

Exhibit F

FAX



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To:
Attorney Pat Kearney

From:
Dr. Rogers

Date: *11/29/10*
Number of Pages:

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Name: *William C. Actinhouse* Date: *11-29-10*
Address:

R *Pt seen on 11/26 @ junctional tachycardia
He should not attend that until after Revalbut
by Dr Santini on 11/30/10.*

LABEL AS TO COMMENTS
REP 0-1-2-3-A-5 PRN
Reprint Authorized Only During Office Hours, Except Emergencies

Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WADE A. ROBERTSON

Plaintiff/Counter-Defendant,

v.

WILLIAM C. CARTINHOOR, JR.,
W.A.R., LLP

Defendant/Counter-Plaintiff.

:
:
:
: Case No.: 1:09-cv-01642 (ESH)
:
:
:
:
:
:
:
:

AFFIDAVIT OF DAVID E. ROGERS, M.D.

I, Dr. David E. Rogers, having been duly sworn, state and testify as follows:

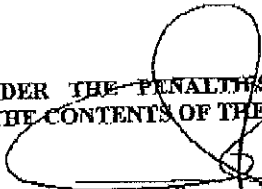
1. I am over eighteen (18) years of age, I have personal knowledge of the facts and matters set forth in this Affidavit and I am competent to testify to the matters set forth herein with personal knowledge, and that the documents attached hereto as true and accurate copies of the originals.

2. I am a licensed physician and have been practicing internal medicine for over twenty (20) years.

3. I am currently employed at the Internal Medicine Center, P.A., located at 5330 Wisconsin Avenue, Suite 1400, Chevy Chase, Maryland 20815.

4. I examined William C. Cartinhour on November 26, 2010 after he was complaining of heart related issues. I diagnosed him as suffering from junctional tachycardia and recommended that he rest and not attend the trial in this matter until after seeing his primary physician, Dr. Pasquale Santini.

I HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT.



David E. Rogers, M.D.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WADE A. ROBERTSON	:
	:
Plaintiff/Counter-Defendant.	:
	:
v.	: Case No.: 1:09-cv-01642 (ESH)
	:
WILLIAM C. CARTINHOOR, JR.,	:
W.A.R., LLP	:
	:
Defendant/Counter-Plaintiff.	:

AFFIDAVIT OF PASQUALE SANTINI, M.D.

I, Dr. Pasquale Santini, having been duly sworn, state and testify as follows:


1. I am over eighteen (18) years of age, I have personal knowledge of the facts and matters set forth in this Affidavit and I am competent to testify to the matters set forth herein with personal knowledge, and that the documents attached hereto as true and accurate copies of the originals.

2. I am a licensed physician and have been practicing internal medicine for over fifteen (15) years.

3. I am currently employed at the Internal Medicine Center, P.A., located at 5330 Wisconsin Avenue, Suite 1400, Chevy Chase, Maryland 20815.

4. I examined William C. Cartinhour on November 30, 2010 and recommended that he rest and not attend the trial in this matter until after seeing a heart specialist for a full examination.

I HEREBY CERTIFY UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT.



 Pasquale Santini, M.D.

Exhibit H

DEPOSITION OF ROBERT L. ASH, ESQUIRE
 CONDUCTED ON WEDNESDAY, JULY 14, 2010

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF COLUMBIA 3 4 WADE ROBERTSON 5 Plaintiff 6 vs. No. 1:09-cv-1642 7 WILLIAM C. CARTINHOOR, JR. 8 Defendant 9 _____/ 10 11 Deposition of ROBERT L. ASH, ESQUIRE 12 Washington, D.C. 13 Wednesday, July 14, 2010 14 1:22 p.m. 15 16 17 18 19 Job No.: 1-182567 20 Pages: 1 - 39 21 Reported by: Susan Farrell Smith 22</p>	<p>1 APPEARANCES: 2 EDWARD GRIFFIN, ESQUIRE 3 Griffin Whitaker, LLP 4 7474 Greenway Center Drive 5 Suite 550 6 Greenbelt, Maryland 20770 7 301.513.5080 8 On behalf of the Plaintiff 9 10 PATRICK J. KEARNEY, ESQUIRE 11 Selzer Gurvitch Rabin & Obecnycy, Chtd. 12 4416 East-West Highway 13 4th Floor 14 Bethesda, Maryland 20814 15 301.986.9600 16 On behalf of the Defendant 17 18 19 20 21 22</p>
<p>1 Deposition of ROBERT L. ASH, ESQUIRE, held 2 at the offices of: 3 4 5 6 Ober Kaler, P.C. 7 1401 H Street, Northwest 8 5th Floor 9 Washington, D.C. 20005 10 202.408.8400 11 12 13 14 Pursuant to Notice, before Susan Farrell 15 Smith, Notary Public for the District of Columbia 16 and the State of Maryland. 17 18 19 20 21 22</p>	<p>1 APPEARANCES: (Continuing) 2 PAUL M. VINCENT, ESQUIRE 3 Ober Kaler, P.C. 4 1401 H Street, Northwest 5 5th Floor 6 Washington, D.C. 20005 7 202.408.8400 8 On behalf of the Deponent 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>

