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

Proceeding	91211873
Party	Defendant Green Ivy Holdings LLC
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GREEN IVY EDUCATIONAL
CONSULTING, LLC,

Opposer,

-against-

GREEN IVY HOLDINGS LLC,

Applicant.

OPPOSITION NO: 91211873

Serial Nos.: 85775379, 85775380, and
85775382

Marks: GREEN IVY, GREEN IVY
SCHOOLS, and GREEN IVY LEARNING

**APPLICANT’S RESPONSE IN OPPOSITION TO OPPOSER’S
MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT**

Applicant, Green Ivy Holdings LLC (“Applicant”), hereby responds in opposition to Opposer, Green Ivy Educational Consulting, LLC’s (“Opposer”) Motion for Sanctions and Summary Judgment (the “Motion”), and submits the following brief pursuant to 37 C.F.R. § 2.127(e)(1) and the June 23, 2014 Order entered in the above-captioned opposition.

PRELIMINARY STATEMENT

Applicant is responding to the Motion within thirty (30) days from the mailing date of the June 23, 2014 Order, which stated that the Motion will be considered as a motion for summary judgment only. While Applicant denies that it has committed discovery violations, let alone violations that would warrant the extreme remedy of striking Applicant’s Answer and Affirmative Defenses and entering judgment in Opposer’s favor¹, it will not address those portions of the Motion in this Response, pursuant to the June 23, 2014 Order.

¹ See, e.g., *Navarro v. Cohan*, 856 F.2d 141, 142 (11th Cir. 1988).

FACTS

Applicant disagrees with Opposer's characterization of the facts of this opposition. It is disputed "that GEIC's use of the marks GREEN IVY and GREEN IVY EDUCATIONAL CONSULTING (together, the "Mark") commenced in March 2004, over eight years before the filing of the intent to use applications by [Applicant] on November 9, 2012 . . . " Motion at p. 2. Throughout this opposition, and even within the Motion, it is never clear whether Opposer claims rights in GREEN IVY or GREEN IVY EDUCATIONAL CONSULTING. While Opposer has now filed an application for registration of 'GREEN IVY' on the Principal Register, it has always been, and still is, unclear whether Opposer's alleged mark is GREEN IVY or GREEN IVY EDUCATIONAL CONSULTING. The Motion, and the declarations attached thereto, do not add clarity.

For example, the Motion states "[b]eginning at least as early as June 2006, GEIC promoted its services by using the GREEN IVY mark on its website, www.greenivyed.com . . ." Motion at p. 3. However, Opposer's website, <http://www.greenivyed.com>, indicates that the mark Opposer alleges to own is GREEN IVY EDUCATIONAL CONSULTING, not GREEN IVY and the documents submitted by Opposer as 'evidence' in support of its Motion show the same, stylized 'Green Ivy Educational Holding' logo. It is undisputed that Applicant, not Opposer, registered the domain name [greenivy.com](http://www.greenivy.com). This confusion between what Opposer claims as its mark is endemic to this matter, as will be addressed hereinbelow.

The facts that are undisputed are as follows. In November 2001, Ms. Homayoun started working with students at her former high school, St. Francis High School in Mountainview, California. Deposition of Ana Homayoun, 9:15-10:16.² Ms. Homayoun started operating as

² The Deposition of Homayoun is attached as Exhibit A to the Declaration of Barsky. References to this deposition transcript will hereinafter be abbreviated as "H.Dep. Page:Line".

“Anna’s Academia” before eventually trading under the name “Green Ivy Educational Consulting. *Id.* at 11:8-23. Ms. Homayoun was, and still is, a tutor. *See* Declaration of Homayoun at Exhibit K (“Ms. Homayoun is a tutor. She helps teenagers with subjects like math and science, but she particularly specializes in teaching boys how to become more organized.”).³ Ms. Homayoun eventually formed Green Ivy Educational Consulting, LLC, the Opposer, though she does not remember exactly when. H.Dep. 11:18-12:9. Green Ivy Educational Consulting, LLC is based in Los Altos, California. *See* Declaration of McArdle at Exhibit A.⁴

On November 9, 2012, Applicant filed the intent to use trademark applications that are the subject of this Opposition – GREEN IVY, GREEN IVY SCHOOLS, and GREEN IVY LEARNING (collectively the “Applications”). *See id.* at Exhibits B – D. It is undisputed that Applicant is a Delaware limited liability company with a principal place of business in New York, New York. Applicant is in the education business, specifically the development of schools and, eventually, learning products, though none of the learning products have yet been developed. Deposition of Jennifer Jones, 22:2-13.⁵ After Applicant filed the Applications, Opposer filed the instant opposition and ultimately moved for entry of summary final judgment.

LEGAL STANDARD

Applicant agrees with the summary judgment standard set forth in the Motion at pp. 10-11. However, this standard is incomplete. Applicant adds that, under Fed. R. Civ. P. 56(c)(4),

Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge,

³ The Declaration of Homayoun was filed by Opposer in support of the Motion. Contrary to Ms. Homayoun’s contention that the article “was on the front page of the national news” (H.Dep. 14:21-15:1), the document attached as Exhibit K to the Declaration of Homayoun shows it appeared in the Education section.

⁴ The Declaration of McArdle was filed by Opposer in support of the Motion.

⁵ The Deposition of Jones is attached as Exhibit I to the Declaration of McArdle. References to this deposition transcript will hereinafter be abbreviated as “J.Dep. Page:Line”.

set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

Moreover, “[a] party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.” Fed. R. Civ. P. 56(c)(2).

ANALYSIS

I. It is Unclear Whether Opposer has Standing.

Opposer makes the bold statement that “Opposer has presented uncontroverted evidence that GIEC used the mark GREEN IVY in commerce in connection with educational services beginning at least as early as 2004 and continuously since then.” Motion at p. 11. As set forth hereinabove, it is unclear what mark or marks Opposer claims to own. While Opposer claims ownership of the mark GREEN IVY, the majority of the documents submitted by Opposer in support of the Motion show a stylized mark “Green Ivy Educational Consulting”. *See, e.g.*, Declaration of Homayoun at Exhibits A, E, M. Moreover, Opposer defines the combination of GREEN IVY and GREEN IVY EDUCATIONAL CONSULTING as the “Marks”, but then fails to use the term “Marks” and instead discusses the GREEN IVY alleged mark only. It is therefore very unclear, based upon Opposer’s own Motion, which mark or marks it claims to own, standing to oppose has not been established without a genuine dispute as to a material fact, and summary judgment should be denied.

II. Undisputed Senior User Status is in Dispute

As set forth hereinabove, it is unclear what mark Opposer claims to own and summary judgment should be denied on that ground alone. As a natural result, undisputed senior user status is also in dispute because it is unclear what Opposer claims to be the undisputed senior user of. However, if it were to be (improperly) determined by the Board that Opposer has been

using mark GREEN IVY since 2004, Applicant does not contest such use would be prior to Applicant's first use of its GREEN IVY mark.

III. There is No Likelihood of Confusion.

Contrary to Opposer's statement, this is not a clear case of likelihood of confusion. *See* Motion at p. 13. As set forth hereinbelow, the alleged summary judgment evidence is wholly insufficient, Opposer is conflating itself with its founder, Ms. Homayoun, Opposer's alleged mark is not strong or well-known, and there is no likelihood of confusion.

a. The Declaration of Homayoun is Insufficient.

The first paragraph of the Declaration of Homayoun states "I am the Founder and Director of Green Ivy Educational Consulting, LLC ("GEIC" or "Opposer"). The facts herein are true to my own knowledge. Where I do not have personal knowledge of the facts, they are set forth upon information and belief." Throughout the remaining 54 paragraphs of the Declaration, Ms. Homayoun fails to make any clear statement as to which portions are based upon her "personal knowledge" and which statements are made upon "information and belief". "Information and belief" is not the standard for admissible summary judgment evidence. On this basis alone, the Declaration of Homayoun is insufficient to sustain a motion for summary judgment and the Motion should be denied.

An example of the insufficiency of the Declaration of Homayoun is epitomized by paragraph 29 thereof, which reads

In part due to the success of GIEC and the renown of the GREEN IVY mark, in or about September 2008, I was contracted to write a book, *That Crumpled Paper was Due Last Week: Helping Disorganized and Distracted Boys Succeed in School and Life*, which was published by Perigee, a division of Penguin Books, on or about January 5, 2010.

