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

Proceeding	91205331
Party	Plaintiff Ms. Teresa H. Earnhardt
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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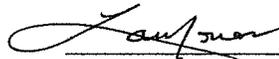
Teresa H. Earnhardt,	§	Consolidated Opposition Nos.
	§	91205331 (parent) and 91205338
Opposer,	§	
	§	In the matter of:
vs.	§	
	§	Application Serial No. 85/383,910
Kerry Earnhardt, Inc.,	§	Mark: EARNHARDT COLLECTION
	§	(Intl. Class 20)
Applicant.	§	
	§	Application Serial No. 85/391,456
	§	Mark: EARNHARDT COLLECTION
		(Intl. Class 37)

**OPPOSER’S NOTICE OF FILING OF THE  
TRANSCRIPT AND NON-CONFIDENTIAL EXHIBITS OF THE TESTIMONY  
PERIOD DEPOSITION OF GEORGE TAULBEE**

PLEASE TAKE NOTICE that Teresa H. Earnhardt (“Opposer”) hereby files the transcript and the non-confidential Opposer’s Exhibit No. 25 and Applicant’s Exhibit Nos. 1, 2 and 4 of the August 29, 2014, testimony period deposition of George Taulbee.

The confidential Opposer’s Exhibit No. 24 and confidential Applicant’s Exhibit Nos. 3 and 5-7 (also referenced in this transcript) are being filed separately.

Respectfully submitted,



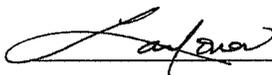
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Opposer’s Notice of Filing of the Transcript and the Non-Confidential Exhibits of the Testimony Period Deposition of George Taulbee” and the accompanying materials are being served on Applicant by depositing copies of same in the United States mail, first-class postage prepaid, on the 5th day of January, 2015 addressed to Applicant’s attorneys of record as follows:

D. Blaine Sanders  
Cary B. Davis  
Matthew F. Tilley  
Robinson Bradshaw & Hinson, P.A.  
101 N. Tryon Street, Suite 1900  
Charlotte, NC 28246-0106



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

- - - - -X Consolidated Opposition No.

Teresa H. Earnhardt, : 91205331 (parent) and

Opposer, : 91205338

: In the Matter of:

v. : Application Serial

: No. 85/383,910

Kerry Earnhardt, : Mark: EARNHARDT COLLECTION

Inc., : (Intl. Class 20)

Applicant. : Application Serial

- - - - -X No. 85/391,456

Mark: EARNHARDT COLLECTION

(Intl. Class 37)

Deposition of GEORGE TAULBEE

(Taken by Opposer)

Charlotte, North Carolina

August 29, 2014

Reported by: Andrea Nobrega

Court Reporter

Notary Public

1 APPEARANCE OF COUNSEL:

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19 Also Present: JOE HEDRICK

20

21 Deposition of GEORGE TAULBEE, taken by the  
22 Opposer, at 101 South Tryon Street,  
23 Charlotte, North Carolina, on the 29th day  
24 of August 2014 at 9:30 a.m., before Andrea  
25 L. Nobrega, Notary Public and Court  
reporter.

24

25

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1 P R O C E E D I N G S

2 Whereupon, GEORGE TAULBEE, having been  
3 first duly sworn, was examined and  
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. ROSE:

7 Q. Good morning. Would you please  
8 state your name for the record?

9 A. George Taulbee.

10 Q. Where do you live, Mr. Taulbee?

11 A. Charlotte, North Carolina.

12 Q. And by whom are you employed?

13 A. Alston & Bird.

14 Q. What do you do for Alston & Bird?

15 A. I'm an intellectual property  
16 lawyer.

17 Q. How long have you been practicing  
18 law?

19 A. Since 1988.

20 Q. And for how much of that time have  
21 you been practicing law in the area of  
22 intellectual property?

23 A. Since 1988. So it's about 26  
24 years. It will be 26 years next month or  
25 October.

1 Q. And for how many of those years  
2 has your practice involved trademarks in  
3 particular?

4 A. I would say probably the last 24  
5 years, since about 1990.

6 Q. And describe generally what your  
7 practice regarding trademarks involve,  
8 what kind of activities?

9 A. My trademark practice includes  
10 conducting trademark availability and  
11 registerability searches, rendering  
12 opinions relating to those, preparing,  
13 filing and prosecuting trademark  
14 applications before various patent offices  
15 and Secretary of State offices and foreign  
16 trademark offices as well, licensing those  
17 rights, enforcing those rights and  
18 counseling with respect to all trademark  
19 matters.

20 Q. How long have you been working  
21 with Dale Earnhardt, Inc. or its licensees  
22 regarding trademark rights associated with  
23 Dale Earnhardt?

24 A. I have been working on behalf of  
25 Mr. & Mrs. Earnhardt, that's Dale and

1 Teresa Earnhardt, since about 1990.

2 Q. And we may use the term DEI today.  
3 Will you understand that that means Dale  
4 Earnhardt, Inc. unless I say otherwise?

5 A. Yes.

6 Q. And what kind of work have you  
7 done regarding trademarks for DEI or Mr. &  
8 Mrs. Earnhardt since you began working for  
9 them?

10 A. All those areas of trademarks that  
11 I mentioned about my practice in response  
12 to an earlier question are the same types  
13 of work that I have done on behalf of Dale  
14 and Teresa Earnhardt for them and through  
15 DEI and licensors prior to that.

16 Q. And that's been for the entire  
17 time since you started in 1990?

18 A. Yes, since about 1990, yes.

19 MR. HEDRICK: I want to get into  
20 some questions now that may get into the  
21 Confidential-Attorneys' Eyes Only, so we  
22 need to ask Mr. Hedrick to leave just  
23 briefly.

24 MR. SANDERS: Alright.

25 (Mr. Hedrick leaves the room.)

1 BY MR. ROSE:

2 Q. Mr. Taulbee, could you explain  
3 briefly the chain of title, if you will,  
4 of the Dale Earnhardt related trademark  
5 rights that Mrs. Earnhardt owns?

6 A. Yes. Originally the original  
7 applications and registrations as well as  
8 the common-law rights were owned by Dale  
9 Earnhardt himself individually.

10 When Mr. Earnhardt passed away in  
11 2001, under the estate documents, if you  
12 will, those passed to the estate, Mr.  
13 Earnhardt's estate, and then to a trust,  
14 and then in accordance with the estate  
15 documents to Mrs. Earnhardt individually.

16 Q. And how is it then that trademark  
17 rights related to Dale Earnhardt are  
18 licensed not by Mrs. Earnhardt but by DEI?  
19 Could you explain that?

20 A. Yes. Mrs. Earnhardt has granted  
21 an oral license to DEI to then turn around  
22 and sub-license those marks and those  
23 rights to licensees, you know, both  
24 domestically and foreign.

25 MR. ROSE: That's all my

1 confidential stuff, so if Mr. Hedrick  
2 wants to come back.

3 (Mr. Hedrick is back in the room.)

4 BY MR. ROSE:

5 Q. Mr. Taulbee, do you understand  
6 that Judy Queen gave a deposition earlier  
7 this week?

8 A. Yes.

9 Q. Have you read the rough or the  
10 draft transcript of that deposition?

11 A. I read over it briefly.

12 Q. Do you recall there was some  
13 testimony about Amy Hallman and her  
14 involvement with licensing at DEI, and I  
15 think she was described as the go to  
16 person for licensing at DEI?

17 A. I do recall reading that.

18 Q. Does that mean that before Mrs.  
19 Hallman's departure you were not involved  
20 in licensing the Dale Earnhardt related  
21 trademarks?

22 A. That does not mean that.

23 Q. Would you explain what your two  
24 respective roles were at the time that Ms.  
25 Hallman was at DEI before she left?

1           A.     Yes.  Ms. Hallman and I worked  
2     very closely together.  Let me say this.

3                     There was a period of time when  
4     DEI had in-house counsel for I think it  
5     was roughly four years, plus or minus,  
6     where much of the licensing was done  
7     in-house.

8                     But before that time from '90  
9     until -- 1990 until about the time they  
10    brought in in-house counsel, I was  
11    responsible really for predominantly all  
12    of their licensing.

13                    It was done by our law firm, and I  
14    personally was very much involved in it.  
15    Then after that four or so year period,  
16    they used in-house counsel to do the  
17    licensing, but we continued to do all the  
18    trademark work other than the licensing.

19                    So we did the opinion work, the  
20    searches.  We did the enforcement work.  
21    We did counseling and so forth, even when  
22    they had the in-house counsel.

23                    And then once in-house counsel  
24    left, then DEI asked me, and Mrs.  
25    Earnhardt asked me to take over the

1 licensing role.

2 Ms. Hallman was responsible for  
3 receiving the request for design  
4 approvals, if you will, and having  
5 those -- running those past Mrs. Earnhardt  
6 whereas I was responsible -- I was  
7 involved in that, but kind of overseeing  
8 that to some extent, but also in dealing  
9 with licenses.

10 So if somebody was interested in a  
11 license with DEI, taking a license from  
12 DEI, DEI would refer them to me even when  
13 Ms. Hallman was there.

14 Either Ms. Hallman or somebody  
15 else at DEI would refer them to me, and I  
16 would work with that licensee to negotiate  
17 terms that based on my experience working  
18 on behalf of the Dale Earnhardt rights  
19 over the years that I thought would be  
20 acceptable to DEI.

21 We often would present those to  
22 DEI for their review and approval. And  
23 then if they approved those terms, if you  
24 will, then we would negotiate -- I would  
25 negotiate a license agreement with that

1 potential licensee, and then present that  
2 license agreement to DEI for its review.  
3 And if they approved it, then they would  
4 execute it.

5 Q. Getting back to Ms. Queen's  
6 deposition earlier this week, do you  
7 recall reading in her transcript testimony  
8 about the trademark registrations that are  
9 owned by Teresa Earnhardt?

10 A. Yes.

11 Q. Can you tell me what federal  
12 trademark registrations Mrs. Earnhardt  
13 owns in relation to her late husband, Dale  
14 Earnhardt?

15 A. There is a U.S. Federal Trademark  
16 Registration for the Dale Earnhardt mark  
17 as a word mark, means without any  
18 stylization, which is a very broad  
19 protection. So it covers everything  
20 whether it's got signature or not.

21 There is a registration for the  
22 Dale Earnhardt mark as a signature, a  
23 stylized mark. There is actually foreign  
24 registrations for those marks as well, for  
25 the Dale Earnhardt word mark.

1           There are state registrations for  
2 those marks. There are registrations for  
3 the Intimidator mark, for Intimidators  
4 with an S. You know, so it's Intimidator  
5 without an S, Intimidators with an S,  
6 Kannapolis Intimidators, Dale Earnhardt  
7 Foundation.

8           There is also a design mark that  
9 has like a large letter E with Dale's  
10 silhouette and signature, and there is  
11 another registration for a large letter E  
12 with just Dale's silhouette without the  
13 signature. I mean those are some  
14 examples. There may be some others.

15         Q. And you mentioned state  
16 registrations. What are there as far as  
17 state registrations?

18         A. There are state registrations for  
19 the Dale Earnhardt mark in quite a few  
20 states. It's registered in predominantly  
21 states where there are NASCAR races, one  
22 with the Secretary of State's office.

23           So we have, for example, North  
24 Carolina, Virginia, Georgia, Indiana,  
25 Texas, and on and on state registrations.

1 Q. What other trademark rights does  
2 Mrs. Earnhardt own related to Dale  
3 Earnhardt?

4 A. She also has common-law rights.  
5 In addition to the registered marks and  
6 the registered rights, she has common-law  
7 rights that go beyond those registrations  
8 for those same marks.

9 She also has common-law rights in  
10 the mark Earnhardt by itself. She has  
11 common-law rights in the mark Continue The  
12 Legend.

13 I'm trying to think. There are  
14 some others. There is what they call the  
15 Dale Earnhardt Legacy logo. She has  
16 trademark rights in that as well. That's  
17 Dale's silhouette and kind of has three  
18 ribbons behind it.

19 There is two versions of that mark  
20 that she owns. One is with the signature  
21 below it and one is without.

22 MR. SANDERS: Let me just  
23 interject here that I don't have any  
24 objection to Mr. Taulbee testifying about  
25 the federally registered marks because

1 they are there.