<p>1 EXAMINATION INDEX 5</p> <p>2</p> <p>3 ROBERT L. ASH, ESQUIRE PAGE</p> <p>4</p> <p>5 BY MR. GRIFFIN 6</p> <p>6 BY MR. KEARNEY 28</p> <p>7 FURTHER BY MR. GRIFFIN 33</p> <p>8</p> <p>9 EXHIBIT INDEX</p> <p>10</p> <p>11 ASH DEPOSITION EXHIBIT PAGE</p> <p>12 1 Amended Notice 8</p> <p>13 2 Web site attorney bio 9</p> <p>14 3 Unidentified document 10</p> <p>15 4 Unidentified document 11</p> <p>16 5 Partnership agreement 11</p> <p>17 6 Document 9/17/2004 12</p> <p>18 7 Limited waiver dated 3/21/05 13</p> <p>19 9 Attestation and certification of new 14 attorney/client relationship</p> <p>20</p> <p>21 (Ex. 8 not used.)</p> <p>22 (Exhibits attached.)</p>	<p>1 A. Yeah, I believe so. 7</p> <p>2 Q. All right. Then I'll be -- I'll be</p> <p>3 asking you questions. You want to give your</p> <p>4 attorney an opportunity to -- to object. Objections</p> <p>5 are part of the standard process. And unless your</p> <p>6 attorney instructs you not to answer any of those</p> <p>7 questions, I'd like you to go ahead even if he does</p> <p>8 lodge an objection for the record. Is that okay?</p> <p>9 A. I believe so.</p> <p>10 MR. VINCENT: If I might just interject</p> <p>11 here, let's just put on the record the</p> <p>12 circumstances under which Mr. Ash is</p> <p>13 testifying.</p> <p>14 Mr. Ash is going to be asked some</p> <p>15 questions we believe about one or more</p> <p>16 communications with a former client,</p> <p>17 Mr. Cartinhour. Mr. Cartinhour's counsel has</p> <p>18 consented to Mr. Ash testifying about these</p> <p>19 communications and thereby absolved Mr. Ash of</p> <p>20 his responsibility under the professional rules</p> <p>21 to maintain the confidences of those.</p> <p>22 In addition as I understand it, if to the</p>
<p>1 ROBERT L. ASH, ESQUIRE, 6</p> <p>2 the Witness, called for oral examination by counsel</p> <p>3 for the Plaintiff, having declared and affirmed</p> <p>4 under the penalties of perjury to tell the truth,</p> <p>5 was examined and testified as follows:</p> <p>6 EXAMINATION</p> <p>7 BY MR. GRIFFIN:</p> <p>8 Q. Mr. Ash, could you please state you name</p> <p>9 for the record?</p> <p>10 A. Robert Ash, A-S-H.</p> <p>11 Q. Mr. Ash, have you ever had your</p> <p>12 deposition taken before?</p> <p>13 A. Never.</p> <p>14 Q. Are you under the influence of any drugs</p> <p>15 or medication that might interfere with your ability</p> <p>16 to testify here today?</p> <p>17 A. No.</p> <p>18 Q. Now, I don't want to waste your time with</p> <p>19 the general background about -- about how a</p> <p>20 deposition works. I know you're an attorney, and I</p> <p>21 know you -- are you familiar with the mechanics of</p> <p>22 how a deposition works?</p>	<p>1 extent an attorney/client privilege applied to 8</p> <p>2 this communications, Mr. Cartinhour has also</p> <p>3 agreed to waive his attorney/client privilege.</p> <p>4 MR. KEARNEY: That's correct.</p> <p>5 MR. VINCENT: Okay. Go ahead.</p> <p>6 MR. GRIFFIN: And we have -- that was</p> <p>7 Mr. Kearney who is counsel for -- for Doctor</p> <p>8 Cartinhour, and he has -- he's consented.</p> <p>9 Correct?</p> <p>10 MR. KEARNEY: Correct.</p> <p>11 Q. We have Exhibit 1. It's just a copy of</p> <p>12 the --</p> <p>13 (Whereupon Ash Deposition Exhibit No. 1</p> <p>14 was marked.)</p> <p>15 Q. Sorry. This is the Amended Notice. I</p> <p>16 don't have extra copies, but it's just the Amended</p> <p>17 Notice of Deposition that's at your offices -- at</p> <p>18 your offices at Ober Kaler, 1401 H Street,</p> <p>19 Northwest, Washington, D.C., which is where we are</p> <p>20 today; is that correct?</p> <p>21 A. Right.</p> <p>22 Q. Okay. I'm just going to go ahead and</p>