There is no statement regarding how Ms. Homayoun knows that it was partially “due to the success of GIEC and the renown of the GREEN IVY MARK” that she received a contract to write a book, she has attached no documents or other evidence showing why she was contracted to write a book, and any documents, or statements made to her, would be hearsay and inadmissible.

The inadmissibility of the Declaration of Homayoun continues throughout as many of the exhibits to the declaration are inadmissible. For example, there is no basis for determining what Exhibit B to the Declaration is, how Ms. Homayoun is able to authenticate the document, and how the document is admissible. Exhibit C, as discussed hereinbelow, is, on its face, not the document alleged in the body of the Declaration. There is likewise no basis for authenticating Exhibit E, which also appears to be a composite exhibit. Turning to Exhibit G, which is a composite exhibit of what appear to be emails, there is no basis for authenticating these documents or how Ms. Homayoun is a party to emails sent from and to info@greenivyed.com. Nothing in Ms. Homayoun’s Declaration indicates she is a records custodian for Opposer nor are the records custodian requirements of Fed. R. Evid. 803(6) recited anywhere in the Declaration (nor are any of the other exceptions set forth in Fed. R. Evid. 803 or 804 set forth). The same analysis applies for Exhibit H and I.

In sum, the Declaration of Homayoun is wholly insufficient under Fed. R. Civ. P. 56 and cannot support a motion for summary judgment, which motion should be denied. Applicant objects to the Declaration of Homayoun for the reasons set forth hereinabove.

b. Ms. Homayoun is not the same as the Opposer.

The Declaration of Homayoun does not establish the exhibits thereto as being records of Opposer, and the majority of said exhibits are not obviously addressed to, or received by, Ms.

Homayoun. Moreover, the Declaration is vague on whether Ms. Homayoun is making the declaration in her individual capacity or as an officer of Opposer, however it is signed by her personally and not in any corporate capacity. Because this appears to be a personal declaration, and not a declaration made in her capacity as a corporate officer, for many of the exhibits to the Declaration to be admissible evidence they would have to be the personal documents of Ms. Homayoun, otherwise she cannot authenticate same.

The foregoing perfectly illustrates a central problem with Opposer's Motion, the differentiation between Ms. Homayoun, the Opposer, and the Opposer's alleged marks. Ms. Homayoun is undoubtedly good at self-promotion. However, promoting herself is not the same as promoting Opposer's alleged mark, and the inadmissible evidence attached to the Declaration of Homayoun actually hurts Opposer's argument that its alleged mark is strong, instead, these documents show that Ms. Homayoun is relatively well-known, to the extent that her personality marginalizes Opposer and its alleged mark or marks.

A perfect example of this confliction of the person with the company appears at the Declaration of Homayoun at ¶ 14, which states, in part **“Attached as Exhibit C is a printout from the Events page of GIEC’s website, which provides examples of such recent presentations.”** (Emphasis in original.) However, Exhibit C is clearly *not* from Opposer's website, <http://www.greenivyed.com>, but is instead from Ms. Homayoun's personal website <http://anahomayoun.com/events/> as shown in the top-right corner thereof.

As with the inadmissibility issues set forth hereinabove, the issue with Exhibit C is endemic, and repeated, throughout both the Declaration of Homayoun. For Example, in Exhibit A, it is Ms. Homayoun's name and personal website that appear first, not Opposer's. Moreover, Ms. Homayoun claims the copyrights in a portion of Exhibit A. Thus, this document isn't even

owned by Opposer, it is owned by Ms. Homayoun and it is her use of the corporate name, not any alleged mark of Opposer, that appears in this document.

Similarly, in Composite Exhibit D, it is Ms. Homayoun's name, personal website, and personal twitter account that appear first, not Opposer or Opposer's mark. Indeed, the only reference to Opposer is a claim that it owns the copyrights in the presentation, a link to its website, and a notation that it was either founded by, or is the employer of, Ms. Homayoun. The copyright language must be a reference to the limited liability company, and not the alleged GREEN IVY mark (or GREEN IVY EDUCATIONAL CONSULTING mark, whichever alleged mark Opposer is claiming) as a trademark cannot own a copyright (a trademark is inanimate and therefore cannot author anything).

Exhibit G to the Declaration of Homayoun (which actually appears to be a composite exhibit) is not only inadmissible for evidentiary reasons (as set forth hereinabove) but is another prime example of how Ms. Homayoun attempts to use her personal measure of fame to claim that Opposer's alleged mark or marks are famous. Three of the four emails in this exhibit are expressly addressed to Ms. Homayoun, not to the Opposer, while the fourth is clearly intended for Ms. Homayoun as it starts "[L]oved your book". The same analysis applies to Exhibit H as well.

On the topic of Ms. Homayoun's two books, the Motion again overstates reality. The two books, which are combined approximately 608 pages in length, contain the phrase "Green Ivy" only six times:

- In *That Crumpled Paper*. . .
 - Once in the Introduction section ("I'd founded Green Ivy Educational Consulting a few years before. . .");

- Once in the Acknowledgements section at the end of the book (“To the staff at Green Ivy, who supported me in this crazy endeavor of writing a book . . .”); and
 - Once on the ‘About the Author’ panel (“Since founding Green Ivy Educational Consulting, **Ana Homayoun** has become a nationally recognized innovator of motivational organization and time-management strategies . . .”)(emphasis in original).
- In *The Myth* . . .
 - Once in the chapter “Redefining Failure” (“When I started what would become Green Ivy Educational Consulting in 2001 . . .”);
 - Once in the Index (which is just a reference to the aforementioned chapter); and
 - Once on the ‘About the Author’ panel (“**Ana Homayoun** is the founder of Green Ivy Educational Consulting and the author of . . .”)(emphasis in original).

See Declaration of Barsky. Nowhere in either book is there a link to Opposer’s website, email address, or any contact information whatsoever. Indeed, the only contact information provided of any sort is in the About the Author panel of both books, where it states “To learn more about Ana and her work, visit www.anahomayoun.com.”

Similarly, Exhibits J, K, and L are about Ms. Homayoun, are not about the Opposer, and do not mention any alleged mark owned by the Opposer, except to the extent said alleged mark is contained within the corporate name of the Opposer. Ms. Homayoun admitted that the article at Exhibit J was about her interviewing prospective employees, and not

Moreover, not only do the aforementioned exhibits not demonstrate what Opposer claims they demonstrate (the strength of Opposer's alleged mark or marks), they are evidence of how weak the alleged mark might actually be. None of the documents or articles refers to Opposer or its alleged mark(s) individually, they are only referenced in the context of being associated with Ms. Homayoun. None of these documents refer to "Green Ivy Educational Holdings' Ana Homayoun", instead they refer to "Ana Homayoun runs Green Ivy Educational Consulting" (Exhibit J) and "Ms. Homayoun opened her business, Green Ivy Educational Consulting . . ." (Exhibit K) and "Ana Homayoun is an author, speaker and school consultant. She is the founder of Green Ivy Educational Consulting . . . [v]isit her at www.anahomayoun.com." (Exhibit L). Even Exhibit K, which is the only article that is actually about education (the field herein at issue) fails to discuss Opposer other than to state it was founded by Ms. Homayoun. Thus, while Ms. Homayoun may be relatively well-known, no alleged mark of Opposer enjoys such a reputation.

c. The Opposer's Alleged Mark (or Marks) Is/Are Weak

In sum, the inadmissible 'evidence' attempted to be offered by Opposer fails to establish any level of fame. There is no evidence showing any "volume of sales and advertising expenditures of the goods and services at issue", no showing of "widespread critical assessments and notice by independent sources of the goods and services identified by the mark", and nothing to show the "general reputation of the goods and services." See *UMG Recordings, Inc. v. Mattel, Inc.*, 100 U.S.P.Q.2d 1868 (TTAB 2011); *Bose Corp. v. QSC Audio Products Inc.*, 293 F.3d 1367, 63 U.S.P.Q.2d 1303 (Fed. Cir. 2002). Therefore, Opposer's alleged mark(s) is/are not famous and not afforded any special protection.

e. There is Limited Likelihood of Confusion

Applicant agrees with Opposer that the question of likelihood of confusion must be determined based on an analysis of the goods recited in an applicant's applications vis-à-vis the goods shown to be in use by the opposer. *See, e.g., Octocom Systems, Inc. v. Houston Computer Service, Inc.*, 918 F.2d 937, 942, 16 U.S.P.Q.2d 1783, 1787 (Fed. Cir. 1990). Moreover, the likelihood of confusion "must be based on an analysis of all of the probative facts in evidence" (*Bose Corp. v. QSC Audio Products Inc.*, 293 F.3d 1367, 63 U.S.P.Q.2d 1303 (Fed. Cir. 2002) (citing *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 13157, 177 U.S.P.Q. 563, 567 (CCPA 1973))) and "[t]he fundamental inquiry . . . goes to the cumulative effect of the differences in the essential characteristics of the goods and differences in the marks" (*Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 U.S.P.Q. 24, 29 (CCPA 1976)).

