

ESTTA Tracking number: **ESTTA288857**

Filing date: **06/09/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177234
Party	Plaintiff Cardinal Health 303, Inc.
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Date	06/09/2009
Attachments	2Caven Notice.pdf (20 pages)(1465028 bytes)

1 NANCY J. CAVEN - 12.3.08
 2 that are provided within ALARISAdvantage the
 3 same services that we provide with The Alaris
 4 Group, Incorporated?
 5 Is that the question?
 6 Q. Well, you can answer that one.
 7 That's a perfectly good question.
 8 A. Ah, yes.
 9 Q. Okay.
 10 A. Yes.
 11 Q. When you use the mark
 12 ALARISAdvantage, what do you use it to designate
 13 in your mind?
 14 A. That's the company that we operate
 15 our franchises within (witness indicating).
 16 Q. Okay. And then the last application
 17 there in Exhibit 9 is again the word Alaris by
 18 itself for the franchise services.
 19 Do you see that?
 20 A. Uh-huh.
 21 THE COURT REPORTER: Yes?
 22 THE WITNESS: Yes. Sorry.
 23 BY MS. TRUE:
 24 Q. Why did you want to get the word
 25 Alaris by itself for the franchise services?

1 NANCY J. CAVEN - 12.3.08
 2 A. It is the name that people call us
 3 out in the marketplace, so, again, another level
 4 of protection.
 5 Q. Is it your belief that you can use
 6 the word Alaris in conjunction with many other
 7 words?
 8 A. I'm not sure that I follow the --
 9 Q. Well, what if the -- I mean if -- do
 10 you believe that the word Alaris -- that you
 11 have rights in the word Alaris to say something
 12 like Alaris Consulting?
 13 Would you -- is that something you
 14 might consider using at some point?
 15 A. I can't say that I've thought about
 16 that, no.
 17 Q. Okay. But is that something that you
 18 believe that you -- that you can use the word
 19 Alaris in conjunction with other words such as
 20 Advantage or Select?
 21 MS. BOYLAN: Well, I'd object to the
 22 extent that calls for a legal conclusion.
 23 BY MS. TRUE:
 24 Q. But if you were -- if you were going
 25 to use the word Alaris Consulting, would you

1 NANCY J. CAVEN - 12.3.08
 2 have any, you --
 3 A. I may seek legal counsel on whether
 4 it's an option, whether it's available.
 5 Q. Okay. What about something like
 6 Alaris Care?
 7 Would that be something that you
 8 would -- you could see perhaps trying to use,
 9 terms like that?
 10 A. If -- Alaris is the name of my
 11 company.
 12 Q. Uh-huh.
 13 A. The Alaris Group, Incorporated.
 14 People call us by the name Alaris. There may be
 15 some opportunity down the road that we might
 16 think to pair Alaris with something else if it's
 17 within our -- you know, if an opportunity
 18 presents itself, but I'm -- I -- I have no plans
 19 in place today --
 20 Q. Uh-huh.
 21 A. -- to pair Alaris with anything else
 22 right now so . . .
 23 Q. Because you've already done Alaris
 24 Select and Alaris Advantage.
 25 But you do not feel foreclosed from

1 NANCY J. CAVEN - 12.3.08
 2 something like Alaris Care or Alaris Medical
 3 Management or things like that?
 4 A. There's really no need. We've got
 5 really -- we've got the bases covered in terms
 6 of what we have a need for today (witness
 7 indicating).
 8 I -- if you're asking me if I would
 9 look down the road whether to pair Alaris with
 10 something else, I can't say that I would never
 11 consider using Alaris something down the road.
 12 But today, no. I have no desire or no need to
 13 do that.
 14 Q. So you -- at this point, you're --
 15 you would agree that you have somewhat expanded
 16 your use of the Alaris mark since 2000?
 17 A. (Witness indicating).
 18 MS. BOYLAN: I'd object to the use of
 19 the word expansion as vague.
 20 BY MS. TRUE:
 21 Q. You use -- you use more than just The
 22 Alaris Group, Inc., correct?
 23 A. Clearly --
 24 Q. Okay.
 25 A. -- based on the documents you've

1 NANCY J. CAVEN - 12.3.08
 2 provided.
 3 MS. TRUE: Okay.
 4 * * *
 5 (Whereupon, Deposition Exhibit Number
 6 11 was marked for identification.)
 7 * * *
 8 BY MS. TRUE:
 9 Q. Okay. And just quickly on this
 10 document that's been identified or marked as
 11 Exhibit 11, if you could just tell me what this
 12 is?
 13 A. This is our document to -- it's
 14 marketing materials for our franchise.
 15 Q. So this shows your use of the
 16 ALARIS Advantage mark for your -- to market your
 17 franchise opportunities?
 18 A. Yes.
 19 Q. Who do you provide this material to?
 20 A. This had never been done in our
 21 industry before.
 22 Q. Uh-huh.
 23 A. So we weren't really even quite sure
 24 how we were going to do it, but, again, an
 25 opportunity presented itself, and we capitalized

1 NANCY J. CAVEN - 12.3.08
 2 with a lot of it, but we can talk about it.
 3 MS. TRUE: This is -- twelve is -- if
 4 you can mark that?
 5 * * *
 6 (Whereupon, Deposition Exhibit Number
 7 12 was marked for identification.)
 8 * * *
 9 MS. BOYLAN: Are these all the same?
 10 MS. TRUE: Yeah.
 11 BY MS. TRUE:
 12 Q. When did you first start offering,
 13 formally offering franchise services I mean if
 14 you recall?
 15 You said it took you about a year to
 16 come up with the concept.
 17 A. I'm terrible with dates. I'm sorry.
 18 So it would have been -- 2008 -- 2006
 19 would be the first real opportunity that we had
 20 with the franchise in Michigan.
 21 Q. Okay.
 22 A. So it's been about two years.
 23 Q. Okay. And the -- the Michigan
 24 operation has always been franchised?
 25 I mean that's how they joined your

1 NANCY J. CAVEN - 12.3.08
 2 on it. We had nurses that came to us and really
 3 were aware of our reputation in the industry and
 4 very intrigued by our story, but really wanted
 5 to set up their own business, so we -- we
 6 actually decided to try to put together an
 7 opportunity to franchise.
 8 I mean it was at that point where we
 9 determined we had been -- we had a pretty
 10 successful business model. And while I
 11 certainly had never sold business models before,
 12 we do know how to do case management. So it was
 13 -- it was -- it was a creative idea that we
 14 spent a year trying to develop, and the reality
 15 is we spent a -- you know, a fair amount of
 16 money on marketing brochures and whatnot, but
 17 what -- what has really transpired is that it's
 18 word of mouth that this sells -- that sells our
 19 services and our opportunity if you will
 20 (witness indicating) to purchase a franchise.
 21 Q. Excuse me.
 22 Now, your counsel has produced a fair
 23 amount of -- of your franchise materials, and I
 24 just wanted to show you some of this, and I
 25 don't know how much familiarity you will have

1 NANCY J. CAVEN - 12.3.08
 2 organization?
 3 A. No. They -- while we were preparing
 4 the franchise documents and preparing to bring
 5 them on, they worked with us as subcontractors
 6 for about a year, maybe nine months.
 7 Q. Okay. Are the other locations that
 8 are listed -- and we could probably go back to
 9 -- okay. Let's look at Exhibit 3. And you had
 10 also given me a list of states in which you had
 11 employees.
 12 The locations listed here, are these
 13 people, subcontractors or --
 14 A. No. They're employees.
 15 Q. These are actual employees?
 16 A. (Witness indicating).
 17 Q. So these are separate or are all --
 18 THE COURT REPORTER: Is that a yes?
 19 * * *
 20 (Whereupon, the reporter read back
 21 the last question.)
 22 * * *
 23 THE WITNESS: Yes. These are actual
 24 employees, referencing document -- Exhibit
 25 Number 3.

Page 77

1 NANCY J. CAVEN - 12.3.08
 2 BY MS. TRUE:
 3 Q. Okay. So the Michigan -- were you
 4 always anticipating -- at least when you started
 5 working with the people in Michigan, was that --
 6 were they subcontractors because you were in the
 7 process of preparing all the franchise offering
 8 documents, and that was just sort of a holding
 9 pattern for them?
 10 A. Their desire was always to operate as
 11 a franchise or a business entity.
 12 Q. Okay. The Franchise Offering
 13 Circular that is here as Exhibit 12, are you
 14 familiar with this document particularly?
 15 MS. BOYLAN: Nancy, this is a very
 16 long document.
 17 MS. TRUE: Yeah.
 18 MS. BOYLAN: How many pages are we
 19 looking at here?
 20 348 through 380.
 21 Do you want to look at every page
 22 before you answer that question?
 23 THE WITNESS: It might take a while.
 24 MS. BOYLAN: But it's up to -- maybe
 25 you are familiar. I don't know.

Page 78

1 NANCY J. CAVEN - 12.3.08
 2 BY MS. TRUE:
 3 Q. Yeah. I mean my question is --
 4 MS. BOYLAN: I'll just point out that
 5 it's a big document.
 6 MS. TRUE: Yeah. And I understand,
 7 and I'm not -- my --
 8 MS. BOYLAN: Yep.
 9 BY MS. TRUE:
 10 Q. And obviously when somebody sets up a
 11 franchise operation, lawyers put together a lot
 12 of documents.
 13 A. Uh-huh.
 14 Q. Okay. But were you the person within
 15 your company that interfaced with the lawyers to
 16 provide the information to put into the
 17 franchise documents?
 18 A. As we were developing this, I did --
 19 I -- all of us met with the attorneys in
 20 preparing the Franchise Offering Circular.
 21 Q. Okay.
 22 A. My business partner in charge of
 23 business development is the one that deals most
 24 directly with this document.
 25 Q. Okay. I noted at the bottom of this

Page 79

1 NANCY J. CAVEN - 12.3.08
 2 that this says effective date of March 29th
 3 2007, and I checked and you have -- there is a
 4 version that was -- that you also produced that
 5 was -- of an effective date of October 10th,
 6 2007.
 7 Do you know whether this has been
 8 updated since then?
 9 A. This is also -- franchise operations
 10 are also highly regulated.
 11 Q. Uh-huh.
 12 A. I believe the document needs to be
 13 updated annually (witness indicating).
 14 Q. Okay. How many -- since you first
 15 started offering franchise opportunities, how
 16 many people or companies have requested your
 17 offering materials?
 18 A. To the best of my recollection,
 19 there's been inquiries from six, and the only
 20 franchise we have in operation today is
 21 Michigan.
 22 Q. Okay. All right. And I believe in
 23 looking through -- it might not have been this,
 24 but you are anticipating bringing more on soon?
 25 A. I don't know -- I don't know what

Page 80

1 NANCY J. CAVEN - 12.3.08
 2 document that you've referenced, and I have not
 3 looked at these documents (witness indicating).
 4 Q. Okay. Are you aware of any --
 5 A. We are looking at bringing on
 6 Nevada --
 7 Q. Okay.
 8 A. -- as a franchise.
 9 Q. Okay.
 10 A. The Michigan group actually has
 11 expanded their operation into Nevada.
 12 * * *
 13 (Whereupon, Deposition Exhibit Number
 14 13 was marked for identification.)
 15 * * *
 16 BY MS. TRUE:
 17 Q. Okay. This is -- it says up at the
 18 top Franchise Disclosure Document.
 19 Do you have any knowledge as to any
 20 differences between Exhibit 12 and Exhibit 13?
 21 A. I could not -- I couldn't answer
 22 that.
 23 Q. Do you know which one is more up to
 24 date?
 25 A. No.