DEPOSITION OF ROBERT L. ASH, ESQUIRE
 CONDUCTED ON WEDNESDAY, JULY 14, 2010

<p style="text-align: right;">9</p> <p>1 hand you a binder. I'm going to try to get through 2 this as quickly as possible. I got one for -- I 3 only got one extra one. 4 If you could just turn to Tab No. 2, 5 which I'll mark on -- they're all the same. So, 6 I -- I guess I'll mark my copy as Exhibit No. 2. 7 (Whereupon Ash Deposition Exhibit No. 2 8 was marked.) 9 Q. Can you identify this document, Mr. Ash? 10 A. Yeah. This looks like the -- a printout 11 from our firm web site of my -- under the attorneys' 12 portion of the web site, what pops up if you click 13 on my name. 14 Q. And it's just a short version of your 15 bio; is that correct? 16 A. Yes. 17 Q. Okay. 18 A. Experience, professional memberships, et 19 cetera. 20 Q. And -- and just from a quick glance, I 21 don't want to go too much into your background 22 because it looks like you are a very accomplished</p>	<p style="text-align: right;">11</p> <p>1 was marked.) 2 Q. Mr. Ash, have you ever seen this document 3 before today? 4 A. No, I have not. 5 Q. Okay. Go ahead and move to Tab No. 4. 6 I'm going to mark this as Exhibit No. 4. 7 (Whereupon Ash Deposition Exhibit No. 4 8 was marked.) 9 Q. Have you ever -- can you identify this 10 document? 11 A. I've never seen it before. Do you want 12 me to say what it looks like it is? 13 Q. If you've never seen it before today, 14 that's fine. Let's move on. 15 A. I've never seen it before. 16 Q. If you could turn to Tab No. 5. I'll -- 17 I'll mark my copy as Exhibit No. 5. 18 (Whereupon Ash Deposition Exhibit No. 5 19 was marked.) 20 Q. Have you ever -- if you need a moment to 21 review it, if you can see if you've ever seen what's 22 been marked as Exhibit No. 5 before?</p>
<p style="text-align: right;">10</p> <p>1 attorney in the tax group here at Ober Kaler. Is 2 that correct? 3 A. I'm in the tax group, yeah. I got a lot 4 of experience. I'll give you that. The very 5 accomplished, if you want. 6 Q. It certainly looks that way to me. How 7 long have you been at Ober Kaler? 8 A. 30 years. 9 Q. And before that, you were at the Internal 10 Revenue Service; is that correct? 11 A. Yes. 12 Q. How long were you at the IRS? 13 A. Four and a half years. 14 Q. Okay. Well, it's a -- it's a very 15 impressive bio. 16 A. Thank you. 17 Q. I want to move to Tab No. 3. 18 MR. KEARNEY: I'm not even giving you an 19 objection. 20 MR. GRIFFIN: We'll go ahead and mark my 21 copy as Exhibit 3. 22 (Whereupon Ash Deposition Exhibit No. 3</p>	<p style="text-align: right;">12</p> <p>1 A. Yeah. I believe this is the -- I -- I 2 have seen this before. I believe it's the same 3 document that was e-mailed to me by Michael Bramnick 4 last Fall. I never saw it before that. 5 Q. Do you know when that was last Fall? Was 6 it in November? 7 A. I don't recall. It was October, 8 November. Somewhere in there. 9 Q. Okay. But you've never seen it before -- 10 A. I have never seen it before that. 11 Q. -- the Fall of 2009? 12 A. Correct. 13 Q. Okay. Let's move to Tab No. 6. I'll 14 mark my copy for identification purposes as Exhibit 15 No. 6. 16 (Whereupon Ash Deposition Exhibit No. 6 17 was marked.) 18 Q. Have you ever seen this document before, 19 before today? 20 A. There's a -- well, there's a bunch of 21 things in here. Do you -- are you asking about all 22 of them or the first thing or -- my Tab 6 has a lot</p>

13

1 of things attached to it.