Opposer's arguments center not on the goods in use by the opposer, but on Ms. Homayoun's opinion of herself. It is undisputed that Applicant seeks registration for "Education services, namely, providing pre-kindergarten through 12th grade school instruction, curriculum development, education administration and operation, before and after school educational and enrichment programs, school break programs; live and online education, as well as providing, reviewing and certifying educational and parenting material including software, toys, books, classroom materials and lesson plans." Declaration of McArdle at Exhibit C. As the 'evidence' provided by the Declaration of Homayoun states, Ms. Homayoun is a tutor, not a school; she does not provide 'school instruction', 'curriculum development', 'education administration and operation', or any of the other services listed by Applicant. As her own 'evidence' shows, she is an author, school consultant, tutor, an expert in organization and time-management. While

Opposer is dismissive of these differences (*see, e.g.*, Motion at pp. 19, 20), Opposer has simply offered no summary judgment evidence supporting the alleged overlap between the two entities.

Finally, Opposer's alleged 'evidence' of actual confusion is questionable at best. First, in an ironic twist, Opposer relies upon the Declaration of Gillon, a previously undisclosed witness whom Ms. Homayoun was unable to name at her deposition only a few months ago. *See* H.Dep. 64:12-65:15. This declaration should not be considered as it is from an undisclosed witness. Moreover, it also doesn't demonstrate actual confusion as the only result of the alleged actions was Mr. Gillon asking Ms. Homayoun whether Opposer and Applicant were affiliated. The remaining 'evidence' of confusion amounts to a single phone call, a single email, and a piece of junk mail.⁶ Opposer has done nothing to show that these instances are the result of actual confusion as opposed to a simple mistake or ignorance. When combined with the overall evidence, it is clear there is no realistic likelihood of confusion.

CONCLUSION

For the reasons set forth hereinabove, the Motion should be denied.

Dated: July 23, 2014

Respectfully Submitted,

/s/ Daniel J. Barsky
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Linda H. Socolow, Esq.
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⁶ The addressee on the envelope has no idea what 'Structuretone Organization Journal' is. J.Dep. 157:18-18-158:2.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served this 23rd day of July, 2014 via U.S. First Class Mail on: **Mark Lerner, Esq.**, Satterlee Stephens Burke & Burke LLP, *Attorneys for Opposer*, 230 Park Avenue, New York, New York 10169.

/s/ Daniel J. Barsky
Daniel J. Barsky

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

GREEN IVY EDUCATIONAL
CONSULTING, LLC,

Opposer,

-against-

GREEN IVY HOLDINGS LLC,

Applicant.

OPPOSITION NO: 91211873

Serial Nos.: 85775379, 85775380, and
85775382

Marks: GREEN IVY, GREEN IVY
SCHOOLS, and GREEN IVY
LEARNING

**DECLARATION OF DANIEL J. BARSKY, ESQ. IN SUPPORT OF
APPLICANT'S RESPONSE IN OPPOSITION TO OPPOSER[']S[]
MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT**

MY NAME is Daniel J. Barsky, Esq., and I declare as follows:

1. I am an attorney at law licensed to practice law in a variety of jurisdictions, including, *inter alia*, the State of Florida, the United States District Court for the Southern District of Florida, and the United States Patent and Trademark office. I am a partner with the law firm of Shutts & Bowen LLP and am counsel of record for Applicant in the above-captioned civil proceeding. I make this declaration in support of Applicant's Response in Opposition to Opposer[']s[] Motion for Sanctions and for Summary Judgment.

2. I took the Deposition of Ana Homayoun on April 23, 2014, a true and correct copy of the transcript of which is attached hereto as Exhibit A.

3. I purchased copies of both books authored by Ms. Homayoun, *That Crumpled Paper was Due Last Week* and *The Myth of the Perfect Girl* from the Apple iBooks store. Due to the length of the books, and potential copyright issues, I am not filing at this time, but will if required by the Board.

4. I searched the electronic copies of both books for the term “Green Ivy”.

That term was used exactly three times in each book, as follows:

- In *That Crumpled Paper*. . .
 - Once in the Introduction section (“I’d founded Green Ivy Educational Consulting a few years before. . .”);
 - Once in the Acknowledgements section at the end of the book (“To the staff at Green Ivy, who supported me in this crazy endeavor of writing a book . . .”); and
 - Once on the ‘About the Author’ panel (“Since founding Green Ivy Educational Consulting, **Ana Homayoun** has become a nationally recognized innovator of motivational organization and time-management strategies . . .”)(emphasis in original).

- In *The Myth*. . .
 - Once in the chapter “Redefining Failure” (“When I started what would become Green Ivy Educational Consulting in 2001 . . .”);
 - Once in the Index (which is just a reference to the aforementioned chapter); and
 - Once on the ‘About the Author’ panel (“**Ana Homayoun** is the founder of Green Ivy Educational Consulting and the author of . . .”)(emphasis in original).

I declare under penalty of perjury under the laws of the United States of America, and pursuant to 28 U.S.C. §1746 (2), that the foregoing is true and correct and that, if

called upon to testify, I would testify in accordance with the foregoing. Executed in Palm Beach County, Florida on July 23, 2014 by:

/s/ Daniel J. Barsky
DANIEL J. BARSKY

GREEN IVY EDUCATIONAL
CONSULTING, LLC,

Opposer,

-against-

GREEN IVY HOLDINGS LLC,

Applicant.

OPPOSITION NO: 91211873

Serial Nos.: 85775379, 85775380, and
85775382

Marks: GREEN IVY, GREEN IVY
SCHOOLS, and GREEN IVY
LEARNING

EXHIBIT A

to

**DECLARATION OF DANIEL J. BARSKY, ESQ. IN SUPPORT OF
APPLICANT'S RESPONSE IN OPPOSITION TO OPPOSER[']S[]
MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT**

(Deposition Transcript of Ana Homayoun)

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

2 -----x

GREEN IVY EDUCATIONAL CONSULTING, LLC,

3

Opposer,

4

Opposition No.

-against-

91211873

5

GREEN IVY HOLDINGS LLC,

6

Applicant.

7

-----x

April 23, 2014

8

9:10 a.m.

9

Deposition of ANA HOMAYOUN, taken by the
10 Applicant, pursuant to notice, at the offices of
11 Satterlee, Stephens, Burke & Burke, 230 Park
12 Avenue, New York, New York, before SUZANNE
13 PASTOR, a Shorthand Reporter and Notary Public
14 within and for the State of New York.

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1 APPEARANCES:
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11 BY: DANIEL J. BARSKY, ESQ.
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1 So to that extent, I'm not trying
 2 to trick you. If I ask you a question that
 3 sounds confusing or you don't understand it,
 4 tell me because it's not intentional. It's just
 5 whatever I'm thinking doesn't always come out of
 6 the mouth the right way. And it might make
 7 sense to me but not to you.