<p style="text-align: right;">Page 81</p> <p>1 NANCY J. CAVEN - 12.3.08 2 Q. Okay. Now, your name is on -- at the 3 top of Exhibit 13 as a contact person? 4 A. (Witness indicating). 5 Q. Is that -- do you -- do you know why 6 that has been added? 7 A. Well, because I'm the one that's most 8 diligent about responsiveness because I'm in 9 charge of sales. So most inquiries -- my name 10 is on the website as well, so most inquiries 11 actually do come to me -- 12 Q. Okay. 13 A. -- and then I redirect to my business 14 partner, Chris. Depending on the situation, I 15 may or may not attend the meetings, but she is 16 the one most familiar with the documents. 17 Q. Well, on the second page -- and 18 again, these are -- it's hard to keep track of 19 all of these things. It says issuance date, 20 March 28th, 2008. 21 Do you -- which seems to be later 22 than the circular that was marked as Exhibit 12. 23 Do you have any knowledge as to 24 whether there has been any updates to this March 25 28th, 2008 --</p>	<p style="text-align: right;">Page 83</p> <p>1 NANCY J. CAVEN - 12.3.08 2 franchise world is very heavily regulated, and 3 things have to be very clearly documented in 4 terms of when you've -- when you've obtained an 5 inquiry, the state laws are all different so 6 sometimes you have to register in a state, and 7 others you don't. Sometimes you have to 8 document in a state, others you don't. 9 So these are -- these are all states 10 that we have had inquiries about franchise 11 operations, and the only state that we are 12 clearly in progress with would be Nevada. 13 Q. Okay. 14 A. No interest in Indiana any longer, no 15 interest in Florida any longer and I -- no 16 interest in California that I'm aware of as of 17 today. 18 Q. But there was a period of time that 19 you were working with somebody in California, 20 and there was interest; is that correct? 21 I mean there was a specific or 22 specific negotiations going on at some point? 23 A. No. 24 Q. No? 25 A. One of my business partners was</p>
<p style="text-align: right;">Page 82</p> <p>1 NANCY J. CAVEN - 12.3.08 2 A. I don't. 3 Q. Okay. Would it -- look on page 32. 4 THE WITNESS: Sorry. 5 MS. BOYLAN: Uh-huh. 6 THE WITNESS: Uh-huh. 7 BY MS. TRUE: 8 Q. And it has the little chart there 9 that says Projected Openings as of December 10 31st, 2007. It says, "Franchise Agreements 11 Signed But Outlet Not Opened." 12 Is this -- is this accurate that you 13 do have signed agreements with somebody in 14 California? 15 A. No. There is no signed agreement. 16 Q. Okay. Is that just not happening now 17 or do you anticipate opening something in 18 California later or -- 19 A. There's been inquiries, nothing 20 formal. 21 Q. Okay. So what does this "Franchise 22 Agreement Signed But Outlet Not Opened" mean? 23 A. I believe, again, not being the one 24 that's most involved with the document 25 preparation and management, but it's very -- the</p>	<p style="text-align: right;">Page 84</p> <p>1 NANCY J. CAVEN - 12.3.08 2 interested in perhaps looking into California, 3 but nothing formal has been pursued. 4 Q. One of your business partners that's 5 located here in Minnesota? 6 A. Yes. 7 Q. Okay. Do you know of any limitations 8 geographically as to where you would seek to 9 open franchises? 10 A. Not necessarily. Again, what -- our 11 expansion -- really -- our expansion up until 12 this point has been really opportunity driven. 13 We had one of our nurses relocate to 14 California for her husband's job. That's why 15 there was a thought that maybe we would start 16 case management down in Florida or in 17 California. 18 Q. Okay. So there's -- 19 A. So again, we have largely pursued our 20 expansion based on inquiries from potential case 21 management candidates so . . . 22 Q. That's no state that would be off the 23 table as far as you're concerned? 24 A. Not necessarily. 25 Q. If an opportunity presented itself?</p>

1 NANCY J. CAVEN - 12.3.08
 2 A. (Witness indicating).
 3 THE COURT REPORTER: Is that a yes?
 4 * * *
 5 (Whereupon, the reporter read back
 6 the last question.)
 7 * * *
 8 THE WITNESS: Yes. Sorry.
 9 If an opportunity presented itself
 10 that looked to be like the person or the
 11 employee, potential employee was capable of
 12 performing case management services and the
 13 manner within which we have -- we have really
 14 grown our business, yeah. We would consider --
 15 we would consider any state that he or she may
 16 contact us from.
 17 BY MS. TRUE:
 18 Q. Okay. Are there plans to expand the
 19 -- the employee base?
 20 I mean you're operating in the -- the
 21 Midwestern states in which you're operating,
 22 would there still be plans to say expand into
 23 additional areas based on the -- on the managers
 24 being -- case managers being employees rather
 25 than franchisees?

1 NANCY J. CAVEN - 12.3.08
 2 So again, this is -- we run a service
 3 business, and the opportunity for success is
 4 exacerbated greatly if you get the right person
 5 in place.
 6 Q. Sure. Sure.
 7 A. So we may have opportunities present
 8 itself. We may not pursue it because it's not
 9 the right person.
 10 Q. But the idea being that if somebody
 11 wanted to work with you but didn't want to start
 12 their own business, you would certainly -- would
 13 you consider taking them on as an employee in a
 14 different area?
 15 A. Yes.
 16 Q. Okay. Would you look at page 13?
 17 A. Which document, the disclosure?
 18 Q. Exhibit 13, page 13. I'm looking at
 19 the bottom with the marketing fund.
 20 Have you had occasion to use money
 21 from the marketing fund to --
 22 A. Yes.
 23 Q. -- promote the Alaris system as it
 24 says?
 25 A. Yes.

1 NANCY J. CAVEN - 12.3.08
 2 A. Could -- could you repeat the
 3 question?
 4 Q. No problem.
 5 You know, you have employees,
 6 company-owned outlets it says in here, but I
 7 mean you have employees --
 8 A. Yes.
 9 Q. -- in several states?
 10 A. Yes.
 11 Q. Would you be also considering
 12 expanding in that regard into other areas, as
 13 well as -- or are you just looking at growth
 14 through franchising?
 15 A. Very case-by-case driven. This
 16 business is really highly regulated, you know,
 17 and each state is -- has a unique customer set,
 18 has unique law, nuance to the law, and the
 19 owners, the owners -- we all live in the upper
 20 Midwest. We know this business well, but we
 21 don't necessarily know the business like
 22 somebody who lives in Florida might know the
 23 business, so it is often advantageous to bring
 24 someone in who has more expertise than we do in
 25 a particular jurisdiction.

1 NANCY J. CAVEN - 12.3.08
 2 Q. Okay.
 3 A. Not much, but, yes.
 4 Q. Because you have one person -- one
 5 person contributing to it, correct?
 6 A. One franchise, yes.
 7 Q. One franchise, okay.
 8 And what have you done with the
 9 monies in the marketing fund?
 10 A. We have really exclusively used the
 11 money for trade shows that -- that market the
 12 entire company, not just a franchise arm, so we
 13 have used funds from that to pay for booths at
 14 trade shows that may or may not be -- you know,
 15 we may have the franchise banner there; we may
 16 not, but we have used the funds for trade shows
 17 for marketing purposes.
 18 Q. So when you say: "The purpose of
 19 this fund will be to promote the Alaris system,"
 20 that isn't confined to just -- do you see the
 21 Alaris system as being broader than just the
 22 franchise part?
 23 A. Yes. It's not just the franchise
 24 operation that we would market with that fund.
 25 It's representing the whole company.

1 NANCY J. CAVEN - 12.3.08
 2 Q. Okay. Where have you gone to trade
 3 shows?
 4 A. We have trade shows in South Dakota,
 5 Wisconsin, Illinois, Kansas. The Illinois trade
 6 show is split between Las Vegas and Chicago
 7 every other year. Those are -- I think that's
 8 about it in terms of states that we've actually
 9 had trade shows in.
 10 Q. Okay. What -- what's the industry
 11 that is the trade show?
 12 I mean what would they be called?
 13 A. The one that I just went to in Las
 14 Vegas is the National Work Comp and Disability
 15 Conference.
 16 Q. The National Workers' Comp and --
 17 A. Disability Conference. It's the
 18 biggest one that we do.
 19 Q. Okay. What are some of the other
 20 ones called?
 21 A. South Dakota Work Comp Update. Iowa
 22 -- it's called the Iowa Symposium.
 23 Q. And is that --
 24 A. It's again work comp. Kansas City
 25 Work Comp -- I think it's called the Kansas --

1 NANCY J. CAVEN - 12.3.08
 2 another work comp symposium that we do in Kansas
 3 City in the fall. I can't remember exactly what
 4 it's called.
 5 Q. Okay. Who are some of the other --
 6 or what are some of the other types of companies
 7 that have booths at these events?
 8 A. Other case management companies that
 9 perform services similar to ours. The durable
 10 medical equipment providers that I shared with
 11 you earlier. PPO networks might be there.
 12 Orthopaedic offices might be there. Largely,
 13 case management vendors that do what we do.
 14 Q. And would there say -- would there be
 15 law firms that would have booths?
 16 A. Uh-huh, yeah. There could be some
 17 law firms there, depending on the conference.
 18 Q. Uh-huh.
 19 A. Yeah. Litigation support services,
 20 software companies. There could be people
 21 selling claim software to the work comp
 22 industry.
 23 Q. And do you market both the -- your
 24 company and your franchise services at these
 25 trade shows?

1 NANCY J. CAVEN - 12.3.08
 2 A. The only place we've marketed the
 3 franchise thus far has been -- oh, I forgot to
 4 put Denver in there. Case Management Society of
 5 America, we've done it there, and then we have
 6 the -- we have the banner out at the Work Comp
 7 and Disability Conference, but really what we
 8 found is word of mouth from other case managers
 9 is how people are directed to our services.
 10 Q. So have you ever been to like a
 11 franchise -- a franchise-based trade show --
 12 A. No.
 13 Q. -- or anything like that?
 14 A. No.
 15 Q. Okay.
 16 A. That's really not the market that --
 17 Q. Okay.
 18 A. We've thought about it. We have
 19 thought about it. I've actually gone as an
 20 attendee, but we would have little opportunity.
 21 It's really what -- the only people that are
 22 going to be interested in setting a franchise up
 23 with our company are case managers.
 24 Q. Okay. And if you could look at this
 25 page 20 and 21 under trademarks?