2 MR. VINCENT: Written notes among others.

3 Q. That looks like a screwup in the copies.

4 Let's just take a look at this first document.

5 A. Okay. I've never seen that before.

6 Q. Never seen that before?

7 A. Right. The document that says at the top

8 WAR LLP, it's dated September 17th, 2004.

9 Q. Never seen that before?

10 A. It's a one-page document.

11 Q. Let me see that. May I take that binder

12 back from you for just a second?

13 A. (Complies.)

14 Q. This is exhibit No. -- I'm marking

15 Exhibit No. 7.

16 (Whereupon Ash Deposition Exhibit No. 7

17 was marked.)

18 Q. Have you seen this document before today?

19 A. I have not.

20 MR. VINCENT: So the record is clear,

21 this is a document with a caption limited

22 waiver.

14

1 Q. Yeah. Limited waiver is dated

2 March 21st, 2005.

3 (Whereupon Ash Deposition Exhibit No. 9

4 was marked.)

5 Q. The first document here under Tab No. 9,

6 it's titled attestation and certification of new

7 attorney/client relationship?

8 A. Right.

9 Q. It's Attorney Wade Robertson. Have you

10 seen that document before today?

11 A. I have not.

12 Q. Okay. Do you know Doctor William

13 Cartinhour?

14 A. I do.

15 Q. When -- when did you first meet him?

16 A. Well, I couldn't say specifically. It

17 was either in 2003 or 2004, I believe.

18 Q. How were you introduced to Doctor

19 Cartinhour?

20 A. Well, actually he was referred to my wife

21 in connection with estate planning work. She's a

22 sole practitioner. And I met with him or met him in

15

1 connection with her having met with him.

2 Q. And -- and what's her full name, please?

3 A. Suzanne Duvall, D-U-V-A-L-L.

4 Q. And do you know about when she was

5 representing Doctor Cartinhour?

6 A. The same timeframe. 2003, I believe.

7 It's possible it started in 2002. I don't know.

8 Q. Okay. Have -- when was the last time you

9 spoke to Doctor Cartinhour?

10 A. Sometime in 2004. I couldn't say when.

11 Q. How many times have you spoken to him?

12 A. Less than 100. More than 10. Somewhere

13 in there.

14 Q. Somewhere in that frame -- timeframe --

15 framework. Have you ever communicated with him by

16 e-mail?

17 A. Not that I recall.

18 Q. Has he ever communicated to you by fax --

19 with you by fax?

20 A. I don't recall. It's possible, but I

21 just -- I don't remember.

22 Q. Has he ever communicated with you by

16

1 letter?

2 A. Again, I -- I don't have a specific

3 recollection of ever getting a letter from him.

4 Q. Okay. Has Doctor Cartinhour ever asked

5 you for -- for advice?

6 A. Yes.

7 Q. And what advice did he ask you for?

8 A. Well, he -- he -- I guess you'd call it

9 advice. He gave me a copy of an offering memorandum

10 concerning a potential investment with Wade

11 Robertson.

12 Q. And --

13 A. That I -- I -- I also discussed some

14 other matters with him, but that's not --

15 Q. Okay. I won't ask you about those.

16 A. That's private.

17 Q. And I appreciate that. And I -- I guess

18 with all the questions I'm asking right now, I don't

19 want to get into any other matters that you may have

20 advised him on related to estate planning or tax or

21 any those sort of issues. I just want to focus on

22 the communications related to the partnership with

17

1 Wade Robertson.

2 **A. Right. And just to be clear, I -- I**

3 **didn't actually speak with him concerning a**

4 **partnership agreement per se. It was -- the only**

5 **document that I saw concerning this investment was**

6 **this offering memorandum of sorts.**

7 Q. And that was in 2004?

8 **A. That's my recollection, yes.**

9 Q. Would it have been in September of 2004?

10 **A. I think it was earlier in the year than**

11 **that, but I'm not sure.**

12 Q. Maybe earlier. Do you -- do you remember

13 what that offering memorandum -- was it 10 pages or

14 100 pages? Could you give me a ballpark?

15 **A. More like 50 or 30, something -- I don't**

16 **remember well enough to give you a very good**

17 **answer. It was certainly more than 10.**

18 Q. Was it --

19 **A. And less than 100.**

20 Q. That's all. I know it was a long time

21 ago. So, I'm just trying to get --

22 **A. Right.**

18

1 Q. -- your best recollection. What did it

2 look like?