8 So if there's any confusion, please
 9 stop, tell me, let me know and we'll work
 10 through it.

11 A. Okay.

12 Q. Similarly, like I said, it's not --
 13 the Ana-Ana exchange doesn't show up on the
 14 transcript because it's written. And because of
 15 that we have to make sure that we give all
 16 answers verbally. Uh-huh, mm-hmm doesn't really
 17 show up on the transcript very well. And we
 18 have to try not to talk over each other. No
 19 matter how hard everybody tries, I'm guilty of
 20 anticipating your answer and witnesses always
 21 anticipate the question. You saw it happen
 22 yesterday. And I apologize in advance if I
 23 accidentally cut you off. Just let me know and
 24 finish your answer. I apologize in advance for
 25 that.

1 ANA HOMAYOUN,
 2 having been first duly sworn by the Notary
 3 Public (Suzanne Pastor), was examined and
 4 testified as follows:

5 EXAMINATION BY

6 MR. BARSKY:

7 Q. Good morning, ma'am. Could you
 8 please state your name for the record?

9 A. Anahita Homayoun, A-N-A-H-I-T-A,
 10 last name H-O-M-A-Y-O-U-N.

11 Q. And you go by Ana?

12 A. I do go by Ana.

13 Q. Have you ever had your deposition
 14 taken before?

15 A. No.

16 Q. You heard the rules yesterday.
 17 I'll go over them again today just so that
 18 you're familiar with them. This is really
 19 unlike what you've probably seen on TV and
 20 movies. I'm not here to try and play gotcha or
 21 anything. That's a later deposition when we
 22 actually get to the trial period. Today is just
 23 trying to understand what you know, what you
 24 don't know, and what your position in this case
 25 is.

1 With that said, I have to ask you
 2 just a couple basic background questions.
 3 Please don't be offended by it, I just have to
 4 make sure. Are you under the influence of any
 5 drugs, alcohol or medications or anything else
 6 that would prevent you from being able to
 7 testify here today accurately?

8 A. No.

9 Q. Have you ever been convicted of a
 10 crime before?

11 A. No.

12 Q. What I want to do is get a
 13 background of your company that's called Green
 14 Ivy Educational Consulting.

15 A. Yes.

16 Q. And we'll call that GEIC for short
 17 sometimes.

18 A. Okay.

19 Q. I will try to -- since the dispute
 20 is over trademarks involving Green Ivy, I will
 21 try to make sure that I distinguish between the
 22 two. But if I confuse you by not being clear in
 23 my question, please let me know.

24 Where do you currently reside?

25 A. I reside personally in San

1 Francisco, California.
 2 Q. What about your company Green Ivy
 3 Educational Consulting?
 4 A. Well, it depends. What do you mean
 5 by that?
 6 Q. Where is it based?
 7 A. Well, we have an office in Los
 8 Altos, California. But we travel all around the
 9 U.S. working with schools.
 10 Q. When you say "all around the U.S.,"
 11 do you mean all 50 states?
 12 A. It depends on who hires us.
 13 Q. And when you say "us" and "we," in
 14 your answers here, who is the "us" and "we"?
 15 A. Well, Green Ivy. I have employees
 16 as well.
 17 Q. How many employees?
 18 A. I believe there are eight.
 19 Q. What do these employees do?
 20 A. They work with me on curriculum
 21 development, they work with students, they help
 22 me prepare for talks. They do a wide range of
 23 activities.
 24 Q. Did you say they help you prepare
 25 for talks?

1 A. If I give a speaking engagement,
 2 yes.
 3 Q. Sorry, I couldn't understand if you
 4 say talks or stocks.
 5 So we kind of jumped ahead a little
 6 bit there. I'd like to get a little bit of an
 7 understanding of your educational background.
 8 What is the highest level of education you
 9 completed?
 10 A. I have a master's in counseling
 11 psychology.
 12 Q. Where did you get that degree from?
 13 A. University of San Francisco.
 14 Q. When did you get that degree?
 15 A. 2009.
 16 Q. Before 2009, since that was a
 17 master's, you must have received a bachelor's
 18 degree somewhere.
 19 A. I did.
 20 Q. Where did you receive the
 21 bachelor's degree?
 22 A. Duke University.
 23 Q. When did you graduate there?
 24 A. 2001.
 25 Q. What was your major at Duke?

1 A. I was a Program 2 major.
 2 Q. What is a Program 2 major?
 3 A. Program 2 is a self designed major,
 4 and you get approval from the deans.
 5 Q. So what did you self design?
 6 A. International health -- health
 7 policy and globalization.
 8 Q. International health policy --
 9 A. Health policy and globalization was
 10 the title. And that incorporated a lot of
 11 classes.
 12 Q. What were the kind of -- I think I
 13 understand from the name of it, but can you give
 14 me an idea of what it was you studied then?
 15 A. Psychology, anthropology,
 16 sociology, a wide range of subjects.
 17 Q. And did you complete that degree in
 18 four years?
 19 A. Yes.
 20 Q. What was the ultimate degree that
 21 you received from Duke University?
 22 A. An AB.
 23 Q. If you graduated in 2001 from Duke
 24 and then 2009 from University of San Francisco,
 25 what did you do in between 2001 and 2009?

1 A. Well, I worked. I was employed. I
 2 was employed and I started Green Ivy.
 3 Q. So how were you initially employed
 4 in 2001 after you graduated from Duke?
 5 A. I was an investment banking analyst
 6 at Merrill Lynch.
 7 Q. How long were you doing that?
 8 A. Until November of 2001.
 9 Q. Why did you leave Merrill Lynch?
 10 A. I was laid off.
 11 Q. November of 2001, that was -- there
 12 was a -- the events of September 11th plus the
 13 stock market crash?
 14 A. Yes.
 15 Q. What did you do after you were laid
 16 off from Merrill Lynch?
 17 A. I started working with students.
 18 Q. How did that come about?
 19 A. Well, I was well known for my work
 20 with students already. So I started working
 21 with students and helped them on organization
 22 and time management skills.
 23 Q. How were you well known for your
 24 work with students? When you say "well known,"
 25 what is your basis for saying that?

1 A. Well, I went to the director of
2 counseling at my old high school and I had
3 worked throughout high school with students who
4 struggled. And I said I wanted to work with
5 students again, and she was really thrilled. So
6 that was the first basis for referrals to work
7 with me in 2001.

8 Q. So where did you go to high school?

9 A. St. Francis High School in
10 Mountainview, California.

11 Q. So after you were laid off from
12 Merrill Lynch, you went back to your old high
13 school, the counselor there, and said you wanted
14 to get involved in working with students, if I
15 understand correctly.

16 A. In 2001, yes.

17 Q. You'd worked with students while
18 you were still in high school?

19 A. Mm-hmm. Yes.

20 Q. What was that capacity? Were you a
21 mentor, a tutor?

22 A. I worked with them on organization
23 and time management and helped them with their
24 subjects.

25 Q. Did your old high school reach out

1 Q. Has it always been an LLC?

2 A. No.

3 Q. What was it originally formed as?

4 A. I honestly don't remember. It was
5 a long time ago. But for a while it was a
6 proprietorship.

7 Q. Was Ana's Academia a
8 proprietorship?

9 A. I don't remember.

10 Q. So you started off with that first
11 referral source from your old high school. How
12 did the business grow from there?

13 A. It grew through referrals from
14 parents, through referrals from teachers,
15 referrals from heads of schools. It also grew
16 through national press and television and
17 articles and books.

18 Q. Let's go through a few of those.
19 How soon after you started working with your --
20 strike that. How soon after you had started
21 working with students did you get your first
22 media coverage?

23 A. I honest -- I don't remember. My
24 first national media coverage was The New York
25 Times in 2006.

1 to you in 2001 or did you reach out to them?

2 A. I reached out to them.

3 Q. So you started then sometime in
4 about November of 2001 working with students.
5 Your first referral source was from your old
6 high school?

7 A. That was my first referral source.

8 Q. Did you form a company at that time
9 or were you doing this as an independent
10 contractor?

11 A. I don't remember exactly when I
12 formed the company, but it was probably early
13 2002.

14 Q. When you say "the company," which
15 company is that?

16 A. What is now Green Ivy Educational
17 Consulting.

18 Q. You said "what is now." Was it
19 formed as something differently?

20 A. Originally I called it I believe
21 Ana's Academia and that was just for a year or
22 so. Then in between I started using Green Ivy
23 Educational Consulting.