2 We can see them, but when he  
3 starts talking about the common-law  
4 rights, I'm going to object to the extent  
5 that he is testifying as an expert who has  
6 been undisclosed.

7 MR. ROSE: Your objection is  
8 noted.

9 Mr. Taulbee, the common-law rights  
10 that you have testified to and the marks  
11 that you have testified that Mrs.  
12 Earnhardt has common-law rights to those,  
13 have you seen those marks used in commerce  
14 under license for Mrs. Earnhardt or from  
15 DEI?

16 THE WITNESS: Absolutely. In  
17 fact, I am the one that wrote many of the  
18 license agreements.

19 BY MR. ROSE:

20 Q. And so along those lines, you have  
21 seen products that are licensed under Mrs.  
22 Earnhardt's trademark rights using the  
23 mark Earnhardt by itself?

24 A. Yes, I have. It's been used on --

25 Q. Give me some examples.

1 A. It's been used on a variety of  
2 goods, lamps, some types of furniture --

3 Q. We are talking about the Earnhardt  
4 mark by itself?

5 A. Yeah, that's right, license plate  
6 frames, stuffed animals, apparel items.  
7 Those are some examples.

8 I'm sure there is plenty others,  
9 but off the top of my head -- I should  
10 also say I think there is picture frames  
11 or mounted or framed photographs or  
12 pictures.

13 Q. Are you aware of Mrs. Earnhardt's  
14 Dale Earnhardt trademark rights being  
15 licensed in connection with home  
16 furnishings or decor?

17 A. Yes.

18 Q. Could you give us some examples of  
19 that?

20 A. Yes, adult furniture, youth  
21 furniture, Afghans, wall hangings,  
22 tapestries, floor decor, bathroom items,  
23 everything from items to towels, bedroom  
24 items, including bedding items, lamps,  
25 glassware, houseware, and I mean on and

1 on.

2 Q. Are you aware of or can you give  
3 examples of Mrs. Earnhardt's trademark --  
4 Dale Earnhardt trademark rights being used  
5 or licensed in connection with real estate  
6 or homes?

7 A. Yes. There are several companies  
8 that are affiliated with DEI, and that are  
9 essentially owned by Mrs. Earnhardt.

10 One of them is involved in leasing  
11 of residential real estate. One of them  
12 is involved in leasing of and operation of  
13 business properties, I mean, both to other  
14 businesses and also to inviting folks to  
15 come in whether it be, for example, law  
16 firms to have retreats.

17 She has got what in essence is a  
18 conference center that has conference  
19 facilities. It's got room and board,  
20 lodging. I think it's called The  
21 Pavilion, and there is The Lodge.

22 They also have The Trophy Room,  
23 and they have had that for years and years  
24 and years where outsiders can rent that  
25 facility out and host everything from

1 weddings to retreats to what have you,  
2 office meetings or business meetings in  
3 that facility as well.

4 Q. You had mentioned that there were  
5 companies affiliated with DEI that are  
6 responsible for that.

7 Are you referring to Earnhardt  
8 Rental Properties?

9 A. Yeah, there is Earnhardt Rental  
10 Properties and then there is Earnhardt, I  
11 think it's Real Properties.

12 Q. Let me go ahead and hand you  
13 what's been marked as Opposer's Exhibit  
14 No. 24.

15 I will note for the record that  
16 this document is marked trade secret,  
17 commercially sensitive, attorneys' eyes  
18 only?

19 MR. SANDERS: Do you want Joe to  
20 leave?

21 MR. ROSE: I don't think he needs  
22 to. I just want to note for the record  
23 that this is a part of a production that  
24 did include such sensitive materials. But  
25 I believe that what we have here is

1 distributed.

2 If you would, please take a look  
3 at Exhibit No. 24, which has been produced  
4 as OPP 012882 through OPP 012902.

5 If you could describe what you  
6 understand Exhibit No. 24 to be?

7 THE WITNESS: These are marketing  
8 materials relating to several of the  
9 facilities and other facilities, but  
10 several of the facilities that I mentioned  
11 a few minutes ago, including The Trophy  
12 Room that are available for rent, The  
13 Lodge that's available for rent, The  
14 Pavilion that's available for rent.

15 I didn't mention previously, but  
16 materials include also for a condominium  
17 at Charlotte Motor -- appears to be at  
18 Charlotte Motor Speedway that's also  
19 available for rent.

20 BY MR. ROSE:

21 Q. And those are marketed under the  
22 name Dale Earnhardt The Venues?

23 A. Correct. And I have also seen  
24 these on the Dale Earnhardt, Inc. website  
25 as well.

1 Q. I will go ahead and hand you next  
2 Opposer's Exhibit No. 25. You mentioned  
3 the website, the Dale Earnhardt, Inc.  
4 website. Could you describe what Exhibit  
5 No. 25 is?

6 A. Yeah, Exhibit No. 25 has at the  
7 bottom a URL address, and it's  
8 <http://www.DaleEarnhardtVenues.com>.

9 These are marketing materials that  
10 correspond essentially to the marketing  
11 materials of Exhibit No. 24 for those real  
12 estate properties.

13 They are available for rent and  
14 lease that I mentioned previously, for  
15 example, The Trophy Room, the main  
16 showroom, The Pavilion, The Lodge, The  
17 Suites. These are accessible off of the  
18 Dale Earnhardt, Inc. website.

19 Q. Do you have any personal  
20 experience as far as leasing any of the  
21 properties at Dale Earnhardt, The Venues?

22 A. Yeah, actually our firm held  
23 several events quite a few years ago in  
24 The Trophy Room itself where our firm  
25 rented that space out, and it was catered

1 by the folks at DEI.

2 So we were, while we were counsel  
3 to DEI, we were also a customer to them in  
4 terms of as if anybody else were coming in  
5 to host a wedding or whatever, we hosted  
6 some events there and rented that space.

7 Q. I want to take you back to Ms.  
8 Queen's deposition earlier this week.

9 Do you recall testimony, reading  
10 in the transcript about Ms. Queen saying  
11 that people would call DEI and ask for  
12 Earnhardt and that she would put the call  
13 through to Dale Earnhardt because that's  
14 who they were asking for?

15 Do you recall reading that  
16 testimony generally?

17 A. I do, yes.

18 Q. And can you tell me in addition to  
19 Dale Earnhardt, are you aware of any other  
20 individuals with Earnhardt as the last  
21 name who worked at DEI when Dale was  
22 alive?

23 A. I to.

24 Q. Can you name some of them?

25 A. Dale's brother, Randy Earnhardt, I

1 think Danny Earnhardt, Dale's -- some of  
2 Dale's children.

3 Q. Can you name them?

4 A. Kerry Earnhardt, Kelly Earnhardt,  
5 Dale Earnhardt, Jr. His grandson worked  
6 there, Jeffrey Earnhardt, to name a few.

7 Q. Teresa Earnhardt?

8 A. Teresa Earnhardt works there.  
9 Now, they weren't all there necessarily at  
10 the same time, and I don't know exactly  
11 for how long.

12 But I did interact from time to  
13 time or occasionally with most, if not  
14 all, of those folks while they were  
15 working at DEI.

16 MR. ROSE: Those are all the  
17 questions I have. Thank you.

18 MR. SANDERS: Can we take a short  
19 break?

20 MR. ROSE: Yes.

21 (Off-the-record, brief recess.)

22 CROSS-EXAMINATION

23 BY MR. SANDERS:

24 Q. Mr. Taulbee, we have been  
25 introduced this morning, but I will say

1 for the record that I am Blane Sanders and  
2 I am representing KEI, the applicant in  
3 this proceeding. Good morning.

4 A. Good morning.

5 Q. You talked about in your direct  
6 testimony about DEI having in-house  
7 counsel for about four years. What were  
8 those years?

9 A. I would say it was about somewhere  
10 between 2006 or '07 to about 2011. I  
11 mean, like I said, it's four years. It  
12 could be five years, but there was a  
13 period of time in there.

14 Q. And the in-house counsel at DEI,  
15 they reported to Joe Hedrick at DEI,  
16 didn't they, when Joe Hedrick was there?

17 MR. ROSE: Object to the form.

18 MR. SANDERS: You can answer.

19 MR. ROSE: If you are able to  
20 answer, you can answer.

21 THE WITNESS: I don't know if they  
22 reported directly to Joe or they reported  
23 to Teresa. I don't know who their direct  
24 report was.

25 I know we worked directly both

1 with Mr. Hedrick for years on behalf of  
2 Dale Earnhardt, and on behalf of Dale  
3 Earnhardt, Jr., and we also worked  
4 directly with DEI's in-house counsel, too.

5 MR. SANDERS: So was your answer  
6 to the question that you don't know if the  
7 in-house counsel reported to Mr. Hedrick?  
8 Is that your answer?

9 THE WITNESS: That's correct,  
10 because we worked with both of them.

11 BY MR. SANDERS:

12 Q. So you worked with Mr. Hedrick.  
13 Would you consider Mr. Hedrick to have  
14 been knowledgeable about DEI and Teresa  
15 Earnhardt's licensing program?

16 A. I think he had some knowledge of  
17 it. He worked there. I would hope he was  
18 knowledgeable.

19 Q. You worked with him. Did you  
20 consider him to be knowledgeable or not?

21 A. Yeah, I think he was  
22 knowledgeable.

23 Q. Alright.

24 A. Just like I was knowledgeable  
25 because I have been working with him since

1 1990, long before Mr. Hedrick joined DEI.

2 MR. SANDERS: Alright, move to  
3 strike the rest of the response.

4 You testified about the use of the  
5 Earnhardt designation with some types of  
6 furniture.

7 What types of furniture? Can you  
8 be more specific?

9 THE WITNESS: There were folding  
10 chairs, I believe. There are beanbag  
11 chairs. There are things of that nature.

12 BY MR. SANDERS:

13 Q. Anything else?

14 A. Home decor items.

15 Q. I was talking about some types of  
16 furniture.

17 A. Lamps, those are some examples.

18 Q. Anything else that comes to your  
19 mind right now?

20 A. Not that comes to my mind. I'm  
21 sure there is other things.

22 Q. You mentioned Earnhardt Rental  
23 Properties in your direct. Do you  
24 remember that?

25 A. Yes.

1 Q. If a person was going to try to  
2 contact somebody with Earnhardt Rental  
3 Properties, who would they call? What  
4 number would they call?

5 MR. ROSE: Object to the form.

6 MR. SANDERS: Let me ask this  
7 question. I can ask a better question.

8 If somebody was trying to contact  
9 Earnhardt Rental Properties, would they  
10 call the DEI number?

11 MR. ROSE: Objection to form.

12 THE WITNESS: I don't know if  
13 that's the number they call. I have  
14 never -- I mean, I contact Ms. Queen if I  
15 want to deal -- because I work through  
16 her.

17 BY MR. SANDERS:

18 Q. Right, and you call the DEI  
19 number?

20 A. We are outside counsel, so we  
21 operate on behalf of all of their  
22 operations.

23 Q. Alright. I guess then the answer  
24 to the question is you don't know if you  
25 were some other person -- you don't know

1 what number they would call?

2 A. I think the proper answer is I'm  
3 not some other person. I can't tell you  
4 what some other person might do.

5 Q. Right. Well, let me ask you this.  
6 Do you know if Earnhardt Rental Properties  
7 has a separate phone number from DEI?

8 A. I do not know.

9 Q. Do you know if Earnhardt Real  
10 Properties has a separate phone number  
11 from DEI?

12 A. I don't know.

13 Q. The exhibit, Opposer's Exhibit No.  
14 24 that was introduced in your direct.

15 A. Yes.

16 Q. When were these marketing  
17 materials created?

18 A. I don't know because I didn't  
19 create them.

20 Q. And same answer for No. 25, you  
21 don't know when those were created?

22 A. I do not know.

23 Q. So then they could have been  
24 created within the last month and you  
25 wouldn't know?

1           A.     And they could have been created  
2 five years ago and I wouldn't know. I can  
3 tell you --

4           Q.     You don't know?

5           A.     I can tell you this, that as I  
6 testified in my direct, The Trophy Room, I  
7 know there were marketing materials for  
8 that, not necessarily these, but other  
9 marketing materials because I have seen  
10 them back when The Trophy Room first  
11 opened.