1 NANCY J. CAVEN - 12.3.08
 2 On page 21, it -- do you understand
 3 -- you understand that the first paragraph on
 4 the top of page 21 is referencing the TTAB
 5 proceeding that we're here for today?
 6 MS. BOYLAN: (Counsel indicating).
 7 THE WITNESS: Yes. We're required --
 8 we're required to disclose that.
 9 BY MS. TRUE:
 10 Q. Do you know whether -- it indicates
 11 that this was filed on September 27th, 2007?
 12 Do you know whether it was also
 13 disclosed in the -- the October 2007 version of
 14 the offering circular that is Exhibit 12?
 15 A. I don't. Sorry.
 16 Q. It says, "We moved for summary
 17 judgment but the USTTAB has not ruled as of the
 18 date of this Disclosure Document."
 19 You understand that they have since
 20 ruled on the -- on the summary judgment motion
 21 grant?
 22 MS. BOYLAN: Will you repeat the
 23 question?
 24 I think she got lost in the document.
 25 THE WITNESS: Sorry. I just want to

Page 93

1 NANCY J. CAVEN - 12.3.08
 2 make sure that I read this thoroughly.
 3 MS. BOYLAN: (Counsel indicating).
 4 BY MS. TRUE:
 5 Q. Yeah.
 6 A. So the question is . . .
 7 Q. Do you see the last sentence of the
 8 first paragraph there --
 9 A. Yeah.
 10 Q. -- that says, "We moved for summary
 11 judgment, but the USTTAB has not ruled as of the
 12 date of this Disclosure Document."
 13 You understand that since this
 14 document was written, that the USTTAB has ruled
 15 on that motion?
 16 A. Yes.
 17 Q. Okay. Do you know if this document
 18 has been updated to reflect that?
 19 A. I don't.
 20 Q. Would it be your business partner who
 21 would have more interaction with --
 22 A. She would be responsible for updating
 23 the document and working with the attorney to do
 24 so.
 25 Q. Okay. And who is that?

Page 94

1 NANCY J. CAVEN - 12.3.08
 2 I'm sorry.
 3 A. Chris Delich.
 4 Q. Okay.
 5 MS. TRUE: And I know you just
 6 produced these, and I don't know what -- with an
 7 issuance date of March 28, 2008, so I mean --
 8 but if we could get the next one that comes up?
 9 If there's not been anything else
 10 since then, then if you could let us know, if
 11 you just confirm that this is the most recent
 12 version?
 13 MS. BOYLAN: Yes, we will.
 14 MS. TRUE: Okay.
 15 MS. BOYLAN: And we can confirm that
 16 right now.
 17 MS. ANDRESEN: Yes.
 18 MS. TRUE: Right.
 19 MS. ANDRESEN: That is the most
 20 recent one. They do updates on an annual
 21 basis --
 22 MS. TRUE: On an annual?
 23 MS. ANDRESEN: -- unless there's been
 24 a change.
 25 MS. TRUE: Okay.

Page 95

1 NANCY J. CAVEN - 12.3.08
 2 BY MS. TRUE:
 3 Q. And again, at this point, to your
 4 knowledge, how many companies have been provided
 5 this document?
 6 MS. BOYLAN: I'll object, asked and
 7 answered, but you can answer again.
 8 THE WITNESS: The Michigan franchise,
 9 and the people that were interested in pursuing
 10 Indiana and it -- I think the document was
 11 produced -- I'm not sure. I think the document
 12 was produced for another inquiry we had, but I
 13 can't remember the state.
 14 BY MS. TRUE:
 15 Q. Would it have been something in
 16 addition to the states listed on page 32,
 17 California, Florida, Indiana and Nevada?
 18 MS. BOYLAN: (Counsel indicating).
 19 THE WITNESS: It may have been
 20 Florida.
 21 BY MS. TRUE:
 22 Q. Have you had more --
 23 A. I'm not sure.
 24 Q. -- more than one inquiry from
 25 Florida?

Page 96

1 NANCY J. CAVEN - 12.3.08
 2 A. No, no, no. I'm just saying that
 3 I --
 4 Q. Okay.
 5 A. They would have -- I think they were
 6 the first people to receive the document, but I
 7 can't be sure.
 8 MS. TRUE: Well, it's noon. I may
 9 not have anything more, but if you could -- if
 10 we could just take lunch and, you know, come
 11 back.
 12 MS. BOYLAN: Yeah. I think that
 13 sounds good.
 14 MS. TRUE: That might be --
 15 MS. BOYLAN: That sounds great.
 16 * * *
 17 (Whereupon, a lunch recess was taken.)
 18 * * *
 19 MS. TRUE: Back on the record.
 20 And thank you for your -- for your
 21 time today, and I think we're all finished for
 22 now.
 23 MS. BOYLAN: You have no more
 24 questions?
 25 We have no questions today.

Page 97

1 NANCY J. CAVEN - 12.3.08
 2 If possible, rather than have an
 3 individual depo of Nancy, if you have any
 4 questions, I'd really prefer that you'd ask them
 5 today. I can't imagine that you'd have a depo
 6 of Nancy in her individual capacity.
 7 MS. TRUE: No, I would not.
 8 MS. BOYLAN: All right. I think
 9 that's it.
 10 * * *
 11 (Whereupon, an off-the-record
 12 discussion was had.)
 13 * * *
 14 THE COURT REPORTER: I just want to
 15 confirm your orders.
 16 For the copy, your paralegal came in
 17 earlier and gave me your order.
 18 MS. BOYLAN: Who was that, Kay?
 19 THE COURT REPORTER: She said she
 20 wanted a pdf of the exhibits, an ASCII, a
 21 condensed and an E-tran, expedited?
 22 MS. BOYLAN: Just regular delivery is
 23 fine.
 24 MS. TRUE: I'll order an E-tran,
 25 condensed and a 5-day expedite, please. Thank

Page 98

1 NANCY J. CAVEN - 12.3.08
 2 you.
 3 * * *
 4 (Whereupon, the foregoing deposition
 5 was concluded at approximately 1:04
 6 p.m.)
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Page 99

1 NANCY J. CAVEN - 12.3.08
 2 INSTRUCTIONS TO THE WITNESS
 3 Read your deposition over carefully. It
 4 is your right to read your deposition and make
 5 any changes in form or substance. You should
 6 assign a reason in the appropriate column on the
 7 errata sheet for any change made.
 8 After making any change in form or
 9 substance which has been noted on the following
 10 errata sheet along with the reason for any
 11 change, sign your name on the errata sheet and
 12 date it.
 13 Then sign your deposition at the end of
 14 your testimony in the space provided. You are
 15 signing it subject to the changes you have made
 16 in the errata sheet, which will be attached to
 17 the deposition before filing. You must sign it
 18 in front of a witness. Have the witness sign in
 19 the space provided. The witness need not be a
 20 notary public. Any competent adult may witness
 21 your signature.
 22 Return the original errata sheet and
 23 transcript to the deposing attorney.
 24 Thank you.
 25

Page 100

1 NANCY J. CAVEN - 12.3.08
 2 ERRATA SHEET
 3 PAGE LINE # CHANGE REASON THEREFOR
 4 _____
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NANCY J. CAVEN - 12.3.08
SIGNATURE PAGE
OF
NANCY J. CAVEN

I hereby acknowledge that I have read
the foregoing deposition and that the same is a
true and correct transcription of the answers
given by me to the questions propounded, except
for the changes, if any, noted on the attached
errata sheet.

SIGNATURE:

WITNESSED BY:

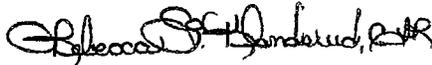
DATE:

NANCY J. CAVEN - 12.3.08
LAWYER'S NOTES

PAGE LINE

NANCY J. CAVEN - 12.3.08
CERTIFICATION

I hereby certify that the proceedings and
evidence noted are contained fully and
accurately in the notes taken by me in the
deposition of the above matter, and that this
is a correct transcript of the same.



Rebecca L. Klanderud
Certified Shorthand Reporter

(The foregoing certification of this
transcript does not apply to any reproduction of
the same by any means unless under the direct
control and/or supervision of the certifying
reporter.)