24 Q. Is it an LLC?

25 A. It is an LLC.

1 Q. How did that come about?

2 A. I got a call from a reporter at The
3 New York Times.

4 Q. What was the article about?

5 A. Employers checking Facebook.

6 Q. And what was your basis of
7 expertise in employers checking Facebook?

8 A. I was an employer and I was
9 checking Facebook.

10 Q. You were checking Facebook for the
11 employees that you were hiring to work with
12 students?

13 A. Yes.

14 Q. Did that article have anything to
15 do with tutoring students or academia?

16 A. It mentioned Green Ivy Educational
17 Consulting.

18 Q. But other than mentioning that was
19 your company, did that article have anything to
20 do with instructing students?

21 A. I don't believe so.

22 Q. Do you recall what the next
23 national media coverage that you received was?

24 A. I don't. I mean, we're now going
25 back eight years, so -- but I was in The New

1 York Times again January 1st, 2008.
 2 Q. And what was that article about?
 3 A. That article was about my work.
 4 Q. Your work being -- well, let me
 5 ask, how would you describe your work?
 6 A. It was about Green Ivy Educational
 7 Consulting and our work helping boys -- the
 8 article was about boys, but with this
 9 organization and time management.
 10 Q. Were there any other national
 11 articles that were written about Green Ivy
 12 Educational Consulting?
 13 A. I believe there were.
 14 Q. Do you recall what they are?
 15 A. Not off the top of my head.
 16 Q. Do you recall about when they were
 17 published?
 18 A. There have been quite a few
 19 published between -- articles since 2008.
 20 Q. But you don't recall how many.
 21 A. Not off the top of my head. The
 22 New York Times article was one of the most
 23 well-circulated articles for January 2008. It
 24 was on the front page of the national news. As
 25 a result of that, we received inquiries from all

1 over the U.S. and all over the world.
 2 Q. What is your basis for saying it's
 3 one of the most well circulated articles in The
 4 New York Times for that period?
 5 A. Because they list the most e-mailed
 6 articles and it was on the list of the most
 7 e-mailed articles at that time.
 8 Q. You're talking about on The New
 9 York Times home page there's a -- usually it's
 10 on the side, it says most e-mailed articles.
 11 That's what you're referring to?
 12 A. Yes. There's also one that you
 13 used to be able to, I don't know if you still
 14 can, but then track what's most for the week and
 15 what's most for the month.
 16 Q. But it wasn't somebody that called
 17 you from the New York Times and said hey, it was
 18 the most circulated article?
 19 A. It was published on that page for
 20 the most circulated articles.
 21 Q. My question was nobody from The New
 22 York Times called you.
 23 A. Nobody called me.
 24 Q. That's based on e-mails. When you
 25 say most circulated, you're not referring to the

1 actual circulation of the paper.
 2 A. I'm not sure.
 3 Q. You mentioned TV coverage as well.
 4 Can you describe that TV coverage?
 5 A. Well, there's been a variety of TV
 6 coverage. We've had people come to our office
 7 and do segments. I've been on New York One.
 8 There's a variety of different coverages.
 9 Q. What was the subject of that New
 10 York One TV segment?
 11 A. New York One was a follow-up on
 12 disorganized boys and distractions.
 13 Q. So it was a follow-up from The New
 14 York Times article?
 15 A. No. It was a follow-up from my
 16 first book.
 17 Q. We'll get to your books in a
 18 moment. But it was the same topic but not as a
 19 direct result of The New York Times article?
 20 A. No. Not as a direct result.
 21 Q. Do you recall when that TV segment
 22 was?
 23 A. My guesstimate is January 2010.
 24 Q. Do you recall about how long the
 25 segment was?

1 A. It was about a five-minute segment,
 2 and if you know anything about New York One, it
 3 runs again and again and again and again.
 4 Q. Do you know how many times it ran?
 5 A. I don't.
 6 Q. Do you recall any of the other TV
 7 segments that discuss Green Ivy Educational
 8 Consulting?
 9 A. Again, there are a number of them.
 10 I can give you one example. There was ABC 7
 11 came to our office and interviewed me,
 12 interviewed the work that I did -- interviewed
 13 me about the work that I do and featured my
 14 first book That Crumpled Paper Was Due Last
 15 Week.
 16 Q. Where is ABC 7 located?
 17 A. San Francisco.
 18 Q. Do you recall when the segment was
 19 done?
 20 A. Early 2010 sometime.
 21 Q. Do you recall any other TV segments
 22 that were done about Green Ivy Educational
 23 Consulting?
 24 A. Yes. I was on View From the Bay,
 25 which is a nationally syndicated television

1 show. Or was. It's been canceled. Several
2 times.
3 Q. It's been canceled several times or
4 you've been on it several times?
5 A. I've been on it several times.
6 It's been canceled once I think.
7 Q. Do you recall how many times you
8 were on that TV show?
9 A. At least three. I'm not sure. I'm
10 not sure.
11 Q. Do you recall when approximately
12 those three times were?
13 A. Between 2010 and 2012. I believe.
14 Q. Do you recall any other TV coverage
15 for Green Ivy Educational Consulting?
16 A. Not at this moment.
17 Q. You mentioned books as well. How
18 many books have you personally published?
19 A. I haven't published any.
20 Q. I apologize. I realized that was a
21 terrible question. Actually, I take that back.
22 It's not. In this day and age you can self
23 published.
24 How many books have you authored is
25 what I meant to ask.

1 So we'll see. And here I am.
2 Q. Have any of these books been
3 authored by anybody else, or are you the sole
4 author?
5 A. I'm the sole author on the cover of
6 the book.
7 Q. You say "sole author on the cover
8 of the book." What do you mean by that?
9 A. Well, any time you write a book,
10 there are many editors, including me. That's
11 what I mean. But I am the author of the book.
12 Q. I wasn't asking about editors. I
13 understand they get edited.
14 A. Yes, I'm the sole author.
15 Q. Who are these two books published
16 by?
17 A. Since the merger, they are now -- I
18 always get it wrong, but Penguin Random House.
19 And it's an imprint of that. You can call it
20 Random Penguin, but that's wrong.
21 Q. What about the third book that has
22 a due date, is that also a -- now I want to say
23 Random Penguin, but Penguin Random?
24 A. No, it is being published by Corwin
25 Press.

1 A. I'm the author currently of two
2 books.
3 Q. Are you working on another one?
4 A. Yes.
5 Q. What are the two books that have
6 been completed by you at this point?
7 A. The two books are That Crumpled
8 Paper Was Due Last Week; Helping Distracted --
9 Disorganized and Distracted Boys Succeed in
10 School and Life. And The Myth of the Perfect
11 Girl; Helping Our Daughters Find Authentic
12 Success and Happiness in School and Life.
13 Q. When were those books published?
14 A. That Crumpled Paper Was Due Last
15 Week was published in January of 2010. The Myth
16 of the Perfect Girl was published December 31st,
17 2012.
18 Q. What is the book that you're
19 currently working on?
20 A. It's on girls and technology. What
21 happens when we have technology in the
22 classroom.
23 Q. And do you have an idea of when
24 you'll be finished with that book?
25 A. Well, it's got a due date of May.

1 Q. Do any of these three books discuss
2 Green Ivy Educational Consulting?
3 A. Yes.
4 MS. MCARDLE: Objection.
5 Q. I apologize because it's two books
6 and one I guess manuscript is the term. But do
7 any of those discuss Green Ivy Educational
8 Consulting?
9 A. I believe they both do.
10 Q. And the current manuscript as well?
11 A. Yes.
12 Q. The two books that are actually
13 published, what do they say about Green Ivy
14 Educational Consulting?
15 A. Well, they're based on my work
16 there.
17 Q. I understand that they're based on
18 your work, but do they actually mention Green
19 Ivy Educational Consulting?
20 A. Yes.
21 Q. How do they mention that company?
22 A. They talk about the company and
23 what we do.
24 Q. So let's talk about the company and
25 what you do. How would you describe it?

1 A. What do you mean by "you"? Because
2 there's more than just me at this company.

3 Q. I was using the phrase "you" and
4 flipped it around. I really mean what the
5 company does. And we'll get into what you
6 personally do later.

7 A. We perform a wide variety of
8 services. We perform curriculum development in
9 schools, so schools hire us, and we help them
10 with organization, time management and a wide
11 range of curriculum development.