12                   I can't tell you the exact date,  
13 but the event that -- at least one of the  
14 events that we held out there, our firm  
15 held out there in The Trophy Room was  
16 probably around 2003, 2004, in that time  
17 frame.

18           Q.     So that's when your firm leased  
19 that facility, right?

20           A.     Correct. DEI hosted an event for  
21 us. We leased that property, The Trophy  
22 Room, and it was at those times.

23           Q.     And was the business then called  
24 Dale Earnhardt, Inc., The Venues?

25           A.     I can't tell you. I don't know.

1 Q. Do you know when Dale Earnhardt,  
2 Inc., The Venues, do you know when that  
3 designation started being used?

4 A. I do not know.

5 Q. Mr. Taulbee, Earnhardt is a  
6 surname, correct?

7 A. Yes.

8 Q. And Earnhardt is nothing more than  
9 a surname, is it?

10 MR. ROSE: Object to the form.

11 THE WITNESS: It comes Dale  
12 Earnhardt and Earnhardt essentially are  
13 synonymous.

14 BY MR. SANDERS:

15 Q. The question is -- I didn't ask  
16 you about Dale Earnhardt. I asked you  
17 about Earnhardt. E-a-r-n-h-a-r-d-t, just  
18 those letters, that is nothing more than a  
19 surname, is it?

20 MR. ROSE: Object to the form.

21 THE WITNESS: It is a surname.

22 BY MR. SANDERS:

23 Q. And it's nothing more than a  
24 surname, is it?

25 A. It is a surname.

1 Q. It's nothing more than a surname,  
2 is it?

3 A. It is a surname.

4 Q. So let me ask you, as Teresa  
5 Earnhardt's counsel, your firm never has  
6 attempted to register Earnhardt as a  
7 trademark, correct?

8 A. I'm not going to answer that  
9 because that's attorney/client privilege.

10 Q. There is -- you listed the  
11 trademarks in your direct, the  
12 Earnhardt -- what you call the Earnhardt  
13 marks or I don't know what you called  
14 them, but you listed a bunch of registered  
15 marks?

16 A. Correct.

17 Q. You didn't list Earnhardt only,  
18 correct?

19 A. That's correct.

20 Q. There is no federally registered  
21 or state registered mark Earnhardt,  
22 correct?

23 A. That's correct, but that's not the  
24 request you asked.

25 Q. I asked if your firm had ever

1 attempted to register that mark?

2 A. And that's privileged.

3 MR. ROSE: And that's privileged.

4 BY MR. SANDERS:

5 Q. Well, that would be a public  
6 record, wouldn't it, if you ever attempted  
7 to register it?

8 A. You are welcome to go look.

9 Q. So it wouldn't be privileged?

10 A. You are welcome to go look.

11 MR. ROSE: Counsel, it's not a  
12 joke. The question calls for privileged  
13 information.

14 If there were communications about  
15 whether we should or should not or if  
16 efforts were taken before making a public  
17 record, it's privileged.

18 So you don't have to laugh about  
19 it because it's not funny.

20 MR. SANDERS: The communications  
21 would be privileged. Whether or not  
22 there --

23 MR. ROSE: Whether or not  
24 something was publicly filed would not be,  
25 but whether there were discussions that

1 had to do with --

2 MR. SANDERS: The question was,  
3 was a registration ever filed by your firm  
4 for the Earnhardt mark?

5 THE WITNESS: You don't file a  
6 registration.

7 BY MR. SANDERS:

8 Q. Or submit?

9 A. You don't submit a registration.

10 Q. What do you do with a  
11 registration?

12 A. You file an application.

13 Q. Was an application ever filed by  
14 your firm for the Earnhardt mark?

15 A. No.

16 Q. The marks that you listed, the  
17 federally registered marks and the state  
18 marks that you talked about in your  
19 direct, do you remember them?

20 A. Yes.

21 Q. None of those marks that you  
22 discussed, and let me say, none of the  
23 marks that have been registered for Teresa  
24 Earnhardt, none of those marks are in  
25 Class 20 furniture, correct?

1 MR. ROSE: Object to the form.

2 THE WITNESS: The registrations  
3 speak for themselves. If you want to show  
4 me all the registrations, we can sit here  
5 and I'm happy to look through them all.

6 MR. SANDERS: Let's just do a  
7 couple.

8 (Applicant Exhibit No. 1 marked  
9 for identification.)

10 BY MR. SANDERS:

11 Q. I'm going to hand you what's been  
12 marked as Applicant's Exhibit No. 1. Can  
13 you tell me what that is?

14 A. It's a printout from the United  
15 States Patent And Trademark Office,  
16 trademark side of their website.

17 Q. It's for the word mark Dale  
18 Earnhardt, correct?

19 A. It's for the word mark Dale  
20 Earnhardt, and it appears -- there is a  
21 date at the top. I am assuming that's the  
22 date it was printed. It says January 16,  
23 2014, and there is a URL address at the  
24 bottom.

25 Q. Alright. If you go to the second

1 page, let's just go ahead and put the  
2 registration number on the record. Go to  
3 the second page. The registration number  
4 is what?

5 A. The registration number for this  
6 registration is 1644237.

7 Q. And if you look at the goods and  
8 services on the first page, you see the  
9 classes that are listed there?

10 A. I do.

11 Q. And the goods and services that  
12 are listed?

13 A. Yes, sir.

14 Q. And there is no listing in Class  
15 20, is that correct?

16 A. That's correct, and this  
17 registration issued in 1991.

18 Q. Right, and it's not been -- it's  
19 not amended. It doesn't currently include  
20 Class 20, does it?

21 A. You can't amend a trademark  
22 registration. Once an application is  
23 filed, you are not permitted to amend it  
24 to add a class.

25 Q. And is Class 37 listed in Exhibit

1 No. 1?

2 A. It is not listed in exhibit --  
3 Applicant's Exhibit No. 1, and that's a  
4 two page document.

5 MR. SANDERS: I'm going to hand  
6 you what's been marked as Applicant's  
7 Exhibit No. 2.

8 (Applicant's Exhibit No. 2 marked  
9 for identification.)

10 BY MR. SANDERS:

11 Q. Can you tell me what that is?

12 A. Yes. It's a three page document,  
13 somewhat similar to the prior one. It  
14 appears to be a printout from the  
15 trademark side of the U.S. Patent And  
16 Trademark Office website.

17 It's got a date at the top. It  
18 says January 16, 2014, and it appears to  
19 be a copy of U.S. registration number --  
20 trademark registration number 2035107,  
21 registered February 4, 1997 for the Dale  
22 Earnhardt mark in a stylization form.

23 Q. And you see where the goods and  
24 services are listed and the classes? Do  
25 you see that?

1 A. I do.

2 Q. And there is nothing in Class 20,  
3 is there?

4 A. That is correct.

5 Q. And there is nothing in Class 37,  
6 is there?

7 A. That is correct.

8 Q. And Ms. Earnhardt has no  
9 registered marks that list either Class 20  
10 or Class 37, does she?

11 MR. ROSE: Object to form.

12 THE WITNESS: Again, off the top  
13 of my head, I can't tell you.

14 BY MR. SANDERS:

15 Q. You can't tell me?

16 A. Off the top of my head, I can't  
17 tell you.

18 Q. So if I told you, no, you wouldn't  
19 be able to dispute that, would you?

20 MR. ROSE: Object to form,  
21 argumentative.

22 MR. SANDERS: You can answer.

23 THE WITNESS: Off the top of my  
24 head, I can't tell you. I can tell you,  
25 though, that certainly with respect to

1 service classes, that those have changed  
2 over the years. So given this was filed  
3 in 1995, I don't know what was in 37 in  
4 1995.

5 BY MR. SANDERS:

6 Q. Let me ask you this way then. In  
7 Applicant's Exhibit No.'s 1 and 2, do you  
8 see any listing -- of the goods and  
9 services that are in there, do you see any  
10 listing of furniture?

11 A. I do not.

12 Q. Do you see any listing of custom  
13 home building?

14 A. I do not.

15 Q. As the license administrator for  
16 Ms. Earnhardt, you are familiar with DEI's  
17 license agreements, aren't you?

18 A. Generally, yes.

19 Q. Is it true that your firm  
20 typically drafts those agreements for Ms.  
21 Earnhardt?

22 A. Yes.

23 Q. Do you have what lawyers consider  
24 a form for the license agreement that you  
25 start with? I realize the terms change

1 for each deal, but do you start with a  
2 form?

3 A. It varies.

4 MR. SANDERS: Let me hand you a  
5 document that we are going to mark as  
6 Applicant's Exhibit No. 3.

7 (Applicant's Exhibit No. 3 marked  
8 for identification.)

9 BY MR. SANDERS:

10 Q. Can you tell me what that is?

11 A. It says limited license agreement  
12 by and between Dale Earnhardt, Inc., RCR  
13 Race Operations, LLC, both as licensors  
14 and Tervis Tumbler Company as licensee.

15 Q. Would it be fair to call this a  
16 fairly typical license agreement that  
17 DEI --

18 MR. ROSE: Counsel, before we get  
19 too much into this, I notice it says  
20 confidential.

21 It's an agreement that's dated in  
22 2012, which I believe is after Mr. Hedrick  
23 left DEI.

24 So I don't know that we should be  
25 talking about the details of this while

1 Mr. Hedrick is in the room.

2 MR. SANDERS: He can leave if you  
3 want.

4 (Mr. Hedrick left the room.)

5 MR. SANDERS: It's not attorneys'  
6 eyes only though. Well, it doesn't  
7 matter.

8 MR. ROSE: That's fine. If I  
9 could have a chance to look at the  
10 protective order and see if he is okay  
11 under the terms.

12 THE WITNESS: He is probably not  
13 okay.

14 MR. ROSE: Just wait for a  
15 question.

16 THE WITNESS: I'm just saying it's  
17 marked confidential. There is a  
18 confidentiality provision in here.

19 MR. ROSE: Wait for a question.

20 BY MR. SANDERS:

21 Q. And the question is, is this  
22 agreement -- this agreement is with the  
23 Tervis Tumbler Company.

24 Is this on the Alston & Bird form  
25 license agreement? Would you have started

1 with the form?

2 MR. ROSE: Object to form.

3 THE WITNESS: What we start with  
4 internally on behalf of a client is  
5 probably privileged.

6 BY MR. SANDERS:

7 Q. Let me ask you this way then. Is  
8 this a more or less typical license  
9 agreement that you would have worked on  
10 for Dale Earnhardt, Inc.?

11 MR. ROSE: Object to the form.  
12 You can answer if you understand the  
13 question.

14 THE WITNESS: I don't know if  
15 typical is the right word, but it will  
16 contain a number of provisions that are  
17 somewhat similar.

18 But again, it depends on the  
19 individual license circumstances and the  
20 parties on the other side and what's  
21 negotiated and so forth.

22 BY MR. SANDERS:

23 Q. Fair enough. Turn to Exhibit A.  
24 That's bates number 1871.

25 A. Yes.

1 Q. And you see there, those are the  
2 marks that are involved in the license  
3 agreement, is that correct?

4 A. Those are the marks that are  
5 listed as expressly granting the right  
6 under the license agreement.

7 Q. Right, and so for DEI it's listed  
8 under properties, the rights, it's  
9 listed -- I'm sorry, the marks are listed  
10 under the properties there for DEI. Do  
11 you see those?

12 A. Yes.

13 Q. There is the Dale Earnhardt  
14 trademark, the Dale Earnhardt signature  
15 trademark. There is the Intimidator  
16 trademark, the Dale Earnhardt silhouette  
17 logo, the Dale Earnhardt, Inc. Checkered  
18 Bar logo trademark and the Dale Earnhardt  
19 Legacy logo trademark. Do you see those?

20 A. Yeah. It also says the name,  
21 signature and likeness of Dale Earnhardt.

22 Q. Right, it does, it does. Is this  
23 Exhibit A a common or I think common was  
24 the word you used or standard Exhibit A in  
25 DEI license agreements?