3 **A. As I recall, it was just a typewritten**

4 **stapled document, not bound or anything like that.**

5 **But I might even be wrong about whether it was in a**

6 **binding. I don't know. But it was --**

7 Q. Did you -- did you keep a copy?

8 **A. I -- I don't remember clearly. I believe**

9 **I gave the copy that he gave me back to him, but I'm**

10 **not -- frankly, I'm not sure.**

11 Q. How did he give it to you?

12 **A. I think he handed it to me at a meeting.**

13 Q. Where was that meeting?

14 **A. Probably at his residence. I met with**

15 **him several times there. There were a couple of**

16 **other places I remember meeting with him, but I**

17 **don't think that would have been in -- in the**

18 **connection -- in this connection or timeframe. So,**

19 **I think at his residence.**

20 Q. Did you ever meet with him in your home?

21 **A. I did.**

22 Q. Did you -- does your wife --

19

1 **A. Not on this.**

2 Q. Does your wife work out of the home?

3 **A. Yes.**

4 Q. Have you ever met with him at your

5 offices here?

6 **A. I believe on one occasion, yes. Again,**

7 **not with respect to this.**

8 Q. Not -- but not with respect to this

9 matter. Okay. That's fair.

10 **A. Just to be clear, I -- I never actually**

11 **met with him concerning this matter, other than when**

12 **he handed the memorandum to me. I never met with**

13 **him again to discuss it.**

14 Q. What did he -- when he handed you the

15 memorandum, did he -- what did he -- what did he

16 tell you?

17 **A. I don't remember specifically. I think**

18 **he -- all -- all -- as best I can recall, it was**

19 **just, I'm considering investing in this. Take a**

20 **look at it and let me know what you think. It's**

21 **basically to that effect.**

22 Q. And what did you think about the

20

1 potential investment?

2 **A. I thought that the memorandum was**

3 **inadequate to really describe the investment in a**

4 **way that would allow you to make any evaluation of**

5 **it. As I remember it, it was to invest funds that**

6 **would be used to fund expenses in a class action**

7 **litigation with the return on the investment to come**

8 **in the form of some sharing of the legal fees that**

9 **the class action suit would generate.**

10 **As I remember it, the memorandum did not**

11 **provide any details at all about the class action**

12 **case. So, it was impossible to make any sort of**

13 **assessment of the likelihood of getting a recovery.**

14 **And then it -- I also had questions as to**

15 **the -- the legality of an investment where the**

16 **return was going to come in the form of sharing**

17 **legal fees. Since Doctor Cartinhour is not an**

18 **attorney, I didn't know whether -- I didn't research**

19 **it, but I at least had a question as to that --**

20 **whether that was appropriate and even enforceable.**

21 Q. Did you think it was a good investment

22 opportunity?

21

1 **A. Based on looking at the placement**
 2 **memorandum, no.**
 3 Q. Was it something that you would have put
 4 your own money into?
 5 **A. Well, not based on the placement**
 6 **memorandum. There were a lot of questions to be**
 7 **answered before I would have considered putting my**
 8 **own money into it.**
 9 Q. Just generally, how would you
 10 characterize your interactions with Doctor
 11 Cartinhour?
 12 **A. Well, very pleasant. Professional. He**
 13 **was not what I'd call like a difficult person to**
 14 **deal with. I liked him personally. Sort of a --**
 15 **not much beyond that, I guess.**
 16 Q. Was he able to ask you intelligent
 17 questions?
 18 **A. Yes. I mean, he's -- my sense of him is**
 19 **he's an intelligent man. And he -- I always felt**
 20 **when I discussed things with him that he understood**
 21 **the issues I was -- I was presenting for him to**
 22 **consider.**

22

1 Q. Did you ever open up a matter file or
 2 any -- any file here for Doctor Cartinhour?
 3 **A. Not related to this.**
 4 Q. Not related to this. Have any of those
 5 files been -- do you have files for him related to
 6 other matters?
 7 **A. I didn't -- I didn't go back to check on**
 8 **that. I believe that a file was opened in**
 9 **connection with one matter that I advised him on.**
 10 Q. Is there any possibility that -- was it
 11 around the same timeframe?
 12 **A. Yes. Earlier, but around the same**
 13 **timeframe.**
 14 Q. Would that be in off site storage now?
 15 **A. I don't know. Probably.**
 16 Q. How did you -- so, Doctor Cartinhour
 17 presented you with the offering memorandum, and he
 18 asked you to take a look at it for him.
 19 **A. Right.**
 20 Q. And then you -- you reviewed it.
 21 **A. Right.**
 22 Q. Did you create a list of questions that