12 We have really -- we help students
13 with organization and time management. We do
14 provide subject tutoring.

15 We also provide parent education
16 workshops and seminars, and we've done that for
17 a number of years as well. We have really
18 become a brand that parents trust, so we put out
19 a newsletter that -- we have different resources
20 that they look to for advice.

21 That's not everything we do, but
22 that's a lot of it.

23 Q. What else do you do then besides
24 those -- I guess there's kind of five I counted
25 as segments.

1 some of these areas. You mentioned curriculum
2 development. What is the curriculum development
3 that Green Ivy education does?

4 A. We're hired by schools to work with
5 them on developing curriculum development.

6 Q. Give me some examples of these
7 curriculums.

8 A. It really depends on the school.
9 But I'll give you one example, and it is, we
10 were hired to redo the counseling curriculum of
11 the ninth and tenth grade, for ninth and tenth
12 graders at a high school. So we did that. And
13 then we went and we trained the counselors how
14 to talk to parents, how to talk to teachers. So
15 we worked with administration to do that.

16 Q. You said it was for counseling.
17 What is the counseling curriculum? What kind of
18 counseling?

19 A. It's all about how to come in -- it
20 actually wasn't a counseling curriculum. It was
21 basically across the board for all teachers as
22 well about how to implement organization, time
23 management, especially with -- strike the
24 "especially with."

25 Q. Go ahead and finish. Especially

1 MS. MCARDLE: Objection to the
2 "five." You can answer.

3 Q. Sorry, in the rules I forgot to
4 mention that sometimes your counsel will object.
5 Unless she tells you not to answer, you're
6 supposed to answer. I will never attempt to ask
7 a question that would get into attorney-client
8 privilege. So --

9 A. That's fine.

10 Q. -- if I accidentally do, I
11 apologize in advance.

12 A. Can you repeat the question?

13 Q. Other than the items that you
14 listed, and you said that was most but not all
15 of what Green Ivy Educational Consulting does,
16 what are those remaining things that it does
17 that you didn't list?

18 A. I'm trying to think to make sure
19 that I cover it, but there's, again, a wide
20 range. We also help students with college
21 admissions coaching, and we help them with
22 success in the classroom. And we work with them
23 on figuring out solutions that -- for academic
24 and personal success.

25 Q. So let's talk a little bit about

1 with?

2 A. There's not much to say. Because
3 there was a wide range of things.

4 Q. Can you describe those things?

5 A. Well, organization, time
6 management, social media, online work. Oh, I
7 forgot to mention before in the services that we
8 also do things online because we work with
9 people all around the country and around the
10 world via Skype. So technology -- now that
11 technology has been brought into the classroom
12 we help schools really identify what they need
13 to do to promote student success.

14 Q. When you're talking about the
15 curriculum development, that one particular one
16 you mentioned which was counseling, it's not
17 like a course that's taught to kids.

18 A. It's actually within every course
19 that's in the school.

20 Q. That's what I'm getting it. It's
21 not like algebra or biology. It's an underlying
22 thing that you are trying to convey across the
23 board for organization, how to do your homework,
24 stuff like that.

25 A. Again, in that case it is

1 implemented in all of those subject areas that
2 you mentioned.
3 Q. But it's not --
4 A. As a part of their curriculum. So
5 yes.
6 Q. That's what I'm asking about. It's
7 not its own class. It's something that is
8 taught throughout --
9 A. It depends on -- no, it's taught as
10 a class as well.
11 Q. Who teaches that class, do you
12 know?
13 A. I don't know who teaches those
14 classes, but it is done as a workshop within the
15 school. I mean, there's a number of people that
16 teach the class.
17 Q. It's a class or it's a workshop?
18 A. It depends on the school.
19 Q. I'm asking about this one
20 particular one that you mentioned, this ninth
21 and tenth grade.
22 A. I believe they did it as a class.
23 I believe they did it as a workshop within a
24 class. I'm not exactly sure.
25 Q. Can you give me some other examples

1 A. That's fine.
2 Q. That's why I keep kind of going
3 back to these things. I don't want you to get
4 frustrated with it, I get what you're saying but
5 I have to get it on the record.
6 You mentioned that there's a lot of
7 things that somebody has to remember. Are you
8 talking about ways to keep students from
9 becoming distracted because they have an iPad in
10 hand?
11 A. That's one of many things.
12 Q. What are the other things?
13 A. The other things include how to
14 organization themselves, how to manage their
15 classes, how to manage their time, how to work
16 through their subjects. All things that are
17 school related.
18 Q. You say "all things that are school
19 related." But again, this is not like a class,
20 like where you get a grade.
21 A. It depends on the school.
22 Q. How many schools has Green Ivy
23 Educational Consulting done curriculum
24 development for where they developed an actual
25 class where you get a grade?

1 of curriculum development that Green Ivy
2 Educational Consulting is engaged in?
3 A. We've gone through -- we've gone
4 into schools and worked with them on social
5 media management when students have a one-to-one
6 iPad or one-to-one computer program.
7 Q. So that's social media training?
8 A. No, it's not social media training.
9 Q. How would you describe it?
10 A. So if you're giving a 13-year old
11 an iPad in a classroom, there's a lot you need
12 to really remember. And we work with schools to
13 understand that because a lot of times they
14 don't realize it in the beginning.
15 Q. When you say there's a lot that you
16 have to remember, what is it and who is it that
17 some person has to remember?
18 A. With an iPad in the classroom or
19 access to the internet in the middle of class,
20 it can be really easy for the device that you
21 need to do your work to become your biggest
22 distraction from getting work done.
23 Q. Here's one of the rules I didn't go
24 over. I understand what you're saying but I
25 have to get it on the record.

1 A. I don't know. A lot.
2 Q. More than five?
3 A. Likely, yes.
4 Q. More than ten?
5 A. Likely, yes.
6 Q. More than 15?
7 A. I don't know.
8 Q. Do you know the names of any of
9 these schools?
10 A. Off the top of my head, and I would
11 want to say that some of these schools I would
12 have to check whether or not it's something I
13 want to talk about right now. Because I have
14 contracts with them. We have contracts with
15 them.
16 Q. Do the contracts have
17 confidentiality provisions?
18 A. Some of them do.
19 Q. Well, if there's a confidentiality
20 provision, I don't want you to talk about it
21 other than to tell me that you can't and we'll
22 have to deal with that. Are there any that
23 don't have confidentiality provisions in them?
24 A. Off the top of my head I don't
25 know.

1 Q. And these are all schools that
 2 Green Ivy Educational Consulting has developed
 3 an actual class where the students sit down,
 4 learn and receive a grade like they would for
 5 any other class, whether it's biology, algebra?
 6 A. No.
 7 Q. Is that no?
 8 A. Mm-hmm.
 9 Q. I asked you earlier and you didn't
 10 remember exactly how many, but you said it could
 11 have been 5, 10, 15, you weren't sure. Did you
 12 not understand the question that I asked?
 13 A. Well, you didn't ask whether or not
 14 they received a grade for it.
 15 Q. Actually, that was the question.
 16 A. I'm sorry, then it's my bad. I
 17 don't know if they received a grade for it.
 18 That's what I should say. I don't know if they
 19 received a grade for it. I'm unaware.
 20 Q. You also talked about time
 21 organization and management. What is it that
 22 Green Ivy Educational Consulting does in that
 23 field?
 24 A. Well, we've developed programs
 25 completely around organization, time management,

1 finding purpose, overall wellness.
 2 Q. What are some of these programs
 3 that Green Ivy Educational Consulting has
 4 developed?
 5 A. We have a workshop, we work with
 6 students weekly one-on-one in coaching in our
 7 office. And we work with schools to implement
 8 some of these strategies that we created.
 9 Q. Can you give me an example of some
 10 of these?
 11 A. Organizational and time management
 12 tips. You want example of one of our tips?
 13 Q. Yes.
 14 A. So we have a way of how to do
 15 homework, where to do homework, what things
 16 people should think about.
 17 Q. Two hour blocks in a --
 18 A. You read it.
 19 Q. How are these tips implemented?
 20 A. It depends on the student.
 21 Q. Is this something that's going --
 22 that's being sold directly to schools or is this
 23 something that's going directly to students?
 24 A. Both.
 25 Q. So the product that's being sold to

1 a school -- I assume it's being sold. I should
 2 have established that. But Green Ivy
 3 Educational Consulting makes money off of that,
 4 correct?
 5 A. We do.
 6 Q. And you mentioned that there are
 7 contracts. Some of them you can't talk about
 8 because of confidentiality provisions.
 9 A. Yes.
 10 Q. When Green Ivy Educational
 11 Consulting is selling these time organization
 12 and management tips to a school, how are those
 13 implemented within the school?
 14 A. It depends. I can't really clarify
 15 that without -- it depends on the school.
 16 Q. How does Green Ivy Educational
 17 Consulting actually convey these time
 18 organization management tips to a school when
 19 it's being sold to a school?
 20 A. Can you clarify what you think an
 21 example of that would be?
 22 Q. Well, you said that Green Ivy
 23 Educational Consulting sells this product. That
 24 is time organization management tips, correct?
 25 A. I believe so.