<p>60:11,17 71:6 72:2 career 48:22 carefully 99:3 carrier 34:12 35:10 44:2,4 carriers 13:13 33:24 34:8,10,13 34:24 43:12 44:14 44:16 case 9:23,23,25 10:24 11:5,12,14 11:17,20 13:2,7 14:20 19:18 31:8 43:10 46:14,17,25 47:2,7,17 48:15 49:4 50:20,23,25 51:4,11 52:12,16 53:7 54:5,22 55:6 55:16 59:5,10 60:17 63:2,2 64:25 67:15 74:12 84:16,20 85:12,24 90:8,13 91:4,8,23 cases 44:15 52:11 case-by-case 86:15 catastrophic 10:24 11:5,12 12:7,11 33:10 cautiously 32:8 Caven 2:1,12 3:1,6 4:1 5:1 6:1,7 7:1 7:3,11 8:1 9:1,13 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1</p>	<p>79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1,4 102:1 103:1 Center 3:7 4:14 certain 52:13 60:21 66:3 certainly 19:2,25 48:20 49:16 52:11 53:11 64:5,17 65:21 74:11 87:12 certification 102:18 certifications 60:21 Certified 3:10 102:15 certify 102:5 certifying 102:21 CHAD 4:13 change 42:19 43:6 94:24 99:7,8,11 100:3 changed 27:25 changes 99:5,15 101:10 charge 15:12 47:9 78:22 81:9 chart 82:8 checked 79:3 Chicago 89:6 chiropractor 48:3 chosen 62:22 Chris 12:18 81:14 94:3 circles 27:19,20 circular 6:19 27:17 77:13 78:20 81:22 92:14 circumstances 48:24,25 City 89:24 90:3 claim 13:17 33:12 33:22 90:21 claims 34:9,14,25 43:24,25 44:10 clarification 21:21 35:14 clarify 20:12 24:20 27:13 class 68:15 classes 68:14 clear 34:11 57:12</p>	<p>clearly 72:23 83:3 83:12 client 20:9,13 36:12 client's 20:16 21:2 22:24 clinical 60:13 clinics 49:3 coached 32:11 coaching 30:16 Columbus 4:6 column 99:6 come 13:10 14:23 52:23 59:12 67:3 75:16 81:11 96:10 comes 13:13,15 32:19 94:8 comfortable 9:9 coming 27:8 commencing 3:9 commerce 61:20 62:8 commercially 66:18 committed 19:3 communication 24:16 communications 53:3 comp 9:23 11:6 14:3,10 32:25 33:4,6,7,22 34:4,8 34:14 35:15 36:2 42:5 44:16 64:16 89:14,16,21,24,25 90:2,21 91:6 companies 52:22 54:16,20,22 79:16 90:6,8,20 95:4 company 8:23 9:5 9:24 10:5,8,13 12:13,21 14:13,19 14:21 15:11,23 16:15,17,19 19:15 22:16 23:25 26:12 27:3,4,7,11 28:9 29:20,23 30:20 32:19,22 35:4 37:9,22 38:6,11 38:14 41:23 42:12 44:7 45:6 50:14 53:9 54:17,19 62:21 67:25 68:3 68:22 69:14 71:11 78:15 88:12,25 90:24 91:23 company's 27:12 28:6 58:20</p>	<p>company-owned 86:6 compare 39:6 40:17 compared 23:6 compensation 13:3 13:7,13 33:20 37:19 40:22 43:11 44:14 63:9,13,23 66:25 competent 99:20 completed 22:8 complexion 12:6 compound 19:9 computer 53:7 Concentra 10:9,15 concept 75:16 concerned 66:23 84:23 concluded 98:5 conclusion 42:9 70:22 condensed 97:21,25 conduct 64:18 66:15 67:19 conducted 17:15 conference 89:15 89:17 90:17 91:7 confined 88:20 confirm 94:11,15 97:15 conjunction 70:6 70:19 consider 18:8 24:14 24:19,22 30:9 32:15 60:9,22,23 61:11,11 70:14 72:11 85:14,15 87:13 considered 16:2 considering 86:11 consult 60:12 consulting 37:16 40:19 41:18 42:4 42:7 59:8 60:24 61:3,12 63:19,21 64:4,7,13,21,24 65:3 68:18 70:12 70:25 contact 81:3 85:16 contacted 46:9 contained 102:6 continue 40:2 continued 5:2 contributing 88:5 control 102:21 converse 7:16</p>	<p>copy 25:22 97:16 core 29:12 60:16 correct 34:17 36:2 38:19 41:19,20 42:22 44:20 46:22 47:5 48:22 49:7 49:11 50:4 54:12 58:10 62:14 64:4 64:8,11 66:12,19 67:24 72:22 83:20 88:5 101:8 102:9 counsel 4:8,18 5:10 14:25 17:6,11,15 20:23 24:14 39:18 41:7 42:19 59:20 71:3 74:22 92:6 93:3 95:18 course 32:23 51:10 court 7:13 10:17,19 22:7,10 24:9 34:20 69:21 76:18 85:3 97:14,19 cover 58:10 covered 72:5 CRA 10:9 creative 74:13 current 26:5 29:3 currently 45:2 46:5 51:2,9 customer 36:9 86:17 Cypress 54:17</p> <hr/> <p style="text-align: center;">D</p> <p>Dakota 45:16 46:2 89:4,21 data 65:20 66:3 date 20:10 26:3,18 27:24 39:15,20 79:2,5 80:24 81:19 92:18 93:12 94:7 99:12 101:19 dates 27:24 50:19 61:24 75:17 day 15:7 63:3,3 days 14:15 15:2,14 deals 78:23 December 2:13 3:8 82:9 decide 12:12 56:15 decided 12:15 14:19 17:10 37:11 67:7 74:6 deciding 40:14 deferred 17:17 22:20 65:9</p>
---	--	--	---	---

<p>degree 38:21 Delich 12:18 94:3 delivery 97:22 Denver 91:4 depending 81:14 90:17 Depends 12:3 depo 97:3,5 deposing 99:23 deposition 2:9 3:4 6:8 8:2,6,8 25:12 27:8 28:18 36:17 38:24 53:23 58:2 73:5 75:6 80:13 98:4 99:3,4,13,17 101:7 102:8 derivative 15:10 23:17 description 37:15 38:5,10,13 40:18 41:22 42:20 43:6 56:22,23 57:6,7 58:14 63:14 65:8 descriptive 58:18 designate 69:12 designated 8:22 designee 8:23 desire 72:12 77:10 detail 36:22 determine 14:18 determined 74:9 develop 26:16 31:21 74:14 developed 26:16 28:7 63:18 developing 78:18 development 10:4 10:22 11:9 30:8 30:14 78:23 device 27:17 28:12 devices 52:7 Diatri 52:21 54:17 differ 60:16 difference 31:5 41:14 42:14 44:2 57:10 differences 35:18 80:20 different 14:23 18:8 24:22 31:21 42:21 62:14 68:14 83:5 87:14 differently 58:16 difficult 7:15 diligent 81:8 direct 102:20</p>	<p>directed 17:8,13 91:9 directly 44:11 78:24 Disability 89:14,17 91:7 discharged 51:21 52:15 55:18 disclose 92:8 disclosed 92:13 disclosure 6:20 80:18 87:17 92:18 93:12 discovery 25:17 discussed 47:8 discussion 53:21 97:12 distributing 26:2 distribution 26:7 29:3,6 45:13 diversified 14:8 division 7:21 DME 52:17 DMEs 53:3,12 54:7 doctor's 55:7,9 document 6:11,12 6:13,14,15,16,18 6:20 8:12 25:21 37:5 53:2 56:7 58:7 73:10,13 76:24 77:14,16 78:5,24 79:12 80:2,18 82:24 83:8 87:17 92:18 92:24 93:12,14,17 93:23 95:5,10,11 96:6 documented 83:3 documents 25:16 72:25 76:4 77:8 78:12,17 80:3 81:16 DOE 5:3 doing 12:21 43:7 51:4,10 66:10 dramatic 42:14 driven 55:6 84:12 86:15 driving 67:6 duly 7:5 durable 52:17 54:7 54:14 90:9</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 102:2 earlier 18:25 35:23</p>	<p>41:21 90:11 97:17 earliest 9:15 early 15:2,14 17:7 easily 30:4 easy 15:15 ECKLER 4:3 Edina 5:8 educated 19:16,21 20:4 effective 79:2,5 effort 27:5 Eighth 3:7 4:15 either 22:19 52:4 elements 66:3 employ 45:3,6 47:20 51:3,10 employed 46:21 employee 85:11,11 85:19 87:13 employees 13:16 30:20 45:7,14,25 45:25 46:4,5,11 46:13 48:8 76:11 76:14,15,24 85:24 86:5,7 employer 44:8 employers 34:16 43:24 44:6,12,12 employment 32:3 32:12 33:11 ended 10:11 engaged 17:16 enhancing 31:25 ensue 31:15,18 entail 11:16,18 entire 37:12 88:12 entirely 55:6 61:7 entity 24:7 77:11 equipment 49:17 50:7 52:13,17,20 54:7,14,25 90:10 Ergonomics 61:4 ERIC 4:13 errata 99:7,10,11 99:16,22 100:2 101:11 ESQUIRE 4:4,12 4:13 5:5 essence 42:2,3 essentially 38:17 establish 67:16 established 40:3 estimate 48:19 evaluations 61:14 event 30:12 events 90:7</p>	<p>evidence 102:6 exacerbated 87:4 exact 26:18 27:24 exactly 90:3 EXAMINATION 6:3 7:8 exchange 53:8 exclusively 88:10 Excuse 74:21 Exhibit 6:8,9,10,11 6:12,13,14,15,16 6:17,18,19,20 8:8 8:13 25:10,12,17 28:18 36:17,22 38:24 39:8 53:23 55:25,25 56:2,3 56:24 57:3 58:2 58:22 59:24 67:9 69:17 73:5,11 75:6 76:9,24 77:13 80:13,20,20 81:3,22 87:18 92:14 exhibits 6:6,7 97:20 existence 28:6 expand 85:18,22 expanded 72:15 80:11 expanding 86:12 expansion 72:19 84:11,11,20 expedite 97:25 expedited 97:21 experienced 33:10 60:20 expert 65:21 66:5 expertise 29:12,25 36:7 59:10 60:19 61:17 66:8 67:23 86:24 exposure 19:18 50:21 extent 35:2 42:9 49:21 70:22 e-mail 8:19 E-tran 97:21,24</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>F 102:2 facilitate 13:22 32:19 52:14 facilitating 31:10 facility 51:22 fact 54:5 fair 14:18 74:15,22 fairly 17:6 67:18</p>	<p>fall 59:15 90:3 familiar 7:22 36:25 37:5 39:7,9,11 44:24 56:5 77:14 77:25 81:16 familiarity 74:25 familiarize 27:6 far 47:6 57:11 66:22 84:23 91:3 feel 15:22 71:25 felt 15:21 feminine 15:21 field 63:18 66:24 fields 37:17 40:20 figure 28:13 35:16 file 12:4,5 13:9,15 31:9,13 32:10 33:4 39:18 60:13 filed 41:6 42:18 92:11 files 32:18 60:19 filing 39:15 99:17 fine 25:4,5 97:23 finish 7:17 finished 96:21 firm 17:9 firms 90:15,17 first 7:5 17:7,25 18:11 19:5,23,25 20:8 21:25 24:3 37:8 50:20 68:5 75:12,19 79:14 92:3 93:8 96:6 fit 15:8,22,22 five 14:12 39:5 64:15 Florida 83:15 84:16 86:22 95:17,20,25 fluency 61:8 fluids 55:18 flying 15:15 follow 70:8 following 11:18 99:9 follows 7:6 foreclosed 71:25 foregoing 98:4 101:7 102:18 forgot 91:3 form 32:2 99:5,8 formal 16:10 82:20 84:3 formally 75:13 formed 26:20 found 91:8 foundation 49:20</p>
---	---	--	---	--