23

1 you would want to ask before undertaking any
 2 investment?
 3 **A. I don't believe I ever wrote up anything**
 4 **in connection with it. My only advice to him was**
 5 **given during a -- a call that I made on my cell**
 6 **phone one afternoon.**
 7 Q. Okay. So, you called him up. And -- and
 8 what did you tell him?
 9 **A. Essentially what I said earlier, that the**
 10 **memorandum didn't contain any description of the**
 11 **class action. So, there's no way from reviewing**
 12 **that to evaluate the likelihood of getting a return**
 13 **on whatever was invested.**
 14 **I told him about my concern over the**
 15 **apparent sharing of legal fees as a basis of**
 16 **providing the return. And I guess essentially**
 17 **saying, if this is -- if this is the information**
 18 **you've got on it, I would not go into this**
 19 **investment. If you -- you know, you need to get**
 20 **more information about these issues in particular**
 21 **before you make a decision.**
 22 Q. Did you ever recommended that --

24

1 recommend that he have an attorney review any -- any
 2 additional materials that he received related to the
 3 investment?
 4 **A. I don't recall that I said that. No, I**
 5 **don't. I mean, I -- that may have been implicit in**
 6 **what I told him, but --**
 7 Q. Like you better have an attorney look at
 8 this?
 9 MR. KEARNEY: Objection.
 10 Q. Anything like that?
 11 **A. I doubt -- I don't remember. I doubt**
 12 **that I said anything like that. I think it was more**
 13 **implied that if he were going to go into the**
 14 **investment, it was something that, you know, have --**
 15 **since he had asked my advice on this, I -- you know,**
 16 **I guess I sort of viewed it as implicit that at**
 17 **least I wouldn't advise him to go forward unless I**
 18 **had looked at the other stuff.**
 19 **But again, that's -- that's six years**
 20 **ago. And, you know, I just don't remember.**
 21 Q. I know it's a long time ago. Going back
 22 to the memo we marked as Exhibit No. 6. Is it 6?

25

1 Sorry, 5.
 2 **A. The partnership agreement?**
 3 Q. The partnership agreement for WAR LLP
 4 that's dated September 2004?
 5 **A. Right.**
 6 Q. You said that you received a copy of that
 7 last Fall from Michael Bramnick?
 8 **A. I believe so, yes. I -- I know I**
 9 **received a copy of a partnership agreement from**
 10 **him. I believe this is the same agreement.**
 11 Q. Why did he e-mail you a copy of the
 12 partnership agreement?
 13 **A. I don't recall. He had contacted me to**
 14 **ask about what advice I had given Doctor Cartinhour**
 15 **in connection with this investment.**
 16 MR. VINCENT: Let me just interject
 17 there. We're now about to get into something
 18 that might be deemed a privileged communication
 19 between two of Mr. Cartinhour's lawyers as to
 20 which at least I have not heard an affirmative
 21 waiver.
 22 MR. KEARNEY: No. Well, I don't -- tread

26

1 carefully. Go ahead and answer the question.
 2 MR. GRIFFIN: Yeah. I think he's just --
 3 I mean, you don't -- I'm sorry, let me -- let
 4 me step back for a second.
 5 Q. Do you -- do you currently represent
 6 Doctor Cartinhour?
 7 **A. No.**
 8 Q. When was the last --
 9 MR. KEARNEY: I think he can testify.
 10 MR. GRIFFIN: Yeah. I think he's just a
 11 fact witness at that point.
 12 MR. KEARNEY: Yeah. Go ahead.
 13 MR. VINCENT: It's up to you fellows.
 14 MR. KEARNEY: Go ahead.
 15 MR. GRIFFIN: I'm sorry, what was the
 16 last question? Can you read it back for me?
 17 (Whereupon the record was read.)
 18 Q. Okay.
 19 **A. I think he -- as -- since in the interim**
 20 **I have thought about it, I believe he sent it to me**
 21 **to ask me whether I had ever seen it before.**
 22 Q. Okay. And what was your response?

27

1 **A. That I had not ever seen it before.**
 2 Q. Okay. Did you talk to him about any of
 3 the advice that you had given Doctor Cartinhour
 4 related to the -- what did you call it?
 5 **A. The investment?**
 6 Q. The offering memorandum.
 7 **A. I -- yes, I did.**
 8 Q. What did you tell him?
 9 **A. Essentially the same thing that I just**
 10 **said in the deposition. I told him what concerns I**
 11 **had raised with Doctor Cartinhour in connection with**
 12 **it.**
 13 Q. And did he ask you if you had any -- a
 14 copy of this -- that memorandum?
 15 **A. I'm sure he did. And I -- as I said**
 16 **here, I think I -- I said I think I gave my only**
 17 **copy I had back to Doctor Cartinhour.**
 18 MR. GRIFFIN: I don't think I have
 19 anything further. Can we go off the record for
 20 a moment?
 21 (Discussion off the record.)
 22 MR. GRIFFIN: Let's go on the record.