1 MR. ROSE: Object to the form.

2 THE WITNESS: It varies.

3 BY MR. SANDERS:

4 Q. Let me ask you, I notice in this  
5 agreement looking at the marks that are  
6 listed in Exhibit A, none of those marks  
7 have just Earnhardt by itself. You notice  
8 that?

9 A. Yes.

10 Q. Can you point me to any of your  
11 license agreements that list in the marks  
12 where Earnhardt is listed by itself?

13 MR. ROSE: Object to the form.

14 THE WITNESS: There are some.

15 BY MR. SANDERS:

16 Q. Can you name them?

17 A. Not off the top of my head.

18 Q. You all produced more than a  
19 hundred license agreements, 2,000 pages,  
20 and I can't tell you we found any that  
21 list Earnhardt marked by itself.

22 So I'm telling you that, but I  
23 would like you to correct me if I'm wrong.

24 MR. ROSE: Objection to form. How  
25 can he know what you found?

1 MR. SANDERS: Well, you all  
2 produced the documents and he is the  
3 license administrator. I would think he  
4 would know and he testified that there are  
5 some.

6 MR. ROSE: That's right, and he is  
7 not here with memorization of every  
8 license that's been entered. He doesn't  
9 know what you have looked at and what you  
10 found.

11 And as you should know, many  
12 additional documents were made available  
13 for your inspection and copying if you  
14 wanted.

15 If there was a document that had  
16 that in there and you didn't ask for it to  
17 be copied, you may not have it in your  
18 possession. We just don't know, and he  
19 certainly hasn't memorized what you have  
20 and what you have looked at.

21 MR. SANDERS: He knows what I'm  
22 asking about.

23 MR. ROSE: That wasn't your  
24 question. That was a speech you gave.

25 BY MR. SANDERS:

1 Q. Let me just ask you. Can you name  
2 specifically, as we sit here today and as  
3 you are testifying, any agreement, any  
4 license agreement that DEI has where  
5 Earnhardt by itself has been listed as the  
6 mark?

7 A. I can't name off the top of my  
8 head, but what I can tell you is I have  
9 put it in there personally myself.

10 Q. And when was the last time you did  
11 that?

12 A. Probably in the last couple months  
13 was the last time I have done that.

14 Q. Since this proceeding was filed?

15 A. Yeah, put it in before that, too.

16 Q. How many times?

17 A. I don't know off the top of my  
18 head.

19 MR. SANDERS: I'm going to hand  
20 you what's been marked as Applicant's  
21 Exhibit No. 4.

22 (Applicant's Exhibit No. 4 marked  
23 for identification.)

24 MR. ROSE: You want Mr. Hedrick  
25 back in?

1 MR. SANDERS: Yes.

2 (Mr. Hedrick is back in the room.)

3 BY MR. SANDERS:

4 Q. Alright, Mr. Taulbee, I have  
5 handed you a document that's been marked  
6 as Applicant's Exhibit No. 4. Can you  
7 tell me what that is?

8 A. I mean, it's a stack of pages  
9 starting with a production number OPP  
10 002387, and I'm assuming there is none  
11 missing, but goes up to OPP 002549. It  
12 seems consecutive.

13 Q. Let me tell you that there are  
14 some missing, but that's the way they were  
15 produced. But there are a few pages that  
16 are missing in there.

17 But I'm going to represent to you  
18 that this is a full -- these are specimens  
19 as they were produced by your law firm  
20 bearing the bates numbers that you listed.

21 But I don't want you to be  
22 confused. There are -- we noticed as we  
23 went through them that there are some  
24 pages missing.

25 A. Well, because there is

1 individual -- some of the documents have  
2 individual page numbers, and then there is  
3 also bates numbers.

4 So I don't -- my point was it may  
5 be that there is not a page that has every  
6 single bates number on it. I don't know.

7 Q. Well, I will tell you having  
8 looked at them fairly closely, I think  
9 that every page has a bates number on it.

10 A. Okay.

11 Q. But I do want to make clear for  
12 the record there are -- you said they are  
13 all listed consecutively --

14 A. I said I don't know.

15 Q. You said you don't know -- there  
16 are a few gaps. I am representing to you  
17 that the gaps were not caused by me.

18 I'm just saying what I'm telling  
19 you is that these specimens are the way  
20 they were produced by Alston & Bird,  
21 except there were lavender pages stuck in  
22 there in between.

23 We took the lavender pages out  
24 because they didn't have any material on  
25 them. But I'm telling you this is what we

1 received from Alston & Bird.

2 A. Okay.

3 Q. So in looking at Exhibit No. 4,  
4 let me ask you this. Do you have any  
5 reason to think that the production of  
6 these specimens would have been incomplete  
7 in response to the discovery request in  
8 this case? Do you have any reason to  
9 think that?

10 A. I have no way to know one way or  
11 the other.

12 Q. Right. Let me ask you this --

13 A. Let me say, I don't even know what  
14 this represents. I don't know what this  
15 was responsive to. I mean, it's a stack  
16 of documents with a bunch of colored  
17 photographs on it.

18 Q. Right, right. And the record will  
19 show what the requests were, right. You  
20 are saying you don't know?

21 A. Yeah.

22 Q. Let me just ask you this. In  
23 these specimens -- and I will let you go  
24 through them and look at them and take as  
25 much time as you want.

1           But I want to you -- if there are  
2 any in there, I would like you to point  
3 out to me any use of Earnhardt by itself  
4 that does not have with it either the  
5 first name Dale or the number 3 or his  
6 image or likeness with it?

7           A.     Some of them are pretty small.  
8 I'm not sure I can see them. So that's a  
9 lot of documents to look for. Can you  
10 repeat your question to make sure I answer  
11 it correctly?

12           MR. SANDERS: Can you read the  
13 question back, please.

14           THE COURT REPORTER: "I would like  
15 you to point out to me any use of  
16 Earnhardt by itself that does not have  
17 with it either the first name Dale or the  
18 number 3 or his image or likeness with  
19 it?"

20           THE WITNESS: There are several in  
21 here.

22           BY MR. SANDERS:

23           Q.     Tell me what those are?

24           A.     By the way, some of these are  
25 repetitive. There are some sheets in here

1 that are duplicates, not production  
2 numbers, but are duplicates of the same  
3 image. An example is OPP 002531, the back  
4 of the sweatshirt.

5 Q. Okay, and you are talking about  
6 Earnhardt that's on the back of the  
7 sweatshirt?

8 A. Correct.

9 Q. And then you see the 3 on the  
10 front of the sweatshirt, right?

11 A. Yes.

12 Q. What's the next one?

13 A. Alright, there is OPP 002533.

14 Q. Alright. And can you tell me  
15 what's in -- I see the Earnhardt name on  
16 the front. Can you tell me what's in  
17 the --

18 A. I don't think that's the front. I  
19 think that's the back.

20 Q. Okay, if that's the back. You see  
21 the Earnhardt name?

22 A. Correct.

23 Q. Can you tell me whether or not  
24 there are any other words or any other --  
25 a 3 or some other indication of Dale in

1 the design there?

2 A. I can't tell. I don't think there  
3 is.

4 Q. Alright, what's next?

5 A. OPP 002534.

6 Q. Alright. What's next?

7 THE WITNESS: Give me the question  
8 again, please.

9 THE COURT REPORTER: "I would like  
10 you to point out to me any use of  
11 Earnhardt by itself that does not have  
12 with it either the first name Dale or the  
13 number 3 or his image or likeness with  
14 it?"

15 THE WITNESS: OPP 002546, the  
16 bottom photograph on that page.

17 BY MR. SANDERS:

18 Q. Are you talking about the die-cast  
19 car?

20 A. Yes, sir.

21 Q. Right, that has the IROC symbol on  
22 it and the 14?

23 A. Correct, and you asked does it --  
24 the use of Earnhardt without the name  
25 Dale, without the number 3 or without

1 Dale's image in this -- the product shown  
2 in this photograph, as far as I can tell,  
3 doesn't have any of those other things in  
4 it.

5 Q. I see what you are saying, yeah.  
6 But if you looked at that, you would know  
7 that was a Dale Earnhardt car, wouldn't  
8 you?

9 A. Because it says Earnhardt on it.

10 Q. Well, because it's the 14 and the  
11 IROC --

12 A. No, because it says Earnhardt on  
13 it.

14 Q. Okay. Any others?

15 A. Those are the several that I  
16 spotted off the top of my head, but I will  
17 say I'm sure this is not an exhaustive of  
18 every product that was ever produced  
19 bearing Mr. Earnhardt's rights from 1990  
20 until 2014.

21 MR. SANDERS: Move to strike.

22 MR. ROSE: Oppose.

23 THE WITNESS: You asked if I saw  
24 any others.

25 BY MR. SANDERS:

1 Q. You gave some testimony about Amy  
2 Hallman. She was the licensing  
3 coordinator before you, is that correct?

4 MR. ROSE: Object to the form.

5 THE WITNESS: I don't -- I mean,  
6 Amy Hallman had a role. She worked on  
7 behalf of Mr. & Mrs. Earnhardt I want to  
8 say from the late '90s going forward, and  
9 she had different -- I don't know her  
10 exact title.

11 She and I worked closely together  
12 over all those years and we both had  
13 roles.

14 I have testified in my direct  
15 testimony what my role was, and when she  
16 left, her role -- I took over her role in  
17 addition to the role that I was already  
18 playing -- my responsibilities for DEI.

19 So when Ms. Hallman left -- I  
20 think she left about March of 2013,  
21 approximately -- her responsibilities were  
22 added to the responsibilities I already  
23 had.

24 BY MR. SANDERS:

25 Q. So what was added to your

1 responsibilities then in March of 2013?

2 A. Primarily overseeing submissions  
3 of proposed designs that licensees would  
4 want to produce product of, and getting  
5 those proposed designs approved by DEI.

6 Q. You said Ms. Hallman left. Ms.  
7 Hallman left DEI voluntarily, correct?

8 MR. ROSE: Object to form.

9 THE WITNESS: I have not spoken to  
10 Ms. Hallman as to her reasons as to why  
11 she left.

12 BY MR. SANDERS:

13 Q. Do you know whether or not she  
14 left voluntarily or whether she was  
15 terminated?

16 A. I mean, I don't know.

17 MR. SANDERS: Bruce, I want to ask  
18 Mr. Taulbee a question about the Opposer's  
19 responses to our first set of  
20 interrogatories. Do you have that there?  
21 I didn't bring copies.

22 MR. ROSE: I do not have that with  
23 me.

24 MR. SANDERS: I tell you what,  
25 would it bother if I look on with you?

1 MR. ROSE: That's fine.

2 BY MR. SANDERS:

3 Q. Mr. Taulbee, I'm going to ask you  
4 about Opposer's responses to Applicant's  
5 first set of interrogatories.

6 A. Yes.

7 Q. And let me give you the date of  
8 those, January 24, 2013, alright?

9 A. Okay, that's what it says, yes.

10 Q. And I'm just asking you about  
11 number three. Number three is identify  
12 the person or entity associated with  
13 Opposer who is most knowledgeable about  
14 the annual sales of merchandise licensed  
15 under the marks Dale Earnhardt, Earnhardt  
16 (alone, i.e., not with, Dale), or  
17 Earnhardt Collectibles?

18 And the response, opposer  
19 incorporates by reference all of the  
20 foregoing objections, and then as  
21 presently informed, Opposer understands  
22 that Amy Hallman, licensing coordinator of  
23 Dale Earnhardt, Inc., is likely most  
24 knowledgeable person regarding such  
25 matters.

1           Was the answer to that correct  
2 when written?

3           MR. ROSE: Object to the form.

4           MR. SANDERS: Based on your  
5 knowledge.

6           THE WITNESS: I don't know. What  
7 I can tell you, the question -- the  
8 interrogatory says the annual sales.

9           BY MR. SANDERS:

10          Q. And would she be the person most  
11 knowledgeable at that time?

12          A. Probably in -- was it January of  
13 2013?

14          Q. Yes.

15          A. I would assume that's correct.

16          Q. Alright, that's the question.

17          A. That's the answer, right?

18          Q. Right. And she was the licensing  
19 coordinator, is that correct?

20          A. I believe that was her title.

21          Q. Right, alright. I want to ask you  
22 about the royalty reports that have been  
23 produced in this case.