founded 29:20	going 9:4 57:17,19 70:24 73:24 83:22 91:22	55:19	65:16,20 78:16	27:1 28:1 29:1
four 39:4 54:20	good 7:11 38:10,13 61:24 69:7 96:13	hospitals 48:21 49:11,14,16 51:14	infrequent 52:10	30:1 31:1 32:1
frame 20:11 24:5	Google 23:2,5,11,12 23:20	host 23:7	infusion 55:9	33:1 34:1 35:1
France 5:7	gosh 16:3 45:10	hundred 12:9	injured 11:15,25 30:11 31:16	36:1 37:1 38:1
franchise 6:19,20 66:10,19 68:6,10 68:23 69:18,25 73:14,17 74:7,20 74:23 75:13,20 76:4 77:7,11,12 78:11,17,20 79:9 79:15,20 80:8,18 82:10,21 83:2,10 88:6,7,12,15,22 88:23 90:24 91:3 91:11,22 95:8	Gould 3:7 4:11	husband's 84:14	injury 30:12 31:11 31:18 32:21 33:10	39:1 40:1 41:1
franchised 75:24	grant 92:21	I	input 65:7	42:1 43:1 44:1
franchisees 66:12 85:25	great 96:15	ICU 9:20	inquiries 79:19 81:9,10 82:19 83:10 84:20	45:1 46:1 47:1
franchises 45:4 69:15 84:9	greatly 87:4	idea 74:13 87:10	inquiry 83:5 95:12 95:24	48:1 49:1 50:1
franchise-based 91:11	Greek 14:24 23:16 grew 20:6	identification 8:9 25:13 28:19 36:18 38:25 53:25 58:3 73:6 75:7 80:14	instructing 39:17	51:1 52:1 53:1
franchising 86:14	group 1:8,13,18,23 2:4,10 3:5 6:9,10 6:11,17 9:10 36:24 37:13 62:20 64:14 69:4 71:13 72:22 80:10	identified 73:10	instructions 7:14 99:2	54:1 55:1 56:1
frankly 17:25	grown 29:23 85:14	identifying 66:3	instruments 55:13	57:1 58:1 59:1
Free 6:18	growth 86:13	IDS 3:7 4:14	insurance 32:18,22 34:7,10,13,25 35:10,11 44:4	60:1 61:1 62:1
frequently 29:10 54:16 55:10	guess 42:8,11 48:14 56:23 63:20	Illinois 46:5 89:5,5	intellectual 17:9	63:1 64:1 65:1
friend 14:22	H	imagine 17:20 55:2 64:23 66:2 97:5	intended 65:5 66:23	66:1 67:1 68:1
front 8:13 99:18	hairs 63:21	improvement 11:22 13:22	intention 43:5	69:1 70:1 71:1
fully 102:6	hand 36:21	incorporated 2:10 67:25 69:4 71:13	interact 54:18,19	72:1 73:1 74:1
function 30:18 54:21	handle 34:8,13	Independent 61:13	interaction 93:21	75:1 76:1 77:1
functions 30:23	handling 34:9,24	INDEX 6:2	interest 83:14,15,16 83:20	78:1 79:1 80:1
fund 87:19,21 88:9 88:19,24	happen 46:7	Indiana 83:14 95:10,17	interested 53:12 67:15 84:2 91:22 95:9	81:1 82:1 83:1
funds 88:13,16	happening 82:16	indicates 61:18 62:6 92:10	interfaced 78:15	84:1 85:1 86:1
G	happens 13:9	indicating 7:24 11:11,23 12:8 16:8 20:23 23:8 24:8 28:14 31:19 35:20 41:4,14 42:15 44:3 46:16 48:5 53:10 54:9 59:20 60:12 61:23 62:23 64:9,19 65:13 67:5 69:15 72:7,17 74:20 76:16 79:13 80:3 81:4 85:2 92:6 93:3 95:18	internal 62:24 65:6 66:17	87:1 88:1 89:1
geese 15:14	hard 81:18	indication 21:25 68:5	internally 63:6	90:1 91:1 92:1
general 47:13 68:8	hardest 22:12	individual 35:5 53:9 97:3,6	internet 14:23 21:5 21:9 23:3,15	93:1 94:1 95:1
generally 44:17	Health 1:5,10,15,20 1:25 7:19 20:13 24:7	industry 9:22 10:8 11:6 13:3 32:9 35:9 37:19 40:22 42:5 63:10 64:16 66:25 73:21 74:3 89:10 90:22	Intracorp 9:25 10:22	96:1 97:1 98:1
geographic 45:13	healthy 13:23	information 35:3 53:8,16 54:11	intrigued 74:4	99:1 100:1 101:1 101:4 102:1 103:1
geographically 84:8	hear 14:16		invoicing 63:4	January 10:13 12:13
getting 15:2 18:3 21:17	heavily 34:4 83:2		involved 11:2 30:13 44:17 65:12 82:24	job 30:7,14,14,15 32:5 84:14
git-go 30:2	helpful 39:6		involvement 31:10	joined 75:25
give 9:14 20:10,11 45:11,12,17	helping 31:21		Iowa 46:2 89:21,22	judgment 92:17,20 93:11
given 14:25 76:10 101:9	hesitate 45:21 66:5		issuance 81:19 94:7	July 39:15
global 45:7	hierarchy 15:11		Italian 14:24	jurisdiction 34:5 86:25
globally 65:22	highly 79:10 86:16			jurisdictions 30:24
go 7:14,18 8:5 43:19 44:8 51:21 53:18 60:19 76:8	hire 44:7		J	K
	history 27:6,12		J 2:1,12 3:1,6 4:1 5:1 6:1 7:1,3 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1	Kansas 89:5,24,25 90:2
	hold 60:21			Kate 17:13,17 19:22,22 20:5 22:20 65:9
	holding 77:8			KATHERYN 5:5
	home 36:22 51:25 52:5			Kay 97:18
	hospital 9:17,18,21 12:2 48:25 49:7 49:12 50:17,22 51:3,15,21 52:15			keep 81:18
				kind 7:18 10:25 12:20 22:16 23:20 23:20 26:11 45:12 45:17 64:20
				Klanderud 3:10 102:14
				knew 20:2
				know 13:4 16:13 17:14,18,21 19:16

19:19 20:6 22:13 22:14 29:5 35:4,5 35:19 41:11 42:10 43:21 49:21 52:4 52:5,19 62:9,12 63:12 71:17 74:12 74:15,25 77:25 79:7,25,25 80:23 81:5 84:7 86:5,16 86:20,21,22 88:14 92:10,12 93:17 94:5,6,10 96:10 knowing 53:12 knowledge 9:3,4 27:2 80:19 81:23 95:4 KRISTINE 4:12	limited 34:9 limits 42:7 line 66:8 100:3 103:3 lines 31:11 35:11 linked 27:21 lion's 12:25 14:9 list 15:5,6,6 16:3 29:11 76:10 listed 29:16 59:17 76:8,12 95:16 literally 13:7 15:6 literature 28:25 Litigation 90:19 little 30:3 54:10 60:18 61:4 66:10 82:8 91:20 live 86:19 lives 86:22 local 9:18 10:10 located 84:5 locations 76:7,12 logo 15:15 26:15 27:12,14,25 28:7 28:11,11 long 29:5 50:18 77:16 longer 29:13 83:14 83:15 look 12:6 15:2 20:7 25:20 32:20 55:23 57:3 60:6 62:16 67:9 72:9 76:9 77:21 82:3 87:16 91:24 looked 20:6 80:3 85:10 looking 58:22 77:19 79:23 80:5 84:2 86:13 87:18 loose 11:3 lost 92:24 lot 13:4 19:19 23:3 64:3,6 75:2 78:11 lunch 96:10,17 L.L.P 4:3	9:24 10:2,3,24 11:6,13,14,17,20 13:2,7 14:21 19:19 43:10 47:7 49:4 50:24 51:4 51:11 59:5 60:17 72:3 74:12 82:25 84:16,21 85:12 90:8,13 91:4 manager 10:10,11 10:12 19:18 50:25 54:22 managers 46:14,18 46:25 47:2,18 48:16 52:12,16 53:7 54:6 55:16 63:2,2 64:25 67:16 85:23,24 91:8,23 manner 85:13 March 79:2 81:20 81:24 94:7 mark 8:5 25:9 28:15 37:12 59:22 60:8 61:20 62:8 62:19 67:13 68:7 69:11 72:16 73:16 75:4 marked 6:7 8:9 25:13 28:19 36:18 36:21 38:25 53:24 58:3 73:6,10 75:7 80:14 81:22 market 13:4 43:9 43:10,12 44:11 66:18 68:10 73:16 88:11,24 90:23 91:16 marketed 91:2 marketing 25:23 26:2 29:2,9 58:8 73:14 74:16 87:19 87:21 88:9,17 marketplace 40:3,9 56:19 70:3 Mary 4:4 7:12 material 73:19 materials 29:2,9,10 73:14 74:23 79:17 matter 7:4 36:11 38:21 102:8 maximum 11:21 13:21 mean 29:22 30:21 32:12 46:15 47:13 49:19 51:9 52:22	58:12 59:2 63:21 63:25 64:22 70:9 74:8 75:13,25 78:3 82:22 83:21 85:20 86:7 89:12 94:7 meaning 15:10 20:20 means 66:2 102:20 meant 18:22 62:9 measurement 55:13 medical 7:20 11:21 13:17,19,20,21 14:22 20:14 21:20 30:12,18 31:2,6,9 31:19 32:15 37:17 40:19,20 41:2,12 41:18 42:7 47:7,7 47:13,17 48:15 49:16 50:7 51:11 52:7,12,13,17,19 54:7,14 55:18 59:5,9 60:10,11 60:17,17,24 61:2 61:5,12 63:19 64:3,7,13,20,24 65:3 68:18 72:2 90:10 medically 13:23 medical/legal 59:7 meetings 81:15 memory 19:3 mentioned 10:21 18:10,25 23:14 35:23 48:8 mentored 32:11 mentoring 30:16 Merchant 3:6 4:11 met 7:12 78:19 meters 50:10 Michigan 75:20,23 77:3,5 79:21 80:10 95:8 Midwest 86:20 Midwestern 85:21 Milwaukee 67:6 mind 25:2 52:24 69:13 Minneapolis 2:14 3:8 4:16 9:19 Minnesota 2:14 3:8 4:16 5:8 10:2 17:4 45:14,25 84:5 mischaracterizes 18:17	mix 12:10 model 74:10 models 74:11 moment 53:18 money 62:22 74:16 87:20 88:11 monies 88:9 monitor 23:4 months 76:6 morning 7:11 mortar 62:21 motion 92:20 93:15 mouth 74:18 91:8 moved 92:16 93:10 MSC 52:21 54:16 muddy 7:18 multicultural/inte... 61:6 multiple 35:11
<hr/> L <hr/> L 3:9 102:14 laid 12:14 language 37:6,24 65:8 languages 61:9 large 44:5,6,11 largely 84:19 90:12 Las 89:6,13 late 12:13 27:11 Latin 14:24 15:10 23:16 law 3:6 17:8 34:24 86:18,18 90:15,17 laws 83:5 lawyer 12:19 31:5 lawyers 78:11,15 LAWYER'S 103:2 lead 15:16,17 leave 14:22 legal 17:11,15 42:9 70:22 71:3 letter 21:17,19,23 22:19,21 let's 8:5 21:6 50:18 55:23 62:16 67:9 76:9 level 65:24 70:3 liabilities 33:23 liability 33:12,17 33:22,24 35:25 47:7 59:16 life 32:17,23 33:9 liked 15:7,18,20,20 16:5 likened 15:13,14 limit 43:6 limitations 84:7	<hr/> M <hr/> M 4:12 majority 44:13 46:13 58:20 making 99:8 manage 13:17 63:3 67:22 Managed 10:9 management 9:23	<hr/> N <hr/> N 102:2 name 7:11 9:25 10:6,9 14:11 15:3 16:22,24 17:4 18:8 20:6 23:21 24:22 44:23,24 56:18 57:15 62:14 67:3 70:2 71:10 71:14 81:2,9 99:11 names 14:23 15:25 16:7 23:17 50:14 50:14 Nancy 2:1,12 3:1,6 4:1 5:1 6:1 7:1,3 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1,14 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1		