1 Q. Well, is that what Green Ivy
 2 Educational Consulting does?
 3 A. One of the many things we do.
 4 Q. So when the sale of that product,
 5 we'll call it a product to make it a little
 6 easier --
 7 A. Okay.
 8 Q. How is that actually conveyed to
 9 the school that's hired Green Ivy Educational
 10 Consulting?
 11 A. We'll give them presentations. We
 12 will give them tools. It depends on the school
 13 that I'm working with.
 14 Q. When you say we'll give them tools,
 15 what kind of tools?
 16 A. Like worksheets we've developed,
 17 workshops we developed.
 18 Q. Are they published materials?
 19 A. What does "published" mean?
 20 Q. Printed.
 21 A. Not always.
 22 Q. But are there?
 23 A. Sometimes.
 24 Q. So the answer is there are some.
 25 MS. MCARDLE: Objection. I'm

1 sorry --
 2 MR. BARSKY: She's dancing a little
 3 around the question.
 4 A. I'm not trying to dance around it.
 5 Sometimes -- I mean, with technology today
 6 sometimes things are e-mailed. Is that a
 7 published document?
 8 Q. Let's define published document as
 9 anything that's written. Whether it's on a
 10 piece of paper, an e-mail, that's not --
 11 A. Yes, there's published documents.
 12 Q. And are these documents something
 13 that Green Ivy Educational Consulting sells?
 14 A. It's a part -- can you clarify your
 15 question? Like as in am I -- clarify the
 16 question, please.
 17 Q. If I'm a school, can I go to Green
 18 Ivy Educational Consulting and say I want time
 19 organization management tips and one of the
 20 things I can do is just buy these documents from
 21 your company?
 22 A. At this time, no. But who knows
 23 what the future brings.
 24 Q. But right now that's not how it
 25 works.

1 A. No.
 2 Q. Do you let the schools keep copies
 3 of these documents when Green Ivy Educational
 4 Consulting goes in and gives a presentation to
 5 schools about time organization and management?
 6 A. Well, we send them to them so -- I
 7 mean, sometimes it's over electronic e-mail. So
 8 I'm going to assume that they keep them, yes.
 9 Q. Are these documents branded in any
 10 way with the Green Ivy Educational Consulting
 11 name?
 12 A. Yes.
 13 Q. Are all of them branded that way?
 14 A. I can't say every document I've
 15 ever worked -- the intention is the Green Ivy
 16 name is on it.
 17 Q. There may be limited instances
 18 where there isn't the Green Ivy Educational
 19 Consulting on it, but by and large there would
 20 be a name on it.
 21 A. Yes.
 22 Q. You said that Green Ivy Educational
 23 Consulting will sell time organization and
 24 management tips to schools but you can also work
 25 directly with students, is that correct?

1 A. In our office we work with students
 2 directly, yes.
 3 Q. And is that separate from tutoring,
 4 the time organization and management that your
 5 company would do directly with students?
 6 A. It depends on the students.
 7 Q. So sometimes it might be, sometimes
 8 it might not be?
 9 A. Yes. Sometimes we work with a
 10 student on just organization and time
 11 management. Sometimes we also do subject work.
 12 Q. And so when it's subject work, your
 13 company classifies that as tutoring? I'm trying
 14 to get at what tutoring actually is here.
 15 A. Yes.
 16 Q. If it's just general here's how to
 17 be organized, here's how to more effectively do
 18 your homework and stay on top of things at
 19 school, your company would call that time
 20 organization and management?
 21 A. Well, I think we would still
 22 classify that under tutoring because it's a
 23 weekly tutoring appointment.
 24 Q. But tutoring not in a subject in
 25 like biology or algebra or something like that.

1 A. Yes.
 2 Q. Let's talk about the tutoring then.
 3 What kind of tutoring does Green Ivy Educational
 4 Consulting offer?
 5 A. What do you mean by that? Are you
 6 talking about what subjects?
 7 Q. Yes.
 8 A. I'm not going to remember all of
 9 them because there's a lot, but English,
 10 writing, math, science, math or calculus,
 11 history, science through AP classes. Math a
 12 wide range.
 13 Q. Who actually does the tutoring for
 14 Green Ivy Educational Consulting as the tutor?
 15 A. We all do.
 16 Q. You say you have about eight
 17 employees?
 18 A. Mm-hmm.
 19 Q. Plus you?
 20 A. Mm-hmm. And an office manager is
 21 included in there, too.
 22 Q. The office manager doesn't do the
 23 tutoring.
 24 A. No.
 25 Q. So there's about eight of you that

1 would do the tutoring for the company.

2 A. I believe so. It varies
3 seasonally. Depending on -- yes. It varies,
4 but yes, I'm going to say about eight.

5 Q. Where is the tutoring actually
6 done?

7 A. Well, that's interesting because
8 we're out of our Los Altos office. However, we
9 also Skype with students that are in different
10 locations.

11 Q. Do you know the locations of all
12 the students that you currently Skype with?

13 A. Not every student -- we also work
14 with some college students but we have
15 international students as well in London and
16 Dubai. So we have all over the -- yes, a lot of
17 different places.

18 Q. Can you give me some examples of
19 where some of these students are located. I
20 understand that you can't remember all of them.

21 A. No, not at this time.

22 Q. You can't give me any examples of
23 where your students are located?

24 A. A lot of them are in the San
25 Francisco Bay area, but a lot of them are -- I

1 Educational Consulting?

2 A. It's actually not counseling. It's
3 consulting.

4 Q. I am sorry.

5 A. There's a difference.

6 Q. I know. I was looking at
7 counseling on my screen and flipped the words
8 around. So let me re-ask the question. For
9 parent counseling --

10 A. Consulting.

11 Q. I'm sorry, I wrote down counseling.
12 That's where I'm confused. You said consulting,
13 I apologize. So for parent consulting, what
14 does Green Ivy Educational Consulting do?

15 A. We meet with parents and give them
16 feedback given their concerns and give them
17 advice as needed. Or as they ask for it.

18 Q. What kind of concerns do parents
19 come to Green Ivy Educational Consulting with?

20 A. Educational concerns.

21 Q. Such as?

22 A. Academic performance, college
23 admissions issues, high school admissions
24 issues, sixth grade admissions issues. All
25 sorts of things like that.

1 don't know, I'd have to look. And -- yes.
2 That's all I'm going to leave it at.

3 Q. You can't tell me a single other
4 location?

5 A. The challenges I'm trying to think
6 of is current students versus past students.
7 Because it really depends. And who we're
8 working with, what does "current" mean. That
9 we've worked with them this week? Because there
10 are people that come back around and around.
11 But they're not on our roster for this week.

12 Q. In the last month, can you give me
13 one example of where a student has been located
14 outside of the San Francisco Bay area?

15 A. Not at this time. I'll think about
16 it.

17 Q. What about in the last year, can
18 you give me one example --

19 A. London. In the last month, too,
20 London, Dubai. They were all over the East
21 Coast, those clients. So we Skyped from other
22 places like D.C. There have been -- yeah,
23 that's it.