24          A. Okay.

25          MR. SANDERS: I think I'm going to

1 hand them to you as a group because I  
2 think it might speed things up a little  
3 bit, but if we have to talk about them  
4 individually, we can do that.

5           Alright, I'm handing you what has  
6 been marked Applicant's Exhibit No. 5.

7           (Applicant's Exhibit No.'s 5 - 7  
8 marked for identification.)

9           BY MR. SANDERS:

10          Q. I'm handing you what's been marked  
11 as Applicant's Exhibit No.'s 5, 6 and 7.

12           Can you tell me what those are?

13          A. So the one that's labeled as  
14 Applicant's exhibit says at the top, DEI  
15 licensee royalty report 2010. The one  
16 that's marked as -- you gave me two copies  
17 marked as No. 6.

18          Q. I'm sorry.

19          A. I'm not sure if that was intended  
20 or not.

21          Q. It was not intended.

22          A. The one that's marked -- let me  
23 back up to -- Applicant No. 5 is a five  
24 page document that starts with production  
25 numbers OPP 003062 running through

1 consecutively through OPP 003066.

2 Applicant's Exhibit No. 6 has on  
3 the top of the first page DEI licensee  
4 royalty report 2011. It's a three page  
5 document, starts with production number  
6 OPP 002828 and runs consecutively through  
7 OPP 002830.

8 Applicant's Exhibit No. 7, on the  
9 top of the first page says DEI licensee  
10 royalty report 2012. It's a two page  
11 document that starts with OPP 002697 and  
12 goes through OPP 002698.

13 I will also note that all of these  
14 three exhibits, all pages, are marked as  
15 trade secret, commercially sensitive,  
16 attorneys' eyes only.

17 MR. SANDERS: Thank you.

18 (Mr. Hedrick left the room.)

19 BY MR. SANDERS:

20 Q. Do you ever review the royalty  
21 reports in your position as licensing  
22 coordinator?

23 A. I have looked at them, yes. I  
24 can't tell you if I looked at these  
25 specific ones though.

1 Q. Do you believe that these royalty  
2 reports are complete?

3 A. I mean, I don't know who prepared  
4 these.

5 Q. Well, does that mean you can't say  
6 whether you think they are complete or not  
7 or do you think they are complete?

8 A. I can assume they are if DEI  
9 produced them, but I don't know under what  
10 circumstances DEI prepared these.

11 So I can't look at these and say,  
12 yeah, I know they are complete or not  
13 complete.

14 Q. You can only assume they are  
15 complete?

16 A. Right, assuming they came from  
17 DEI, but again, I don't even know the  
18 circumstances under which they were  
19 prepared or who prepared them.

20 Q. Right. And all I can tell you is  
21 they were produced with the Opposer's  
22 bates number that you read off. So they  
23 were produced by your firm. That's all I  
24 can tell you about them.

25 A. Okay.

1 Q. Do you have any reason to think  
2 they are incomplete?

3 A. I don't know one way or the other.

4 Q. Let me ask you, you see down the  
5 comments section where there are products  
6 listed. There are various comments,  
7 including listing of products?

8 A. Correct.

9 Q. On Applicant's Exhibit No.'s 5, 6  
10 and 7, can you thumb through those, or  
11 take as long as you want looking through.

12 Could you go through there and  
13 tell me if there are any custom homes  
14 listed in products?

15 Let me tell you the other one so  
16 you don't have to look twice. Furniture  
17 is the other one.

18 A. I see both furniture and home  
19 decor in furnishings.

20 Q. Okay, tell me where those are.

21 A. So we start on the 2010 report,  
22 Applicant's Exhibit No. 5, under  
23 Hamilton/Bradford EX, which I believe is  
24 Exchange, plates, figurines, ornaments,  
25 ornament plate. There is clocks, tabletop

1 figurines, accessories, structure, says DE  
2 Village.

3 Q. What is the DE Village?

4 A. I believe that's items that you  
5 just -- smaller items with a bunch of  
6 different pieces that you display in a  
7 curio cabinet or on a coffee table or sofa  
8 table.

9 Q. What are the pieces?

10 A. I don't know specifically, but  
11 there is probably images of people,  
12 probably a car, things like that I would  
13 think.

14 Q. Alright, go on. I think you are  
15 listing home decor items, is that right?

16 A. Yeah, those would be home decor  
17 items and furnishings.

18 Q. Alright. I would like you to find  
19 for me furniture --

20 A. Which question would you like me  
21 to answer, because there is one pending or  
22 are you going to change the question?

23 MR. SANDERS: Let's have her read  
24 back the question I asked you when you  
25 started looking at them.

1 THE COURT REPORTER: "On  
2 Applicant's Exhibit No.'s 5, 6 and 7, can  
3 you thumb through those, or take as long  
4 as you want looking through.

5 Could you go through there and  
6 tell me if there are any custom homes  
7 listed in products?"

8 BY MR. SANDERS:

9 Q. Mr. Taulbee, you have now had a  
10 chance to review Applicant's Exhibit No.'s  
11 5, 6 and 7.

12 Please tell me if there are any  
13 listings on those exhibits of custom  
14 homes?

15 A. No.

16 Q. Are there any listings of  
17 furniture?

18 A. Yes.

19 Q. Please tell me the listings of  
20 furniture?

21 A. Under The Northwest Company,  
22 beanbag chairs.

23 Q. Alright. Any others?

24 A. Depending on whether you classify  
25 this as furniture or not, under BSI

1 Products, there is seat tote and seat  
2 cushion cooler.

3 Q. Alright. Any others?

4 A. Based on a quick review, I don't  
5 see any others that you would consider to  
6 be furniture. I do see many that are  
7 furnishings or home decor.

8 Q. I told you I would do that. So  
9 list the ones that are -- tell you what,  
10 go ahead and list the home furnishings?

11 A. Okay.

12 Q. I don't want to cut you off.

13 A. So let's start with 2010, which is  
14 Applicant's Exhibit No. 5.

15 Hamilton/Bradford Exchange, plates,  
16 figurines, ornaments, clocks, ornament  
17 plate, tabletop figurine, accessories,  
18 structure (DE Village), BSI Products,  
19 flag/banner, Fathead, LLC, wall graphics.

20 Jebco Clocks, there is wall clock,  
21 gallery series, wall hangings. Jostens,  
22 Inc., there is Daytona Asphalt Program  
23 products.

24 Q. What are those?

25 A. I believe they make plaques that

1 they put pieces of asphalt or rubber  
2 tires. They create plaque type items that  
3 would go on coffee tables or be hung on  
4 the wall.

5 The Northwest Company, pillows --  
6 I can't read the next word, raschels. I  
7 don't know what that is. So I don't know  
8 if that's a home furnishing or not,  
9 throws, bag/rugs. Then there is just  
10 rugs, floor mats, bedding sets,  
11 tapestries.

12 The Time Factory, you have wall  
13 calendars, desk calendars, magnet  
14 calendars.

15 Q. I'm sorry, what page is that?

16 A. The Time Factory -- page five,  
17 which is 3066, Time Factory, wall  
18 calendars, desk calendars, magnet  
19 calendars.

20 Q. Thank you.

21 A. Wincraft, you have got  
22 flag/banners. Wincraft, you have got  
23 wastebaskets, the third, the one that says  
24 Non-Hall of Fame.

25 Q. Thank you.

1           A.    Lamps under that same one.  And  
2   some of them they -- you know, they didn't  
3   repeat the same one under the same  
4   licensee, just in a different row, if you  
5   will.

6           Q.    I understand.

7           A.    That's 2010.  2011, you want to  
8   walk through these as well?

9           Q.    Sure.

10          A.    Which is Applicant's Exhibit No.  
11   6.  The Hamilton/Bradford Exchange, you  
12   have got plates, figurines, ornaments,  
13   clocks, ornament, plate, tabletop  
14   figurine, accessories, structure (DE  
15   Village), stein.

16                Fathead, you have wall graphics.  
17   Jebco Clocks, you have wall clocks.  
18   Jostens you have plaque with piece from  
19   Daytona track.

20                Cedar Fair, you have snow globe,  
21   street sign, plush items, towel.  
22   NASCAR-WMT, there is seat cushion.  R&R  
23   Imports, there is a photo frame.

24                The Northwest Company you have  
25   throws, tapestries, body pillows, bedding.

1 TF Publishing, you have wall  
2 calendars. Wincraft is seat cushions,  
3 clocks, mats, flag banners --  
4 flag/banners, I should say, plastic signs,  
5 seat cushions, mats.

6 I may have repeated some under  
7 Wincraft, but it's a different line.  
8 Winning Streak has a wood banner.

9 Q. I think that says wool banner.

10 A. Is it wool? Okay, wool banner.  
11 Right above that, Windermere Holdings is  
12 paper art, canvass art.

13 The 2012 report, Applicant's  
14 Exhibit No. 7, Hamilton/Bradford Exchange,  
15 plates, figurines, ornaments, clocks,  
16 ornament, plate, tabletop figurine,  
17 accessories, structure (DE Village),  
18 stein, miniature trophy.

19 BSI Products is seat cushion/tote,  
20 flag/banner.

21 Fathead is wall graphics. Jebco  
22 Clocks is wall clock. Jostens is plaque  
23 with piece from Daytona track. Cedar Fair  
24 is snow globe, photo frame, street sign,  
25 plush items, towel.

1 Mounted Memories is framed photos,  
2 plaques with photo. NASCAR-WMT is framed  
3 photo, seat cushion. R&R Imports is photo  
4 frame, seat cushion.

5 The Northwest Company is throws,  
6 tapestries, body pillows, bedding, and  
7 then just pillows. TF Publishing is wall  
8 calendars. Wincraft is flags/banners,  
9 seat cushions. Windermere Holdings is  
10 paper art, canvass art.

11 Winning Streak is wool banner. I  
12 think that's it.

13 Q. Alright. I want as to ask you to  
14 go back just for a minute to Earnhardt  
15 Rental Properties that you talked about  
16 before.

17 A. Yes.

18 Q. Do you know how many employees  
19 that business has?

20 A. I don't know.

21 Q. Do you know what percentage of  
22 DEI's business they do?

23 A. Well, it's a separate business  
24 from DEI.

25 Q. Is it a separately incorporated

1 business?

2 A. I believe so.

3 Q. Do you know how much business they  
4 do?

5 A. I do not.

6 Q. Earnhardt Real Properties, do you  
7 know how many employees work for them?

8 A. I do not.

9 Q. Do you know how much business they  
10 do, total revenues, profit, any of that?

11 A. No.

12 MR. SANDERS: We can bring Joe  
13 back in.

14 (Mr. Hedrick is back in the room.)

15 BY MR. SANDERS:

16 Q. Mr. Taulbee, does Teresa Earnhardt  
17 have the final approval in licensing  
18 matters for DEI and herself?

19 A. What do you mean by licensing  
20 matters?

21 Q. Well, approval of products that  
22 you are going to license, does she have  
23 the final approval?

24 A. Yes.

25 Q. Is she the person that you would

1 contact for an approval?

2 A. Yes.

3 Q. Is she sometimes slow in  
4 responding to requests for approval?

5 MR. ROSE: Object to form.

6 THE WITNESS: I don't know how to  
7 characterize whether she is slow or not.

8 BY MR. SANDERS:

9 Q. Let me ask you this. Fair enough.  
10 Does she sometimes take months to respond  
11 to your request for approval?

12 A. I don't know if that's an accurate  
13 characterization.

14 Q. Does she sometimes take weeks?

15 A. Sometimes.

16 Q. Does the time that she takes to  
17 respond ever cost DEI business?

18 MR. ROSE: Object to form, calls  
19 for speculation.

20 THE WITNESS: The way the  
21 licensing is done is if something is not  
22 approved, it's considered disapproved if a  
23 certain period of time passes.

24 So it's interpreted the same as if  
25 she had rejected or disapproved an item.

1 But typically the way I do it is collect a  
2 number of requests and present them rather  
3 than one here, one there, you know.

