correct.

16 Q And in fact, you did provide additional  
17 documents to Mr. Postman; right?

18 A That's correct.

19 Q Did you provide any electronic data or just  
20 documents? I can't remember what your answer was.

21 A It was electronic data, but it was a copy  
22 of -- like I mentioned before, it was the cease and  
23 desist letter from the attorney general.

24 Q When did you provide that letter to Mr.  
25 Postman?

1 A A week prior to my conversation with Ross.

2 Q Did you ever ask Mr. Postman whether you -- if  
3 Plaintiff's counsel -- or I'm sorry. Who did you say  
4 told you that you might expect a call from Plaintiff's  
5 counsel?

6 A I don't recall if it was David Cohen or Barry  
7 Postman on the telephone.

8 Q When you were told that by either one of those  
9 gentleman, did you ever ask whether or not you should  
10 talk to Plaintiff's counsel?

11 A No.

12 Q Did they ever tell you not to talk to  
13 Plaintiff's counsel?

14 A No.

15 Q Did they ever tell you that they didn't  
16 represent you?

17 A Yes.

18 Q Did they ever tell you to -- you should  
19 possibly seek an attorney to represent you?

20 A No.

21 MR. POSTMAN: Are you bringing a claim against  
22 him?

23 MR. SOLBERG: No. I'm just running off the  
24 grounders.

25 MR. POSTMAN: Because I think you have an

1 obligation if you think something, tell him.

2 MR. SOLBERG: No, you're really overreaching  
3 on that question.

4 MR. POSTMAN: Well, you just asked a question,  
5 although I don't represent him, that one might  
6 consider to be a threat.

7 MR. SOLBERG: You informed him -- of course it  
8 wasn't a threat. You informed him that you didn't  
9 represent him, so naturally the next question that  
10 follows is: Did they suggest you get an attorney.  
11 There's no reason for him to get an attorney, but  
12 you involved in that conversation. You said, we  
13 don't represent you, why wouldn't I ask that  
14 question.

15 MR. POSTMAN: I just want to make sure that  
16 you give the witness the benefit of the courtesy of  
17 understanding what the questions are and why you're  
18 asking.

19 MR. SOLBERG: Do you understand why I asked  
20 you that question?

21 THE WITNESS: Yes.

22 MR. SOLBERG: Thank you. I'm done.

23 RE-CROSS EXAMINATION

24 BY MR. POSTMAN:

25 Q He asked you about litigation, Mr. Good?

1 A I believe he did.

2 Q He asked you about how the document management  
3 was done on the first case?

4 A Yes.

5 Q He expressed frustration about how this case  
6 was being defended and wanted to know your insight about  
7 how the prior case was being defended, understanding you  
8 didn't recall, but that's in essence what was done; is  
9 that correct?

10 A Yes.

11 MR. COHEN: No further questions.

12 REDIRECT EXAMINATION

13 BY MR. SOLBERG:

14 Q What did you understand by the term  
15 "defended"?

16 A What was the process by which the Buccaneers  
17 would handle lawsuits and how was this lawsuit handled.

18 Q And by that, did you understand that question  
19 to mean were they sourced out to other attorneys?

20 MR. POSTMAN: Form.

21 A That's how I understood it, yes.

22 Q And the case was, in fact, given to Hill;  
23 correct?

24 A Correct.

25 Q And you had no involvement in defending that

1 case, correct, that you can recall?

2 MR. POSTMAN: Form.

3 A Not that I can recall.

4 RECROSS EXAMINATION

5 BY MR. POSTMAN:

6 Q In fact, after it was handed out, you heard  
7 nothing else about the case, you thought it was a dead  
8 issue; right?

9 A That's correct.

10 MR. POSTMAN: No further questions.

11 REDIRECT EXAMINATION

12 BY MR. SOLBERG:

13 Q Now, you know -- why did you think you were  
14 deposed -- or why did you think you were subpoenaed for  
15 deposition today, did you have an understanding as to  
16 that?

17 A Presumably, it was to, you know, get my  
18 testimony on what my recollection was of all of the --  
19 of this case.

20 Q And when you say "this case," what referring  
21 to?

22 A The Cin-Q, however it's pronounced.

23 MR. POSTMAN: The horse has been killed a long  
24 time ago.

25 MR. SOLBERG: Yeah, I'm all set.



1           MR. POSTMAN: I am, too.  
2       (The reading and signing of this deposition  
3           is not waived, and the deposition  
4           was concluded at 11:00 a.m.)  
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CERTIFICATE OF REPORTER

STATE OF FLORIDA       )  
COUNTY OF POLK       )

I, Evelyn M. Adrean, RPR, FPR, certify that I was authorized to and did stenographically report the deposition; that a review of the transcript was requested; and that the foregoing pages are a true and complete record of my stenographic notes taken during said deposition.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 2nd day of May, 2014.

*Evelyn M. Adrean*

Evelyn M. Adrean  
Registered Professional Reporter  
Florida Professional Reporter

CERTIFICATE OF OATH

STATE OF FLORIDA )

COUNTY OF POLK )

I, the undersigned authority, certify that  
the witness in this matter personally appeared before me  
and was duly sworn on the 2nd day of May, 2014.

WITNESS my hand and official seal this 2nd of May,  
2014.

*Evelyn M. Adrean*

Evelyn M. Adrean, RPR, FPR  
Notary Public  
State of Florida at Large  
My Commission Number: DD816645  
Expires: 10/05/2016

DEPOSITION ERRATA SHEET

Our Assignment No. 125362

Case Caption: CIN-Q AUTOMOBILES, INC, et al vs.  
BUCCANEERS LIMITED PARTNERSHIP, et al

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

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MANUEL ALVARE