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1 Q. Have you ever been compensated for legal
 2 services by Doctor Cartinhour?
 3 **A. Yes.**
 4 Q. What's your hourly rate?
 5 MR. VINCENT: Now or then?
 6 **A. \$450 an hour now. I don't remember what**
 7 **it was then.**
 8 Q. Have you noticed any changes in Doctor
 9 Cartinhour over the last four or five years?
 10 **A. I haven't seen him since 2004.**
 11 MR. VINCENT: So, that would be a no?
 12 **A. That would be a no.**
 13 Q. Do you know if your wife still represents
 14 him?
 15 **A. She does not.**
 16 MR. GRIFFIN: That's all I have. Thank
 17 you.
 18 EXAMINATION
 19 BY MR. KEARNEY:
 20 Q. Okay. Mr. Ash, let me ask you to turn to
 21 Exhibit 3.
 22 **A. Is that Tab 3?**

29

1 Q. Tab 3, yes, letter of intent.
 2 **A. Right.**
 3 Q. In the big bold black in the first full
 4 paragraph it says, the parties agree to negotiate in
 5 good faith towards a final agreement of the terms of
 6 the partnership and to execute the final agreement
 7 for the partnership no later than September 17,
 8 2004.
 9 Did Doctor Cartinhour ever talk to you
 10 about the formation of a partnership in connection
 11 with the investment that he talked to you about?
 12 **A. I -- no, he did not.**
 13 Q. And to be clear, you never saw this?
 14 **A. Correct. I never saw this.**
 15 Q. And did he ever talk to you about signing
 16 a letter of intent and nondisclosure agreement?
 17 **A. Not that I recall.**
 18 Q. I'd ask you to turn to Tab 4, which is
 19 Exhibit 4. Go to the third page, Paragraph 11. If
 20 you could read that to yourself and just let me know
 21 when you've read it.
 22 **A. (Complies.) Okay. I've read it.**

30

1 Q. In the first sentence of Paragraph 11
 2 when it refers to having full notice and opportunity
 3 to consult with independent attorneys regarding a
 4 business partnership, did you have any consultation
 5 with him about entering into a business partnership
 6 with Wade Robertson?
 7 **A. No. My only --**
 8 **MR. GRIFFIN: Objection.**
 9 Q. Go ahead.
 10 **A. My only conversation with him was**
 11 **concerning the offering memorandum. Now, the**
 12 **offering memorandum, I think, contemplated an**
 13 **investment in a partnership. So in that sense, I**
 14 **did.**
 15 **As far as the partnership agreement, no,**
 16 **I never consulted with him concerning any draft of a**
 17 **partnership agreement.**
 18 Q. Okay. So in the next sentence when it
 19 talks about consulting beforehand with his own
 20 independent attorney regarding the partnership and
 21 this agreement, that --
 22 **A. That was not with me.**

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1 Q. That was not with you. Okay. Let me ask
 2 you to turn to the first page of this document.
 3 **A. But then, I'm sorry, I should say that**
 4 **was not me except to the extent that what I told him**
 5 **about the offering memorandum is covered by that**
 6 **sentence.**
 7 Q. And in talking to him about the offering
 8 memorandum, did you ever have a discussion with him
 9 about the partner -- the terms and conditions of any
 10 partnership that might be formed because of it?
 11 **A. Not that I recall. I can't say for**
 12 **certain that the terms of a proposed partnership**
 13 **agreement were not covered in the offering**
 14 **memorandum. But as I remember my -- my response to**
 15 **him, it -- it didn't drill down to that kind of a**
 16 **detail because the -- I sort of viewed the -- the**
 17 **fact that it didn't include any disclosure in terms**
 18 **of what this class action suit was supposed to be**
 19 **the vehicle for a return would be, that I sort of**
 20 **felt that that kind of overwhelmed details insofar**
 21 **as the partnership -- a partnership, whatever**
 22 **agreement they might have.**

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1 Q. Okay. If you would turn to Tab 5,
 2 please. Page 11 of Tab 5, loans partners. If you
 3 could read Article 23, loans to partners to
 4 yourself, and let me know when you've read it.
 5 **A. (Complies.) Okay. I've read it.**
 6 Q. Did you have any discussions with Doctor
 7 Cartinhour about loans that could be made from
 8 capital contributions in this partnership to the
 9 individual partners?
 10 **A. I don't believe so. I -- I can't say for**
 11 **certain that that wasn't included in the placement**
 12 **memorandum that I reviewed. But I don't -- I don't**
 13 **have any recollection that it was.**
 14 Q. Did you have any discussions with him
 15 about how capital distributions would be made from
 16 the partnership when the partnership was dissolved?
 17 **A. No. As I said, I don't remember having**
 18 **any discussions with him of any specifics concerning**
 19 **a partnership that would sort of be formed to -- as**
 20 **the vehicle for this investment. It was again more**
 21 **in the nature of -- I don't even know what the**
 22 **investment is because I don't know what this class**