4 BY MR. SANDERS:

5 Q. When you do that and if she takes  
6 weeks to respond, can it cost Teresa  
7 Earnhardt or DEI business?

8 MR. ROSE: Object to form, calls  
9 for speculation.

10 BY MR. SANDERS:

11 Q. Since it's deemed rejected, you  
12 can't do the business, can you?

13 A. Something is rejected, I don't  
14 know if that's an accurate  
15 characterization, because she would have  
16 rejected it anyway.

17 Q. Well, fair enough. Let me ask,  
18 does her taking weeks to respond sometimes  
19 cost her business or DEI business?

20 MR. ROSE: Same objection.

21 THE WITNESS: I don't know that  
22 that's a fair characterization.

23 BY MR. SANDERS:

24 Q. Alright. Mr. Taulbee, you have  
25 some litigation experience, is that right?

1 A. In my past practice, yes.

2 Q. Because I think you talked earlier  
3 about being involved in enforcement of  
4 licenses?

5 A. Correct.

6 Q. So that can be litigation, right?

7 A. Yes.

8 Q. Have you represented Ms. Earnhardt  
9 or DEI in litigation matters?

10 MR. ROSE: Object to form.

11 THE WITNESS: Yes.

12 BY MR. SANDERS:

13 Q. How many times have you done that?

14 A. Over the years?

15 Q. Yes.

16 A. Since 1990?

17 Q. Yes, I mean just to give me an  
18 estimate. You don't have to be accurate.

19 Have you represented her in dozens  
20 of litigation matters over the years?

21 MR. ROSE: Object to form.

22 Characterize what you mean by litigation  
23 matter.

24 MR. SANDERS: Matters that either  
25 involved formal litigation or could have

1 involved litigation.

2 Let me say this, enforcement  
3 matters. Just to use your word, how many  
4 enforcement matters have you been involved  
5 with over the years?

6 THE WITNESS: You know, it  
7 probably could be a hundred. It could be  
8 a lot more than that. It just depends  
9 what you mean by enforcement.

10 BY MR. SANDERS:

11 Q. Have you ever testified -- as you  
12 are today as a fact witness, have you ever  
13 testified for Ms. Earnhardt or DEI before?

14 A. Yes.

15 Q. How many times?

16 A. My recollection is once.

17 Q. And what type of matter was that?

18 A. It was before -- it was in  
19 Raleigh, and it had to do with the bill  
20 for criminal enforcement of trademarks.

21 So it was before the -- I can't  
22 tell you which side of the North Carolina  
23 legislature, but before one or the other.

24 Q. You testified before the North  
25 Carolina House or Senate?

1 A. Correct.

2 Q. Have you ever testified in a civil  
3 matter before today for Teresa Earnhardt  
4 or DEI?

5 A. Not that I recall.

6 Q. I guess I should ask for Dale  
7 Earnhardt?

8 A. Not that I recall.

9 Q. Mr. Taulbee, you are a partner in  
10 Alston & Bird, correct?

11 A. Yes.

12 Q. So Teresa Earnhardt is your  
13 client?

14 A. She is a client of the firm, yes.

15 Q. You have represented her?

16 A. Yes.

17 Q. And you have represented her since  
18 1990, right?

19 A. Either directly or indirectly.

20 Q. Have you billed time -- well, you  
21 have billed time to Teresa Earnhardt's  
22 account or to DEI's account, correct?

23 A. I think it's privileged as to who  
24 we bill matters to.

25 Q. But you have billed -- you have

1 not been representing -- you said you  
2 represented Dale Earnhardt, Teresa  
3 Earnhardt and DEI. You have not  
4 represented them in a pro bono capacity, I  
5 take it?

6 A. That's correct.

7 Q. Your firm derives revenue from the  
8 time that you bill to whoever you bill  
9 with respect to these matters where you  
10 represent them, correct?

11 A. That's correct.

12 Q. Are you billing the client or a  
13 client for the time you are spending here  
14 today?

15 A. I think that's privileged.

16 Q. I don't think it is privileged.  
17 Are you going to refuse to answer based on  
18 your counsel's instruction?

19 MR. ROSE: I haven't instructed  
20 him, and I would be glad to confer  
21 outside.

22 MR. SANDERS: Why don't you do  
23 that.

24 (Off-the-record, brief recess.)

25 BY MR. SANDERS:

1 Q. You had a chance to confer with  
2 your counsel?

3 A. Yes.

4 Q. Will you answer the question?

5 A. Yes.

6 Q. The question is, are you billing  
7 for your time today testifying?

8 A. I don't know.

9 Q. Alright.

10 A. You want me to clarify?

11 Q. Sure.

12 A. I will most likely record my time.  
13 Whether that time gets billed or not, I  
14 don't know.

15 Q. Alright, thank you for that. Mr.  
16 Taulbee, it would be in your and your  
17 firm's best interest for this matter to go  
18 well for Ms. Earnhardt, wouldn't it?

19 MR. ROSE: Object to form.

20 THE WITNESS: I mean, it would be  
21 well for Mrs. Earnhardt if it went well.

22 BY MR. SANDERS:

23 Q. That's alright, but the question  
24 is, wouldn't it be good -- wouldn't it be  
25 in your and your firm's economic interest

1 for her to do well?

2 MR. ROSE: Object to form, calls  
3 for speculation.

4 THE WITNESS: I think that's  
5 speculative.

6 BY MR. SANDERS:

7 Q. You want Ms. Earnhardt to prevail  
8 in this proceeding, don't you?

9 A. I want what's right to prevail.

10 Q. Do you want Ms. Earnhardt to  
11 prevail?

12 A. I want what's right to prevail.

13 Q. Does that include Ms. Earnhardt  
14 prevailing?

15 A. If that's right, yes.

16 Q. If it's not right, do you want her  
17 to lose?

18 A. I want whatever is right under the  
19 law to happen.

20 Q. So if it's right for her to lose,  
21 you want her to lose?

22 MR. ROSE: Object to form.

23 THE WITNESS: I'm not going to try  
24 and batter with you over question and  
25 answer. I answered your question.

1 BY MR. SANDERS:

2 Q. Really the truth is, if you wanted  
3 her to lose you really couldn't answer  
4 that question because you represent her,  
5 right?

6 If you really thought she should  
7 lose, you couldn't answer the question,  
8 could you?

9 MR. ROSE: Object to form. It's  
10 argumentative.

11 MR. SANDERS: You can answer or  
12 you can refuse to answer. You shouldn't,  
13 but you can answer.

14 THE WITNESS: I mean, we as her  
15 counsel advise her and we do represent her  
16 to the best of our ability.

17 BY MR. SANDERS:

18 Q. And as you are sitting here today,  
19 you want her to prevail, don't you?

20 A. We as her counsel advise her and  
21 represent her to the best of our ability.

22 Q. That's not an answer to the  
23 question.

24 MR. ROSE: I believe it is.

25 BY MR. SANDERS:

1 Q. You want her to prevail?

2 A. We as her counsel advise her and  
3 represent her to the best of our ability.

4 Q. If you thought she should lose,  
5 you wouldn't tell me, would you?

6 MR. ROSE: Objection to form,  
7 argumentative.

8 THE WITNESS: We as her counsel  
9 advise her and represent her to the best  
10 of our ability.

11 MR. SANDERS: No further  
12 questions.

13 MR. ROSE: Let me make one point  
14 clear.

15 REDIRECT EXAMINATION

16 BY MR. ROSE:

17 Q. Mr. Taulbee, during your testimony  
18 today, you testified to the facts as you  
19 know them, correct?

20 A. Correct.

21 MR. ROSE: That's all.

22 (Signature reserved.)

23 (Whereupon, at 11:26 a.m., the  
24 taking of the instant deposition ceased.)

25

1 E R R A T A S H E E T

2 RE: TERESA H. EARNHARDT V. KERRY

3 EARNHARDT, INC.

4 DEPOSITION OF: GEORGE TAULBEE

5 Please read this original deposition  
6 with care, and if you find any corrections  
7 or changes you wish made, list them by  
8 page number, line number and state reason  
9 for change below. DO NOT WRITE IN THE  
10 DEPOSITION ITSELF. Return the deposition  
11 to this office after it is signed. We  
12 would appreciate your prompt attention to  
13 this matter.

14 To assist you in making any such  
15 corrections, please use the form below.  
16 If supplemental or additional pages are  
17 necessary, please furnish same and attach  
18 them to this errata sheet.

19 Page 7 Line 19 should

20 Read: Mr. Rose: I want to get into

21 Reason for change Mr. Rose ~~is~~ made the statement

22 Page 10 Line 15 should

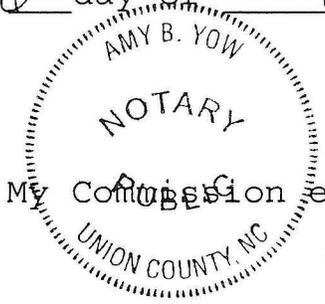
23 Read: Then after that, for the four or so year period

24 Reason for change Typographical error missing "for the"

25

- 1 Page 16 Line 8 should  
2 Read: I'm sure there are plenty others  
3 Reason for change Grammatical error  
4 Page 16 Line 10 should  
5 Read: also say I think there are picture frames  
6 Reason for change Grammatical error  
7 Page 21 Line 23 should  
8 Read: I do  
9 Reason for change Typographical error  
10 Page 24 Line 25 should  
11 Read: because I have been working with DEI since  
12 Reason for change To correct reference  
13 Page 25 Line 21 should  
14 Read: sure there are other things  
15 Reason for change Grammatical error  
16 Page 29 Line 11 should  
17 Read: The witness: Dale  
18 Reason for change Clarification  
19 Page 33 Line 16 should  
20 Read: trademark side of the office's website  
21 Reason for change Grammatical error  
22 Page 33 Line 20 should  
23 Read: Earnhardt, and it appears -- there is a  
24 Reason for change Typographical error  
25

1 Page 37 Line 3 should  
2 Read: in 1995, I don't recall what was in Class 37 in  
3 Reason for change Clarification  
4 Page \_\_\_\_ Line \_\_\_\_ should  
5 Read: \_\_\_\_\_  
6 Reason for change \_\_\_\_\_  
7 Page \_\_\_\_ Line \_\_\_\_ should  
8 Read: \_\_\_\_\_  
9 Reason for change \_\_\_\_\_  
10 Page \_\_\_\_ Line \_\_\_\_ should  
11 Read: \_\_\_\_\_  
12 Reason for change \_\_\_\_\_  
13 Page \_\_\_\_ Line \_\_\_\_ should  
14 Read: \_\_\_\_\_  
15 Reason for change \_\_\_\_\_  
16 George M. Taulbee  
17 Signature of Witness  
18 SUBSCRIBED and SWORN TO before me this  
19 6th day of October, 2014.  
20 Amy B. Yow  
21 NOTARY PUBLIC  
22 My Commission expires: July 15, 2019  
23  
24  
25



1 CERTIFICATE OF REPORTER

2 STATE OF NORTH CAROLINA }

3 COUNTY OF MECKLENBURG }

4 I, Andrea L. Nobrega, the officer  
5 before whom the foregoing deposition was  
6 taken, do hereby certify that the witness  
7 whose testimony appears in the foregoing  
8 deposition was duly sworn by me; that the  
9 testimony of said witness was taken by me  
10 to the best of my ability and thereafter  
11 reduced to typewriting under my direction;  
12 that I am neither counsel for, related to,  
13 nor employed by any of the parties to the  
14 action in which this deposition was taken,  
15 and further that I am not a relative or  
16 employee of any attorney or counsel  
17 employed by the parties thereto, nor  
18 financially or otherwise interested in the  
19 outcome of the action.