69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1,15 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1,3,6 98:1 99:1 100:1 101:1 101:4 102:1 103:1 narrow 26:11 National 89:14,16 Nebraska 46:3 necessarily 32:12 41:24 42:13 44:18 46:15 47:3,11,15 60:25 84:10,24 86:21 need 22:7 24:24 55:3,5 59:14 72:4 72:6,12 99:19 needed 67:7 needs 30:11 32:22 37:18 40:22 42:4 63:9 79:12 negotiations 83:22 networks 90:11 Nevada 46:6,8 80:6 80:11 83:12 95:17 never 19:19,20 24:18,19 55:14 64:17 65:4 72:10 73:20 74:11 new 32:11 niche 13:4 nine 76:6 nonmedical 48:5 non-core 59:3 non-hospital 52:5 non-nurses 61:7 noon 96:8 normally 7:16 Nos 6:9,17 notary 99:20 noted 78:25 99:9 101:10 102:6 notes 102:7 103:2 notice 6:8 8:6 68:17 November 56:11 nuance 34:6 86:18 number 8:8 25:12 28:18 36:17 38:24 39:4,5 58:2 62:16 73:5 75:6 76:25	80:13 numbers 45:22 53:23 nurse 9:16 19:18 36:6 46:9 48:25 49:21,23 50:4,5,6 59:7 nurses 30:4,22,24 46:12,15,18,21,25 47:4,10,18 48:9 48:11,12,13,16,20 49:9,15 51:2,9 60:20,20 61:15,16 74:2 84:13 nursing 49:5,6,8 52:2 <hr/> O O 102:2 oath 7:6 object 16:12 18:16 35:2 42:8 70:21 72:18 95:6 objection 24:15 49:18 obtain 31:22 obtained 83:4 obviously 78:10 occasion 51:3 52:8 52:16 54:6 87:20 occasions 51:13 52:6 occupational 47:21 61:5 occur 44:13 occurred 17:25 occurs 53:9 October 79:5 92:13 offer 35:11,15 36:7 66:11 67:12,13,18 67:22 offered 29:19,25 30:2 35:25 38:6 38:17 offering 6:19 29:13 29:17 38:18 68:9 75:12,13 77:7,12 78:20 79:15,17 92:14 office 1:2 17:3 offices 3:6 90:12 official 56:7 off-the-record 53:20 97:11 oh 16:3 43:15 62:9 91:3	Ohio 4:6 okay 7:25 8:5,15,18 8:21 9:7,13 10:14 10:19,25 11:7,12 12:17,24 13:14 14:2,7 16:9,18 17:14,18,22 18:3 18:7 21:23 22:9 23:18 25:4,25 26:4,7,10,15,19 26:22 27:10 28:3 28:22,24 29:3,11 29:15,22 30:7,13 31:4,24 32:4,14 32:17 34:7,19 36:4 37:7,22 38:8 38:13 39:14,22 40:17,25 41:11,17 43:5,13 44:7,25 45:12,23 46:11,17 46:20 47:6,12,16 48:18,20 49:15 50:9,12,16 52:4 52:25 53:11 54:4 55:4,8,15,21 56:9 56:20,22,25 57:3 57:10,17,21 58:6 58:9 59:7 60:2 61:2,18 62:11,16 63:7 64:12,20 65:10,14,23 66:6 66:9,16 68:4,20 69:9,16 70:17 71:5 72:24 73:3,9 75:21,23 76:7,9 77:3,12 78:14,21 78:25 79:14,22 80:4,7,9,17 81:2 81:12 82:3,16,21 83:13 84:7,18 85:18 87:16 88:2 88:7 89:2,10,19 90:5 91:15,17,24 93:17,25 94:4,14 94:25 96:4 omitted 63:13,22 once 13:23 30:11 ones 58:24 60:6,7 61:2 89:20 onset 63:4 open 84:9 Opened 82:11,22 opening 82:17 Openings 82:9 operate 69:14 77:10 operating 85:20,21	operation 75:24 78:11 79:20 80:11 88:24 operations 79:9 83:11 opportunities 73:17 79:15 87:7 opportunity 36:8 67:14,17 71:15,17 73:25 74:7,19 75:19 84:12,25 85:9 87:3 91:20 Opposer 1:6,11,16 1:21 4:8 Opposition 1:5,10 1:15,20,25 option 71:4 Oral 2:9 3:4 order 52:14 53:3 55:7,9 56:10 97:17,24 ordered 55:14 orders 53:4 97:15 organization 76:2 original 99:22 Orthopaedic 90:12 ourself 14:20 Outlet 82:11,22 outlets 86:6 outside 35:25 47:18 49:24 64:23 65:2 owners 86:19,19 owns 7:20 <hr/> P page 6:3,7 36:23 77:21 81:17 82:3 87:16,18 91:25 92:2,4 95:16 100:3 101:2 103:3 pages 77:18 pair 71:16,21 72:9 paper 44:2 paragraph 92:3 93:8 paralegal 97:16 part 22:12 27:15 43:6 60:10 66:11 66:18,20 88:22 particular 36:7 59:10 86:25 particularly 77:14 parties 67:15 partner 18:6 78:22 81:14 93:20 partners 12:14	65:15 83:25 84:4 PATENT 1:2 patients 51:20 pattern 77:9 pay 18:5 88:13 pays 18:6 pdf 97:20 people 13:5 45:2 47:9 51:20 55:17 58:21 70:2 71:14 76:13 77:5 79:16 90:20 91:9,21 95:9 96:6 percent 12:9 13:6 13:12 14:3,6 48:10,10,15 perfectly 69:7 perform 16:19 30:24 33:5,6 90:9 performed 18:12 19:5 30:10,19 61:7,8,15,16 performing 85:12 period 83:18 person 9:9 78:14 81:3 85:10 87:4,9 88:4,5 personal 9:3 27:2 personally 50:17 Petitioner 2:2 4:9 Physical 47:24,25 physician 47:14,23 pick 14:11 picked 16:21,24 piece 28:24 65:18 place 71:19 87:5 91:2 placement 30:14 placement/job 30:7 plan 31:10 33:9 planning 32:17 67:12 plans 71:18 85:18 85:22 platform 67:18 please 28:16 97:25 plethora 52:22 PMSI 54:18 point 21:17 39:19 40:7,8 48:21 49:9 70:14 72:14 74:8 78:4 83:22 84:12 95:3 portion 13:17 20:15 31:9 32:10 position 13:25
---	--	--	--	--

31:17 possible 53:16 55:8 55:16,20 97:2 Possibly 12:3 55:10 potential 84:20 85:11 PPO 90:11 precluded 31:16 34:24 Predominantly 30:19 prefer 97:4 preparation 30:15 82:25 preparing 76:3,4 77:7 78:20 present 36:9 87:7 presented 36:8 73:25 84:25 85:9 presents 71:18 pressure 50:10 55:12 pretty 14:25 15:12 15:18 74:9 pre-injury 13:24 31:17 primarily 9:19 32:24 37:18 40:21 43:11 63:8 64:16 66:24 printout 36:23 printouts 55:24 prior 10:12 27:8 28:12 56:11 probably 12:9 13:6 13:12 20:21 35:22 39:6 41:22 45:10 45:21,24,25 46:3 46:4 48:15 65:23 76:8 problem 86:4 proceeding 7:22 92:5 proceedings 102:5 process 11:17 19:21 20:4 77:7 produced 74:22 79:4 94:6 95:11 95:12 product 10:3,3,22 11:9 products 7:20 10:25 50:13 58:19 professional 9:14 program 11:5 62:24,25 63:5	progress 83:12 progression 11:21 31:8 project 32:22 Projected 82:9 promote 87:23 88:19 property 17:10 propounded 101:9 protect 17:12 40:2 56:18 protection 70:4 provide 53:16 54:25 60:11 63:21 68:22,25 69:3 73:19 78:16 provided 13:2 17:22 25:17 69:2 73:2 95:4 99:14 99:19 providers 52:18,20 54:8,14 90:10 providing 11:20 63:8 provision 11:4,10 59:12 60:13 PT 47:22 public 99:20 pumps 55:9 purchase 53:4 66:21 74:20 purpose 88:18 purposes 62:4 88:17 pursue 87:8 pursued 84:3,19 pursuing 95:9 put 8:13 11:4 15:15 39:4 74:6 78:11 78:16 91:4 P.C 4:11 p.m 98:6	9:11 96:24,25 97:4 101:9 quick 9:14 12:3 28:15 quickly 12:5 73:9 quite 73:23	92:4 referral 31:14 36:12 63:4 referring 16:13,15 27:14 reflect 93:18 regard 86:12 regardless 21:24 regional 10:12 register 83:6 registered 9:16 17:2 56:13 Registrant 2:5 4:19 5:11 registration 37:8,12 39:12 40:15,19 56:16 registrations 24:4 regular 97:22 regularly 23:4 regulated 34:5 79:10 83:2 86:16 rehab 32:9 rehabilitation 32:5 37:17 40:21 relocate 84:13 rely 41:7 remember 17:25 20:5 28:3 90:3 95:13 rent 62:22 rental 52:13 repeat 51:6 56:14 56:25 62:3 68:12 86:2 92:22 rephrase 18:18 21:7 35:21 rephrased 18:24 reporter 3:10 7:13 10:17,19 22:7,10 24:9 34:20 69:21 76:18,20 85:3,5 97:14,19 102:15 102:22 represent 7:19 representative 2:11 3:5 27:5,11 35:4 representing 88:25 reproduction 102:19 reputation 74:3 request 39:21,24 56:8 requested 79:16 require 59:9 60:18 required 92:7,8	research 14:22 23:15 reserves 32:20 respond 53:10 54:15 66:5 responding 37:18 40:21 42:4 63:8 responsible 93:22 responsiveness 81:8 result 33:10,11 results 17:23 Resume 30:15 retraining 32:5,8 32:13 return 13:23,24 30:11 99:22 returning 31:17 review 8:20 33:17 35:25 37:23 41:5 reviewed 8:17 15:7 right 32:16 44:19 45:5 61:22 71:22 79:22 87:4,9 94:16,18 97:8 99:4 rights 70:11 road 71:15 72:9,11 role 15:18 round 27:19,19,20 ruled 92:17,20 93:11,14 run 54:23 66:4 87:2 rundown 9:14 running 19:17
	Q		S	
	qualified 9:10 queries 66:4 question 18:18,23 19:10 21:7 24:20 33:22 34:11 35:3 35:21 47:20 49:20 51:7 56:14 57:2 57:12 62:3 68:13 69:5,7 76:21 77:22 78:3 85:6 86:3 92:23 93:6 questions 8:17,24	R R 4:4,13 102:2 rare 55:22 Rarely 51:16 read 18:19 76:20 85:5 93:2 99:3,4 101:6 real 28:15 75:19 reality 74:14 really 11:3,9 16:4,5 20:2 43:19 50:21 62:24 67:14 72:4 72:5 73:23 74:2,4 74:17 84:11,12 85:13 86:16 88:10 91:7,16,21 97:4 realm 13:2 32:25 33:5,6 36:2 reason 34:3 40:13 99:6,10 100:3 Rebecca 3:9 102:14 recall 15:25 16:6 18:3,7,10 19:8 20:8,25 21:16,16 22:15,17 23:18,19 24:5 26:3,10,14 26:18,24 27:10,24 28:7 37:4,11 39:17,20 40:13 41:3,13 42:19 44:23 75:14 recalled 21:11,13 receive 13:18 96:6 received 8:19 22:18 receiving 22:21 55:17 recess 25:7 96:17 recognize 28:22 37:7 recollection 22:23 23:9 42:17 79:18 record 36:23 53:18 96:19 recovery 31:11,19 redirect 81:13 reentering 30:16 refer 12:4 referenced 80:2 referencing 76:24	sales 10:10,12 44:13 81:9 SALYERS 5:3 saying 96:2 says 37:16 40:19 42:3,3 79:2 80:17 81:19 82:9,10 86:6 87:24 92:16 93:10 school 49:5,6,8 scope 49:25 search 16:10,10,11 17:15,23 18:4 20:2 23:2,6,11,12 23:20,21 searches 18:12,13 19:4 20:7 searching 21:5,8 second 41:23 42:6 42:18 58:24 68:15	