33

1 **action suit is.**
 2 Q. How long was your cell phone conversation
 3 with him?
 4 **A. 5 to 10 minutes.**
 5 MR. KEARNEY: No more questions.
 6 MR. GRIFFIN: One follow-up question.
 7 **FURTHER EXAMINATION**
 8 **BY MR. GRIFFIN:**
 9 Q. Why don't we stay on Page 11 of Exhibit
 10 No. 5. Would there be any tax reason for this type
 11 of provision within a partnership?
 12 MR. KEARNEY: Objection if you're asking
 13 him to give an expert reason because he's a tax
 14 attorney.
 15 **A. Yeah. I -- I -- no, I don't -- I can't**
 16 **think of a tax motivation for a provision like that.**
 17 Q. Would there be any tax motivation for
 18 having a provision like this rather than -- strike
 19 that. Let me think how I can rephrase it.
 20 If you had two partners in a partnership
 21 and they contributed \$100 to the partnership, and
 22 one of the partners was paid \$100 as a salary, would

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1 that be a taxable event?
 2 **A. For the partner that got the \$100, yes.**
 3 Q. Now, if you had two partners in a
 4 partnership and they contributed \$100, and one
 5 partner was loaned \$100 from the partnership, would
 6 that be a taxable event?
 7 **A. That would not be a taxable event**
 8 **provided it was intended to be a true loan as**
 9 **opposed to compensation for something.**
 10 Q. What -- what -- what kinds of things
 11 would you need to show that it was a true loan?
 12 MR. KEARNEY: Objection. Going way far
 13 afield of the facts, but --
 14 **A. Well, I guess first you'd want to see**
 15 **that it was documented as a loan with a promissory**
 16 **note or something comparable. And then I guess it**
 17 **just sort of -- even beyond that from a tax**
 18 **standpoint, you could sort of look at the facts and**
 19 **circumstances and assess whether or not withstanding**
 20 **the note there was ever a true intention that it was**
 21 **going to be repaid. That's about it, I guess.**
 22 MR. GRIFFIN: Okay. I have no further

35

1 questions.
 2 MR. KEARNEY: I do, but I think I'll
 3 pass.
 4 MR. VINCENT: He will read and sign.
 5 (Whereupon at 2:00 p.m. the deposition
 6 concluded.)
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1 **DISTRICT OF COLUMBIA**
 2
 3 I, Susan Farrell Smith, Notary Public of
 4 the District of Columbia, do hereby certify that
 5 ROBERT L. ASH, ESQUIRE personally appeared before me
 6 at the time and place herein set out, and, after
 7 having been duly sworn by me, was examined by
 8 counsel.
 9 I further certify that the examination
 10 was recorded stenographically by me and that this
 11 transcript is a true record of the proceedings. I
 12 further certify that I am not of counsel to any of
 13 the parties, nor an employee of counsel, nor related
 14 to any of the parties, nor in any way interested in
 15 the outcome of this action.
 16 As witness my hand and notarial seal this
 17 21st day of July, 2010.
 18
 19 _____
 20 Susan Farrell Smith
 21 Notary Public
 22 (My Commission expires February 29, 2012)

DEPOSITION OF ROBERT L. ASH, ESQUIRE
CONDUCTED ON WEDNESDAY, JULY 14, 2010

37

1 ACKNOWLEDGEMENT OF DEPONENT

2

3 I, ROBERT L. ASH, ESQUIRE, acknowledge that I have

4 read and examined the foregoing testimony, and the

5 same is a true, correct and complete transcription

6 of the testimony given by me, and any corrections

7 appear on the attached errata sheet signed by me.

8

9

10 _____

11 (Signature) (Date)

12

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1 ERRATA SHEET

2 IN RE: Robertson v. Cartinhour

3 RETURN BY: _____

4 PAGE LINE CORRECTION AND REASON

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1 ERRATA SHEET

2 IN RE: Robertson v. Cartinhour

3 RETURN BY: _____

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Blank area for corrections and reasons on page 38.

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DEPOSITION OF ROBERT L. ASH, ESQUIRE
CONDUCTED ON WEDNESDAY, JULY 14, 2010

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