20   
21 ANDREA L. NOBREGA

22 Court Reporter and Notary  
23 Public for North Carolina

24

25 My Commission expires: 11-25-16

EXHIBIT

Contact Us Return to DEI Website

Opposer's Exh. No. 25  
 Opposition No. 91205331



THE VENUES

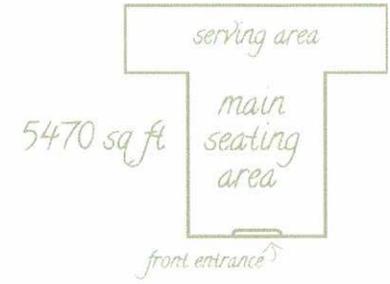
"The Venues" located at Dale Earnhardt Incorporated in Mooresville, NC is known as the area's best venue for Corporate and Private Events. Whether you are looking for a pristine location for your Wedding and Reception or a Corporate Event for groups of 25 - 600, we are sure to have the perfect surroundings to meet your needs. "The Venues" provide a magnificent setting that offers guest a one-of-a-kind experience as they enjoy wonderful amenities along with experiencing the success and accomplishments of Dale Earnhardt, 7-time NASCAR Champion. Come and explore the beauty of "The Venues" and share our gracious hospitality.

Below you can catch a small glimpse of the beautiful venues that await you at Dale Earnhardt Inc. - "The Venues". For information and assistance, please complete our online inquiry form or call 704.662.8000 ext.3575.

*"I cannot say enough about the event spaces at Earnhardt Estate! What lies beyond the iron gates of DEI is a breathtaking setting unlike any other. The rustic pavilion is truly one-of-a-kind and as the venue designer, planner and an attendee, I was impressed with not only the beauty of the space, but everything that went along with it-food, staff, etc. Thank you so much for allowing me to enjoy your beautiful facilities and I hope to be back there soon!"*

—Dave Tutera

Trophy Room	Main Showroom	Pavillion	Lodge	Suites
<p>From the black granite floors, to the gold accented trim and ceiling tiles, this magnificent space is perfect for any occasion. You will find the Showroom at Dale Earnhardt Inc. is great for Weddings and</p>				



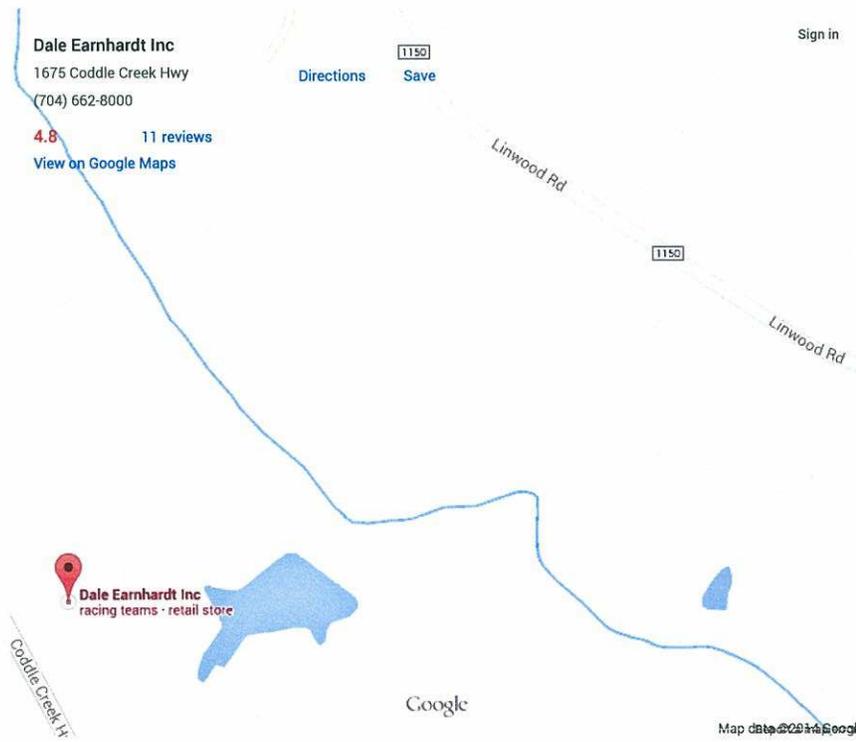
Receptions, Seminars, Conferences, Meeting Space, Trade Shows, Training Demonstrations and Private Events. [Contact Us](#) [Return to DEI Website](#)

- Square Feet: 5,470
- Dining: 500
- Cocktails: 600
- Sky Lights
- Wall Projections
- Hanging Lights

## Contact Us For More Information

Call us at 704.662.8000 ext.3575 or Email Us To Schedule Appointment

We are located at 1675 Dale Earnhardt Hwy #3 in Mooresville, NC 28115.



Sign in

Your Name (required)

Your Email (required)

Your Phone

Your Event Date

Please Tell Us Which Venue(s) You Are Interested In

---

Trophy Room

Main Showroom

Pavilion

(you can select multiples by holding down the ctrl button on keyboard)

Your Message

Send



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—Dave Tutera

Trophy Room

Main Showroom

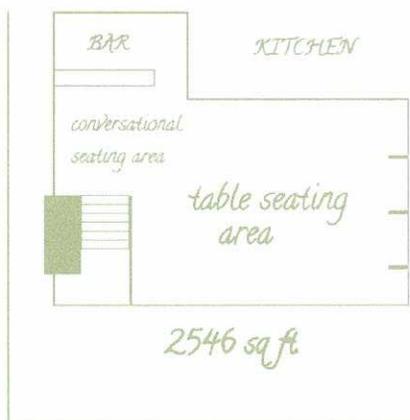
Pavillion

Lodge

Suites



Located at the Dale Earnhardt Corporate Center, The Trophy Room is an elegant private dining facility giving the ambiance of Old World charm, while prominently displaying prized trophies and awards



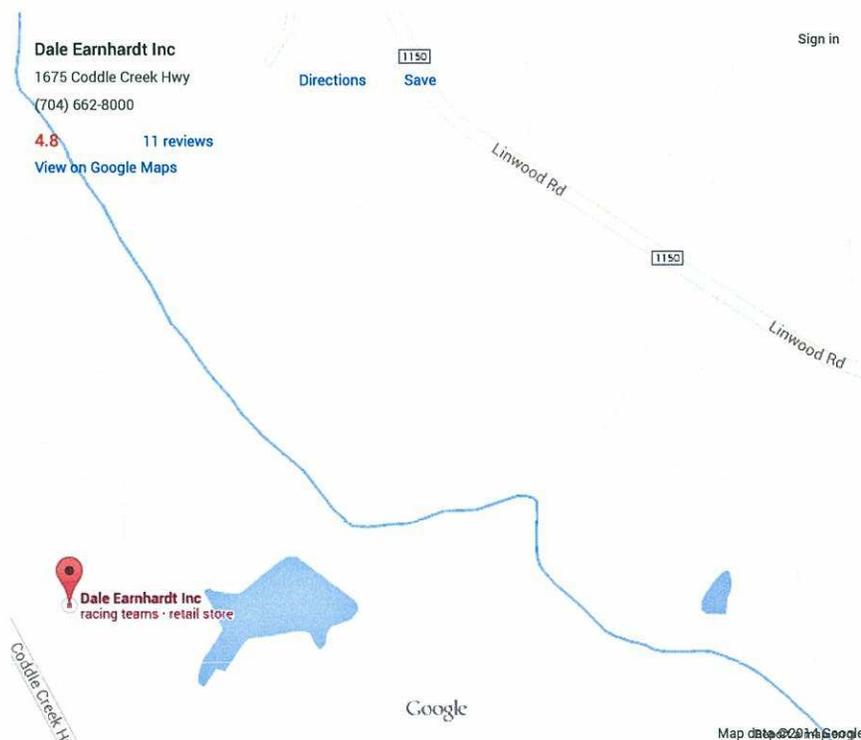
from 7-time NASCAR champion Dale Earnhardt. You will find this a great space for Meetings, Seminars, Receptions, Wedding Rehearsal Dinners, Cocktail Parties and Corporate Events. [Contact Us](#) [Return to DEI Website](#)

- Square Feet: 2,546
- Dining: 86
- Cocktails: 150
- Beautiful Ornate Custom Made Bar
- Lush Conversational Seating Areas
- Mounted TV Screens
- Attached Full Kitchen

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Sign in

Your Name (required)

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Your Phone

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Please Tell Us Which Venue(s) You Are Interested In

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Trophy Room ▲

Main Showroom ▼

Pavilion

(you can select multiples by holding down the ctrl button on keyboard)

Your Message

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—Dave Tutera

Trophy Room

Main Showroom

Pavillion

Lodge

Suites



Elegantly rustic in appearance but highly sophisticated in its design, the Pavillion is equipped with a cutting edge sound and lighting system and heated floor. Its expanded open veranda, overlooks a



8625 sq ft

covered seating area

open air 3600 sq ft view of lake

pristine lake and lushly wooded backdrop. Custom furnishings and décor are available to make your Special Occasion one that will not be soon forgotten.

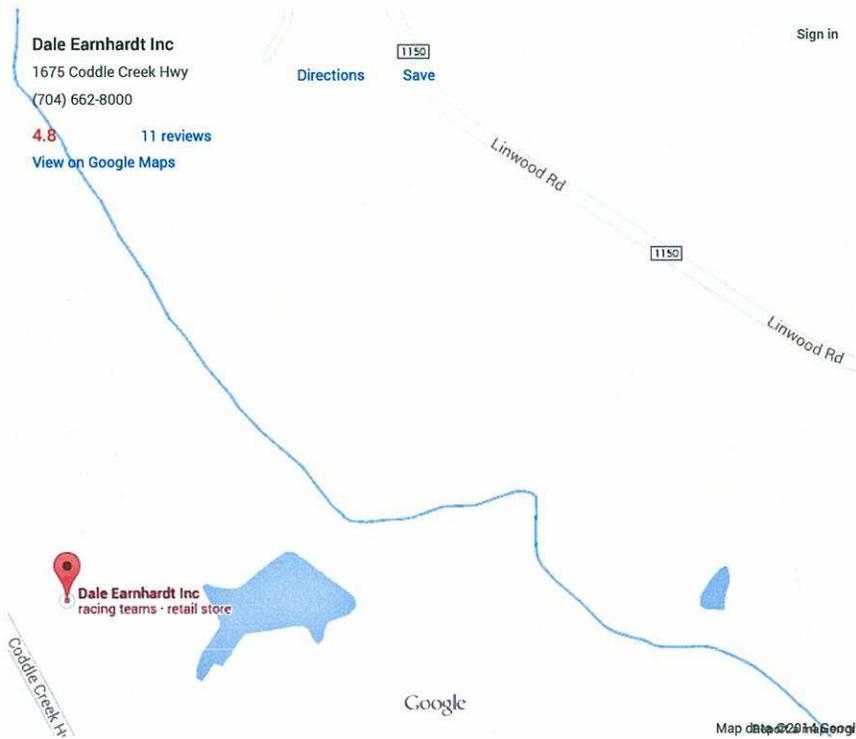
Contact Us    Return to DEI Website

- Square Feet: 8,625
- Dining: 400
- Heated Floors
- Open Air Veranda
- Cowboy Cauldrons

## Contact Us For More Information

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We are located at 1675 Dale Earnhardt Hwy #3 in Mooresville, NC 28115.



Sign in

**Dale Earnhardt Inc**

1675 Coddle Creek Hwy

(704) 662-8000

4.8

11 reviews

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[Directions](#)

[Save](#)

Linwood Rd

1150

Linwood Rd

Google

Map data ©2014 Google

Your Name (required)

Your Email (required)

Your Phone

Your Event Date

Please Tell Us Which Venue(s) You Are Interested In

---

Trophy Room

Main Showroom

Pavilion

(you can select multiples by holding down the ctrl button on keyboard)

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Trophy Room

Main Showroom

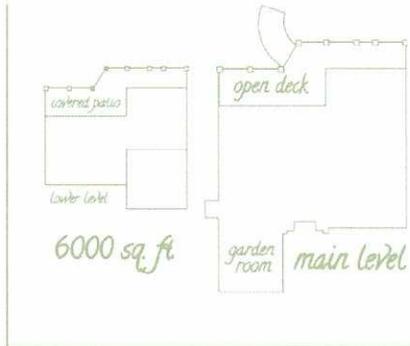
Pavillion

Lodge

Suites



The Lodge is a luxurious log home sitting on pristine grounds overlooking a lake. The massive stone fireplace, along with the leather and mahogany décor will amaze your guests. The covered and open



decks, stone patios and beautifully manicured lawns give entertaining an over-the-top outdoor experience.