81:17	sets 78:10	somewhat 72:15	35:14,19,24 36:4	takes 15:17
secretary 17:3	setting 32:20 50:22	soon 26:10,12 79:24	36:10 46:14 76:10	talk 75:2
secure 17:11	50:24 51:4 52:5,6	sorry 10:18 22:13	83:9 85:21 86:9	talking 43:22 45:4
see 37:15,20 39:14	91:22	43:15,20 44:22	89:8 95:16	54:5 62:13
40:23 41:15 42:13	seven 9:18 62:16	48:2,6 54:24	state's 17:3	technical 65:21
50:18 54:16 63:20	severely 11:15,24	56:25 59:19 61:13	state-by-state 34:3	Technically 29:21
63:23 68:4 69:19	Shaklee 44:19,23	62:2 68:11,24	STITES 5:3	technology 62:23
71:8 88:20 93:7	share 12:25 14:9	69:22 75:17 82:4	story 74:4	65:13,17,18
seeing 37:4	shared 90:10	85:8 92:15,25	straight 49:4	tell 19:24 21:4
seek 40:14 56:12,16	sheet 99:7,10,11,16	94:2	Street 3:7 4:5,15	43:13 45:9 46:20
71:3 84:8	99:22 100:2	sort 15:21,22 27:6	strike 44:25	47:16 58:6 65:10
seeking 30:15	101:11	27:16,18 32:6	structured 15:23	73:11
seeks 35:3	short 25:3,7	33:14 51:22,25	stuff 42:25 65:11	ten 57:24 59:25
seen 8:12,15,18	Shorthand 3:10	62:12 77:8	subcontractors	60:6
37:2 55:14 57:21	102:15	sorts 54:24 55:4	76:5,13 77:6	tends 59:15
57:23	show 57:17,22	65:2	subject 99:15	term 11:4,8 21:2
Select 6:13 55:25	74:24 89:6,11	sought 42:18	subsequent 18:12	22:24 24:7 32:7
56:12,17,20 57:7	91:11	sound 15:18 61:22	19:5 49:10	56:12,16 57:11,21
57:11,14 58:9,13	shown 39:8	sounded 15:21	substance 99:5,9	termed 64:3,7
58:18 59:22 60:8	shows 73:15 88:11	sounds 96:13,15	success 87:3	terms 15:8 16:13
61:20 62:8 70:20	88:14,16 89:3,4,9	South 3:7 4:5,15	successful 67:18	71:9 72:5 83:4
71:24	90:25	5:7 45:16 46:2	74:10	89:8
selected 23:21	side 26:11 47:2	89:4,21	successfully 67:21	terrible 27:23 50:19
self 44:5	66:10	space 99:14,19	suggestions 38:4	75:17
self-insured 44:12	sign 41:8,8 99:11,13	special 29:12,24	Suite 5:6	TESS 6:11,12,13,14
sell 11:5	99:17,18	specialists 48:4	summary 92:16,20	6:15,16 36:22
selling 90:21	signature 99:21	specialized 57:16	93:10	testified 7:6
sells 74:18,18	101:2,14	62:13	supervision 10:3	testimony 18:17
sentence 93:7	signed 82:11,13,15	specialty 15:13	102:21	19:2 99:14
separate 76:17	82:22	56:21 58:15,19,23	supplying 65:16	thank 22:10 96:20
separately 67:25	significant 32:21	59:18	support 64:21,23	97:25 99:24
September 92:11	signing 99:15	specific 34:6 37:4	65:3 66:23 90:19	therapist 47:25
service 11:4,10 31:2	similar 90:9	39:20 83:21,22	sure 9:16 12:23	therapists 47:21,24
31:3,6,6 32:15,24	simply 64:2	specifically 40:10	17:11,21 22:8	THEREFOR 100:3
36:7 59:12 60:16	single 39:18	spend 13:18 62:22	24:25 33:13 47:19	thermometers
87:2	sister 68:3	spent 9:17 14:17	55:23 57:22 70:8	50:10
services 10:7 11:6	situation 33:12,21	74:14,15	73:23 87:6,6 93:2	thing 32:6 44:4
11:14,20,25 13:2	81:14	split 89:6	95:11,23 96:7	62:13
13:8 29:12,16,20	six 46:5 64:15 79:19	splitting 63:20	surgical 9:19	things 13:20,20
30:2,25 31:15,18	skills 30:16 31:21	stable 13:24	suspect 64:10	50:9 55:4,9 64:3,6
35:15 37:16 38:6	31:25	stack 55:23	sworn 7:5	64:13,23 65:2
38:16,18 40:18,20	slightly 48:7	staff 13:16 29:24	symposium 89:22	72:3 81:19 83:3
41:18 42:4,7 43:9	small 12:10	30:23 47:18 61:8	90:2	think 38:9 42:2
43:11 47:8 56:21	smaller 44:17	start 11:25 12:12	system 53:6,8 63:17	49:19 58:23 63:16
57:16,20 58:15,24	social 47:21	25:25 26:13 67:21	66:4,14 87:23	71:16 89:7,25
59:5,13,17,18	Society 91:4	75:12 84:15 87:11	88:19,21	92:24 95:10,11
60:10,14,15,16,23	software 62:23,25	started 9:17 12:22	Systems 20:14	96:5,12,21 97:8
60:24 61:3,6	63:5,5,7,17 64:12	23:6,10 26:12	21:21	Third 4:5
62:13 63:8,22	64:21 66:13,23	27:12 77:4 79:15	T	third-party 43:15
66:19 68:6,8,10	67:7 90:20,21	starting 9:15 10:12	T 102:2,2	43:23 44:9,20
68:18,22,23,25	sold 10:6 74:11	starts 15:3	table 84:23	thoroughly 93:2
69:3,18,25 74:19	solely 9:3	state 10:2 17:4 34:3	take 25:20 27:5	thought 15:19 19:3
75:13 85:12 90:9	somebody 21:4 22:2	34:24 36:8 46:22	45:11 77:23 96:10	57:19 65:4 70:15
90:19,24 91:9	23:14 33:9 52:14	83:5,6,8,11 84:22	taken 2:11 3:5 8:2	84:15 91:18,19
set 19:20 45:9 51:25	78:10 82:13 83:19	85:15 86:17 95:13	25:7 96:17 102:7	thoughts 7:17
74:5 86:17	86:22 87:10	states 1:2 33:24		three 20:18,20 28:4