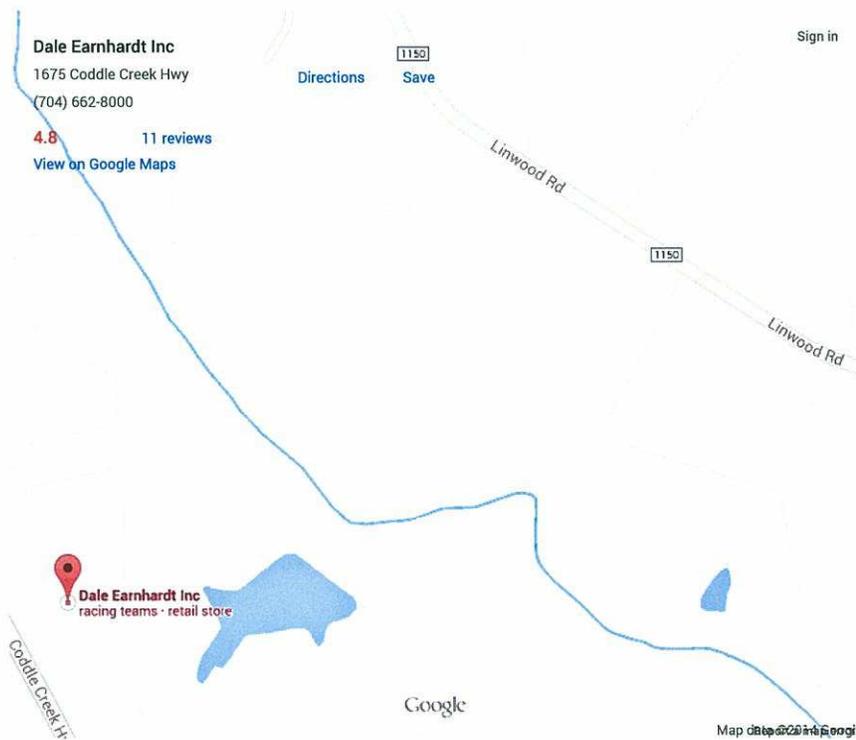
[Contact Us](#) [Return to DEI Website](#)

- Square Feet: 6,000
- Garden Room Cap.: 50
- Lodge Cap.: 150
- Vintage Pews
- Covered & Open Decks
- Stone Patios

## Contact Us For More Information

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Sign in

**Dale Earnhardt Inc**  
 1675 Coddle Creek Hwy  
 (704) 662-8000  
 4.8 11 reviews  
[View on Google Maps](#)

Directions

1150 Save

Your Name (required)

Your Email (required)

Your Phone

Your Event Date

Please Tell Us Which Venue(s) You Are Interested In

- 
- Trophy Room ^
- Main Showroom v
- Pavilion

(you can select multiples by holding down the ctrl button on keyboard)

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Trophy Room

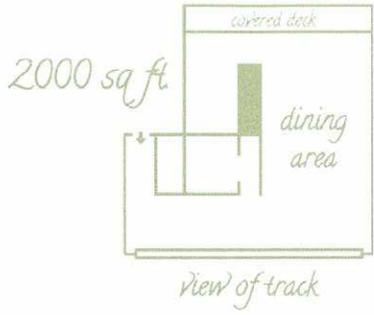
Main Showroom

Pavillion

Lodge

Suites





This Corporate Suite is an exciting venue for entertaining throughout the year. The newly remodeled suite overlooks Turn #1 of the 1.5 mile superspeedway. The panoramic view, high above the track, creates a one-of-a-kind experience for you and your guests. A great venue for Meetings, Receptions, Entertaining, Cocktail Parties, Holiday and Private Events.

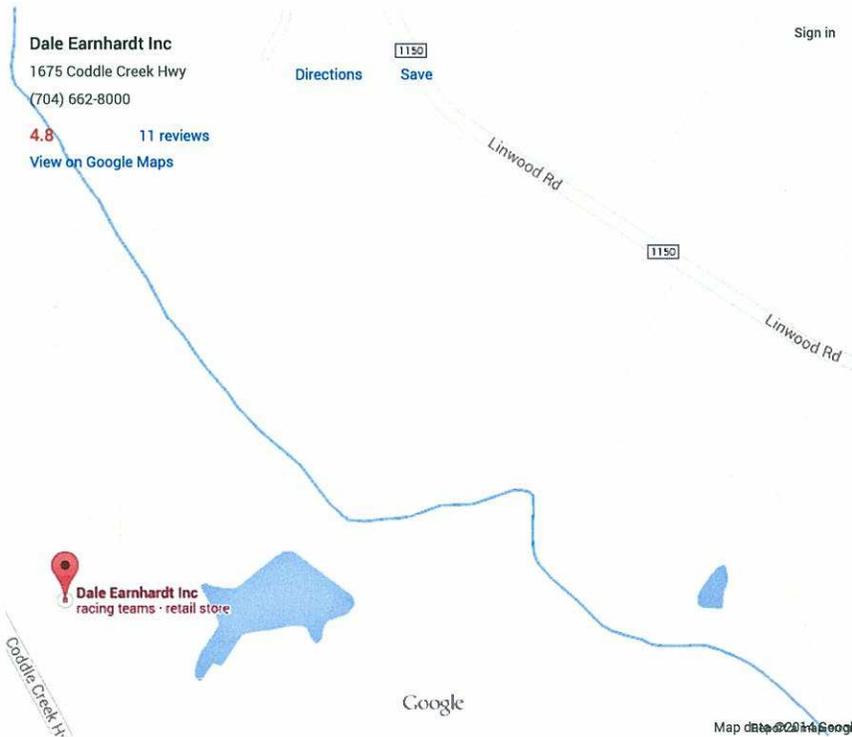
- Square Feet: 2,000
- Cocktails: 35
- Panoramic Track Views
- Covered Deck
- Full Kitchen

[Contact Us](#) [Return to DEI Website](#)

## Contact Us For More Information

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Sign in

Your Name (required)

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Please Tell Us Which Venue(s) You Are Interested In

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Trophy Room ▲

Main Showroom ▼

Pavilion

(you can select multiples by holding down the ctrl button on keyboard)

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 List At:  OR  to record:  **Record 26 out of 26**

TSDR	ASSIGN Status	TTAB Status	( Use the "Back" button of the Internet Browser to return to TESS)
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**Typed Drawing****Word Mark** DALE EARNHARDT**Goods and Services** IC 006. US 002 012 013 014 023 025 050. G & S: METAL KEY RINGS. FIRST USE: 19810000. FIRST USE IN COMMERCE: 19810000

IC 008. US 023 028 044. G &amp; S: POCKET KNIVES. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 016. US 002 005 022 023 029 037 038 050. G &amp; S: PAPER GOODS AND PRINTED MATERIAL, NAMELY, POSTERS, BUMPER STICKERS, DECALS, WALL CALENDARS, WINDOW STICKERS AND [ BROCHURES AND ] BOOKS DIRECTED TO AUTOMOBILE RACING. FIRST USE: 19790000. FIRST USE IN COMMERCE: 19790000

IC 025. US 022 039. G &amp; S: CLOTHING, NAMELY, SWEATSHIRTS, WARM-UP SETS, SHORTS, SPORT SHORTS, GOLF SHIRTS, T-SHIRTS, [ SWEATERS, ] JACKETS, [ HEADBANDS,] CAPS AND SOCKS. FIRST USE: 19760000. FIRST USE IN COMMERCE: 19760000

(CANCELLED) IC 026. US 037 039 040 042 050. G &amp; S: [ FANCY GOODS, NAMELY, EMBROIDERED PATCHES ]. FIRST USE: 19790000. FIRST USE IN COMMERCE: 19790000

IC 028. US 022 023 038 050. G &amp; S: TOYS, NAMELY, MINIATURE CARS [ AND RADIO CONTROLLED CARS ]. FIRST USE: 19810000. FIRST USE IN COMMERCE: 19810000

IC 041. US 100 101 107. G &amp; S: [ ENTERTAINMENT SERVICES IN THE NATURE OF CONDUCTING AND SPONSORING AUTOMOBILE RACES;] ENTERTAINMENT SERVICES IN THE NATURE OF PARTICIPATING IN PROFESSIONAL AUTOMOBILE [ RACES AND ] \* RACING \* RELATED EXHIBITIONS. FIRST USE: 19750000. FIRST USE IN COMMERCE: 19750000

**Mark Drawing Code Serial**  
 (1) TYPED DRAWING



**Number** 73821947  
**Filing Date** August 28, 1989  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** February 19, 1991  
**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED  
**Registration Number** 1644237  
**Registration Date** May 14, 1991  
**Owner** (REGISTRANT) EARNHARDT, RALPH DALE INDIVIDUAL UNITED STATES 1675 CODDLE CREEK HIGHWAY MOORESVILLE NORTH CAROLINA 28115  
 (LAST LISTED OWNER) EARNHARDT, TERESA H INDIVIDUAL UNITED STATES 1675 DALE EARNHARDT HIGHWAY, NO. 3 C/O DALE EARNHARDT, INC. MOORESVILLE NORTH CAROLINA 28115  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** George M. Taulbee  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010726. PARTIAL SECTION 8(10-YR) 20110608.  
**Renewal** 2ND RENEWAL 20110608  
**Other Data** "DALE EARNHARDT" IN THE MARK IS THE NAME OF A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD.  
**Live/Dead Indicator** LIVE

<a href="#">TESS HOME</a>	<a href="#">NEW USER</a>	<a href="#">STRUCTURED</a>	<a href="#">FREE FORM</a>	<a href="#">BROWSE DICT</a>	<a href="#">SEARCH OQ</a>	<a href="#">TOP</a>	<a href="#">HELP</a>	<a href="#">PREV LIST</a>	<a href="#">CURR LIST</a>
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EXHIBIT

Applicant 2



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TSDR	ASSIGN Status	TTAB Status	( Use the "Back" button of the Internet Browser to return to TESS)
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**Word Mark** DALE EARNHARDT

**Goods and Services** IC 006. US 002 012 013 014 023 025 050. G & S: metal key rings, metal license plates and metal tag holders. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 008. US 023 028 044. G & S: pocket knives. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 014. US 002 027 028 050. G & S: jewelry, namely, lapel pins, charms and belt buckles. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 016. US 002 005 022 023 029 037 038 050. G & S: paper goods and printed material, namely, posters, bumper stickers, decals, wall calendars, window stickers, card sets, and brochures and books directed to automobile racing. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 021. US 002 013 023 029 030 033 040 050. G & S: housewares and glass, namely, drinking glasses, cups, mugs; rubber, plastic or foam insulating beverage holders and water bottles sold empty. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 024. US 042 050. G & S: cloth flags, afghans, towels, cloth [ flags ] \* pennants \*. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 025. US 022 039. G & S: clothing, namely, sweatshirts, warm-up sets, shorts, shirts, sport shirts, golf shirts, T-shirts, [ suspenders, sweaters, ] jackets, headbands, caps, visors, straw hats, socks and infant sets. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 028. US 022 023 038 050. G & S: toys, namely, miniature cars and trucks; and radio controlled cars.  
FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

IC 041. US 100 101 107. G & S: entertainment services in the nature of conducting [ and sponsoring automobile races;] entertainment services in the nature of participating in professional automobile races and related exhibitions. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 74727721

**Filing Date** September 12, 1995

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** November 12, 1996

**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED

**Registration Number** 2035107

**Registration Date** February 4, 1997

**Owner** (REGISTRANT) Earnhardt, Ralph Dale INDIVIDUAL UNITED STATES Route 8, Box 463 Mooresville NORTH CAROLINA 28115

(LAST LISTED OWNER) EARNHARDT, TERESA H INDIVIDUAL UNITED STATES c/o DALE EARNHARDT, INC. 1675 DALE EARNHARDT HIGHWAY, NO 3 MOORESVILLE NORTH CAROLINA 28115

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** GEORGE M TAULBEE

**Prior Registrations** 1644237

**Description of Mark** The mark consists of the signature of "DALE EARNHARDT".

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070921.

**Renewal** 1ST RENEWAL 20070921

**Live/Dead Indicator** LIVE

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