28:5 59:25 60:2 time 8:20 13:18,18 14:18 17:10,12,13 17:16 20:3,3,11 24:5,5 26:19 29:8 37:22 38:8 45:18 50:16,19 83:18 96:21 tires 15:16 today 8:3 9:22 14:4 71:19 72:6,12 79:20 83:17 92:5 96:21,25 97:5 told 18:7 24:6,13 tool 64:22 tools 67:19 top 15:4 80:18 81:3 92:4 topics 9:8 tort 33:12 total 12:10 TPAs 43:12 44:5 track 81:18 trade 88:11,14,16 89:2,4,5,9,11 90:25 91:11 trademark 1:2,3 7:23 16:9,10,20 17:9,15,23 18:4 18:13 20:2,16 24:4 31:5 36:22 36:23 37:8,23 39:8,11 40:14 55:24 56:16 61:19 trademarked 20:5 trademarks 27:7 91:25 train 49:11,14 training 48:21 49:2 49:7,10 transcript 99:23 102:9,19 transcription 101:8 transition 13:22 transpired 74:17 transplant 9:20 treatment 31:10 Trial 1:3 7:23 true 4:4 6:4 7:10,12 8:11 10:20 14:16 15:24 16:16,23 18:19,21 19:7,11 19:13 20:15,19,24 21:10,14,18 22:11 24:11,17 25:4,9 25:15,24 27:16,22	28:2,15,21 34:22 35:6,12 36:20 39:3 42:16 48:12 48:17 49:22 50:3 51:8 53:15 54:3 57:24 58:5 59:19 59:21,25 60:3,5 62:5 69:23 70:23 72:20 73:3,8 75:3 75:10,11 77:2,17 78:2,6,9 80:16 82:7 85:17 92:9 93:4 94:5,14,18 94:22,25 95:2,14 95:21 96:8,14,19 97:7,24 101:8 try 12:15 74:6 trying 14:18 35:13 35:16 71:8 74:14 TTAB 92:4 twelve 75:3 two 26:8,22 28:4,4 28:5 36:8 41:14 42:15 52:23 68:14 75:22 type 34:25 59:13 60:10 types 34:9 90:6 typically 13:9 31:12 31:15 32:19 33:19 44:5 54:14,23 60:19 61:16 67:15	79:8,13 93:18 updates 81:24 94:20 updating 93:22 upper 86:19 use 11:8 17:4 20:16 21:2 22:24 32:7 52:7 57:11,13 58:13,16 62:19,24 63:3,6,7 65:6 66:17,17 68:4,7 68:21 69:11,12 70:5,18,25 71:8 72:16,18,21,21 73:15 87:20 uses 40:8 USTTAB 92:17 93:11,14	we'll 26:11 60:6 66:9 we're 7:21 15:11 60:12 92:5,7,8 96:21 we've 29:23,25 30:5 62:21 64:17,18 72:4,5 89:8 91:2,5 91:18 whatnot 74:16 wheelchairs 55:11 wing 28:13 wings 15:16 wing-like 15:10 28:13 Wisconsin 46:4 89:5 wise 14:25 witness 7:4,24 10:18 11:10,23 12:8 14:17 16:8 16:21 19:12 20:17 21:15 22:9 23:7 24:8,10,25 25:22 27:23 28:14 31:19 34:21 35:10,20 41:3,14 42:13,15 44:3 46:15 48:4 48:14 51:6 53:10 54:9 60:12 61:23 62:23 64:9,19 65:13 67:5 69:15 69:22 72:6,17 74:20 76:16,23 77:23 79:13 80:3 81:4 82:4,6 85:2,8 92:7,25 95:8,19 99:2,18,18,19,20	32:21 33:6,7,14 33:22 35:8 42:5 42:12,12 46:10 49:10,11,11,15,16 50:6,7,9,17 51:3,4 51:14,14 52:17,21 53:7,12 54:6,15 64:12,22 87:11 89:14,21,24,25 90:2,21 91:6 worked 9:24 19:22 28:9 49:3 50:13 76:5 worker 11:25 12:2 30:11 31:16 workers 9:23 11:15 13:3,7,13 14:3 32:25 33:20 34:4 34:8,14 35:15,25 37:19 40:22 43:11 44:13,16 47:22 63:9,12,23 64:16 66:25 89:16 worker's 33:4 workforce 30:17 working 9:17 20:5 44:15 55:17 64:15 66:25 77:5 83:19 93:23 works 54:11 world 14:10 15:12 31:7 33:20 83:2 wouldn't 49:17 wound 10:6 written 44:3 64:24 93:14 wrong 46:21					
U	Uh-huh 10:16 33:2 34:15,18 39:25 52:9 68:16 69:20 71:12,20 73:22 78:13 79:11 82:5 82:6 90:16,18 ultimately 10:11 11:22 understand 7:25 8:21 18:22 63:25 64:2 65:19,22 78:6 92:2,3,19 93:13 understanding 42:11,24 62:18 65:24 67:11 undoubtedly 41:10 49:13 unique 86:17,18 UNITED 1:2 Update 89:21 updated 29:8,10	V	v 1:7,12,17,22 2:3 VA 9:18 vague 72:19 vast 58:20 Vegas 89:6,14 Velvetpeel 28:10 vendors 90:13 version 79:4 92:13 94:12 virtual 62:20 vocational 13:19 30:19,23 31:3,6 31:15,18 32:4,9 37:17 40:20 47:2 48:4 61:5,14,17 V-formation 15:15	we'll 26:11 60:6 66:9 we're 7:21 15:11 60:12 92:5,7,8 96:21 we've 29:23,25 30:5 62:21 64:17,18 72:4,5 89:8 91:2,5 91:18 whatnot 74:16 wheelchairs 55:11 wing 28:13 wings 15:16 wing-like 15:10 28:13 Wisconsin 46:4 89:5 wise 14:25 witness 7:4,24 10:18 11:10,23 12:8 14:17 16:8 16:21 19:12 20:17 21:15 22:9 23:7 24:8,10,25 25:22 27:23 28:14 31:19 34:21 35:10,20 41:3,14 42:13,15 44:3 46:15 48:4 48:14 51:6 53:10 54:9 60:12 61:23 62:23 64:9,19 65:13 67:5 69:15 69:22 72:6,17 74:20 76:16,23 77:23 79:13 80:3 81:4 82:4,6 85:2,8 92:7,25 95:8,19 99:2,18,18,19,20	W	wait 22:8 walk 12:20 walkers 55:11 want 14:20 18:8 43:2 44:9 67:16 69:24 77:21 87:11 92:25 97:14 wanted 14:19 40:11 42:21 74:4,24 87:11 97:20 way 15:20,22 43:19 53:15 64:18 67:4 website 81:10 Wednesday 2:13 3:8 went 9:21 10:5,8 20:3,3 89:13 weren't 73:23	WITNESSED 101:17 women 14:12 wonder 53:17 wonderful 7:14 word 15:8,19 16:12 39:10,18 40:12,25 41:11 42:21 43:2 56:4 63:22 69:17 69:24 70:6,10,11 70:18,25 72:19 74:18 91:8 words 15:7 70:7,19 work 9:22 10:2,5,8 11:6,23 12:7 13:5 13:12,23 14:3,6 14:10 17:9,10 19:22 30:12 31:22	Y	yeah 27:18 35:8 36:15 50:2,25 53:14,17 75:10 77:17 78:3,6 85:14 90:16,19 93:5,9 96:12 year 17:7 18:2,11 19:6,23,24,25 20:17,20 24:3 26:22 50:21 74:14 75:15 76:6 89:7 years 9:18 17:24 18:12 19:5 26:8 26:22 28:4,4,5 64:15 75:22 Yep 57:4 60:2,4 78:8

yesterday 8:17	19 50:20	5 1:25 6:12 38:25
<u>0</u>	1999 14:4	39:8 56:24 57:3
0083 6:10	<u>2</u>	5-day 97:25
0088-95 6:9	2 1:10 6:9 25:10,13	50 48:10
0109-113 6:17	25:17	5050 5:7
03 24:4	20 45:25 91:25	53 6:13,14,15,16
04 24:4	200 5:6 48:7	55402 4:16
05 24:4	2000 10:13 12:13	55410 5:8
<u>1</u>	12:21 14:4,5	58 6:17
1 1:5 6:8 8:9,13	23:10,21 29:20	<u>6</u>
1:04 98:5	38:17 50:20 72:16	6 6:13 53:24 55:25
10 6:17 58:3 59:24	2001 20:21	60 45:24
10th 79:5	2002 20:21,21	612.332.5300 4:17
100 4:5 14:6	22:22	614.227.2300 4:7
11 6:18 73:6,11	2003 20:20,21	<u>7</u>
12 6:19 75:7 77:13	22:22 39:15,19	7 6:4,14 55:25
80:20 81:22 92:14	40:8,18	70 48:10
12.3.08 2:1 3:1 4:1	2004 61:21 62:8	73 6:18
5:1 6:1 7:1 8:1	2005 56:11	75 6:19 46:3
9:1 10:1 11:1	2006 75:18	<u>8</u>
12:1 13:1 14:1	2007 79:3,6 82:10	8 6:8,15 56:2 67:9
15:1 16:1 17:1	92:11,13	80 3:7 4:15 6:20
18:1 19:1 20:1	2008 2:13 3:9 75:18	48:15
21:1 22:1 23:1	81:20,25 94:7	85 13:12
24:1 25:1 26:1	21 91:25 92:2,4	<u>9</u>
27:1 28:1 29:1	230 45:10	9 6:16 53:24 56:3
30:1 31:1 32:1	25 6:9	69:17
33:1 34:1 35:1	27th 92:11	9:30 3:9
36:1 37:1 38:1	28 6:10 94:7	90 9:25 13:6,12
39:1 40:1 41:1	28th 81:20,25	91-177,234 1:6
42:1 43:1 44:1	29th 79:2	91-177,365 1:11
45:1 46:1 47:1	<u>3</u>	91-177,366 1:16
48:1 49:1 50:1	3 1:15 2:13 3:8 6:10	91-177,367 1:21
51:1 52:1 53:1	28:19 58:22 76:9	92-048,172 2:2
54:1 55:1 56:1	76:25	95 9:25 13:6 14:2
57:1 58:1 59:1	3rd 39:15	952.548.6060 5:9
60:1 61:1 62:1	30(b)(6) 2:9 3:4 8:6	96 10:14
63:1 64:1 65:1	8:22 50:2	99 10:14 12:13
66:1 67:1 68:1	303 1:5,10,15,20,25	
69:1 70:1 71:1	7:20	
72:1 73:1 74:1	31st 82:10	
75:1 76:1 77:1	32 82:3 95:16	
78:1 79:1 80:1	3200 3:7 4:14	
81:1 82:1 83:1	348 77:20	
84:1 85:1 86:1	36 6:11	
87:1 88:1 89:1	38 6:12	
90:1 91:1 92:1	380 77:20	
93:1 94:1 95:1	<u>4</u>	
96:1 97:1 98:1	4 1:20 6:11 36:18	
99:1 100:1 101:1	36:22	
102:1 103:1	43215 4:6	
13 6:20 80:14,20	<u>5</u>	
81:3 87:16,18,18		
15 46:4		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD

1. CARDINAL HEALTH 303, INC.

Opposer

v.

THE ALARIS GROUP, INC.

Applicant

Opposition No. 91-177,234

2. CARDINAL HEALTH 303, INC.

Opposer

v.

THE ALARIS GROUP, INC.

Applicant

Opposition No. 91-177,365

3. CARDINAL HEALTH 303, INC.

Opposer

v.

THE ALARIS GROUP, INC.

Applicant

Opposition No. 91-177,366

4. CARDINAL HEALTH 303, INC.

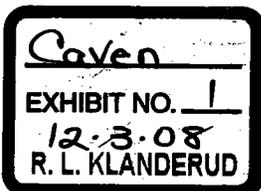
Opposer

v.

THE ALARIS GROUP, INC.

Applicant

Opposition No. 91-177,367



5. CARDINAL HEALTH 303, INC.	:	
	:	
Petitioner	:	
	:	
v.	:	Cancellation No. 92-048,172
	:	
THE ALARIS GROUP, INC.	:	
	:	
Registrant	:	

PETITIONER/OPPOSER CARDINAL HEALTH 303, INC.'S NOTICE OF DEPOSITION PURSUANT TO RULE 30(B)(6) TO REGISTRANT/APPLICANT THE ALARIS GROUP, INC.

PLEASE TAKE NOTICE that pursuant to Rule 2.120 (c) (2) of the Trademark Rules of Practice of the Patent and Trademark Office, 27 C.F.R. § 2.120, the Federal Rules of Civil Procedure and applicable law, Petitioner/Opposer Cardinal Health 303, Inc., will take the deposition upon oral examination of Registrant/Applicant The Alaris Group, Inc. at the offices of Gray Plant Mooty, 500 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402, beginning at 9:00 a.m. on a date to be agreed upon by the parties and proceeding day to day until completed.

Applicant/Registrant, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, is to designate an individual, or individuals, with personal knowledge of the following matters to be covered during the deposition:

1. The decision to adopt the name ALARIS at the time The Alaris Group was founded.
2. Whether any trademark searches were ever done by or on behalf of The Alaris Group by Registrant/Applicant and the results of any such search(es).
3. Registrant/Applicant's business(es) conducted under the name ALARIS, from the founding of the company The Alaris Group through the present.
4. The decision to adopt the name ALARIS at the time the company The Alaris Group was founded.