24 Q. What about the parent counseling,
25 can you tell me what that entails for Green Ivy

1 Q. Where are these parents located?

2 A. All over the world.

3 Q. Can you give me an example of
4 someone outside of the San Francisco Bay area
5 that Green Ivy Educational Consulting has done
6 parent consulting with in the last month?

7 A. Sure. I have a client in London.

8 Q. What about the newsletter, can you
9 describe what the newsletter that Green Ivy
10 Educational Consulting puts out?

11 A. Sure. It's a newsletter that has
12 our branding on it. And we put it out.

13 Q. What is it about?

14 A. It varies. It gives resources to
15 parents, it offers information about our
16 services, it usually puts several interesting
17 articles of interest that are educationally
18 based. It talks about our work. It varies
19 from -- currently it comes out weekly.

20 Q. How is it distributed?

21 A. Through various social media
22 channels, and also through our e-mail list.

23 Q. What are the various social media
24 channels?

25 A. We'll put it on Twitter or Facebook

1 or -- that sort of thing.
 2 Q. You can't put the whole newsletter
 3 on Twitter.
 4 A. We'll put a link.
 5 Q. What does the link go back to?
 6 A. The newsletter.
 7 Q. Which is posted where?
 8 A. MyEmma.com. It's like a constant
 9 contact.
 10 Q. M-Y-E-M-M-A.com?
 11 A. M-Y-E-M-M-A.com. It's a newsletter
 12 service.
 13 Q. And the e-mail distribution list,
 14 how is that list generated?
 15 A. Interested parents who sign up and
 16 educators.
 17 Q. Where would these people go to sign
 18 up for the newsletter?
 19 A. To our website. Or if we're at a
 20 school speaking, they can sign up, there's
 21 usually a signup sheet.
 22 Q. Do you know how wide the
 23 distribution for the e-mail is?
 24 A. Over a thousand.
 25 Q. Is it over 2,000?

1 A. I don't think so.
 2 Q. And you mentioned that people can
 3 go to the website to sign up. Is that
 4 GreenIvyEd.com?
 5 A. Yes.
 6 Q. Does Green Ivy Educational
 7 Consulting have any other websites?
 8 A. I don't know. We used to have
 9 GreenIvyeducation.com, but I'm not sure if
 10 that's still ours as well.
 11 MR. BARSKY: We've been at it for
 12 an hour. Want to take a little break?
 13 MS. MCARDLE: I would appreciate
 14 it, thanks.
 15 (Recess taken.)
 16 BY MR. BARSKY:
 17 Q. Before we took a break we were
 18 talking about what your company Green Ivy
 19 Educational Consulting does. Now I want to talk
 20 about what you do specifically within the
 21 organization. What is your role in the
 22 organization?
 23 A. I am a founder and director.
 24 Q. Are there any other founders?
 25 A. No.

1 Q. Are there any other directors?
 2 A. No.
 3 Q. Are you the sole owner?
 4 A. Yes. I mean, it's an LLC, so yeah.
 5 I'm a member.
 6 Q. Do you know the difference between
 7 a member and a managing member?
 8 A. I would need a clarification to
 9 make sure I give the answer correctly. Nobody
 10 else owns any part of Green Ivy Educational
 11 Consulting.
 12 Q. You own a hundred percent of the
 13 units.
 14 A. I believe I do. I'm not sure.
 15 Q. You don't recall the year that the
 16 LLC was formed instead of a proprietorship as
 17 you described it earlier?
 18 A. I don't recall.
 19 Q. So what is your day-to-day role
 20 within the company?
 21 A. I have a lot of roles. I work with
 22 students, I work with parents, I manage staff, I
 23 write articles, I write books, I speak at
 24 schools, I get interviewed by press. I have a
 25 lot of different roles.

1 Q. When was the last time you were
 2 interviewed by the press?
 3 A. Probably within the last two
 4 months.
 5 Q. Do you recall what that interview
 6 was for?
 7 A. Well, I had something in Duke
 8 Magazine. I'm not sure what else. There's
 9 pretty regular press that comes out about our
 10 work or me.
 11 Q. How regularly would you say is
 12 "pretty regular"?
 13 A. Every few months or so.
 14 Q. Other than Duke Magazine, do you
 15 recall the last time there was public press
 16 about Green Ivy Educational Consulting?
 17 A. I don't -- well, let me clarify
 18 that. So sometimes I'm interviewed, and as a
 19 part of the interview people reference the fact
 20 that I started Green Ivy Educational Consulting
 21 because we've developed a brand. So that's part
 22 of the interview.
 23 And I don't remember, there's a lot
 24 of articles out there, national press and local.
 25 Q. About you or about your company?

1 A. It mentions my company in them.
 2 Q. That wasn't my question. The
 3 question was, are the articles about you or
 4 about your company?
 5 A. It depends on the article. They
 6 can be about the work we do, it can be about the
 7 books that I've written. There's a lot of
 8 different topics that include the Green Ivy name
 9 in the article.
 10 Q. You said that it includes the name
 11 because it's a brand, correct?
 12 MS. MCARDLE: Objection. Misstates
 13 her testimony.
 14 Q. You may answer.
 15 A. I believe Green Ivy is a brand that
 16 we've developed.
 17 Q. What is your basis for that belief?
 18 A. Because in the last 12 years we've
 19 become -- or 11 years since we started using
 20 Green Ivy, we've become a name that parents
 21 trust.
 22 Q. What is your basis for saying that?
 23 A. We have people that call us for our
 24 services regularly.
 25 Q. And based on the fact that you get

1 calls for services, you believe parents trust
 2 your brand?
 3 A. And we also get referrals from
 4 counselors, principals, headmasters and other
 5 parents.
 6 Q. And so these calls and these
 7 referrals are the basis for your belief that
 8 parents trust the Green Ivy Educational
 9 Consulting brand?
 10 A. One of the reasons.
 11 Q. What are the other reasons?
 12 A. There are many reasons.
 13 Q. What are they?
 14 A. Well, some of them include the fact
 15 that we've been -- we get endorsements or
 16 testimonials from former students. Our books
 17 have received recommendations from parenting
 18 experts. We are asked to speak at conferences
 19 and we hold classes. That's it.
 20 Q. You said "our books." Whose books
 21 are those?
 22 A. I'm referring to the books that I
 23 published. That I authored, excuse me.
 24 Q. But those weren't actually authored
 25 by Green Ivy Educational Consulting. They were

1 authored by you.
 2 A. And I work at Green Ivy Educational
 3 Consulting.
 4 Q. The books weren't written by the
 5 rest of the staff at Green Ivy Educational
 6 Consulting. They're published under your name.
 7 A. Yes.
 8 Q. And you testified earlier there
 9 might be editors but no other authors.
 10 A. No other authors.
 11 Q. And you write other articles as
 12 well, correct, under your own name?
 13 A. Well, generally when you write an
 14 article they want your name as the byline. They
 15 don't ask for the name of your company.
 16 However, in the bio it often lists Green Ivy
 17 Educational Consulting.
 18 Q. As the company that you founded.
 19 A. Yes.
 20 Q. But the article might not be about
 21 Green Ivy Educational Consulting.
 22 A. The articles are about a wide
 23 variety of topics that tie into the work that
 24 Green Ivy Educational Consulting does.
 25 Q. But the articles themselves are not

1 always about Green Ivy Educational Consulting.
 2 A. Let me give you an example. Is
 3 that helpful?
 4 Q. Absolutely.
 5 A. So I wrote an article for the
 6 Huffington Post on back to school and kindness.
 7 So at Green Ivy we talk a lot about back to
 8 school. We have back to school workshops. So
 9 we were in -- in the article it reiterated the
 10 work that we do in our office about back to
 11 school and teaching children character.
 12 It's a reflection of the work we do
 13 and the brand that I've built.
 14 Q. The article wasn't about Green Ivy
 15 Educational Consulting, it was about back to
 16 school.
 17 A. And Green Ivy Educational
 18 Consulting, an educational consulting firm that
 19 deals with back to school issues.
 20 Q. But you still didn't answer the
 21 question so I'm going to ask it again. The
 22 article that you just referenced wasn't about
 23 Green Ivy Educational Consulting, it was about
 24 back to school.
 25 A. If you want to think of it that

1 way, then it wasn't about specifically Green Ivy
 2 Educational Consulting.
 3 Q. You've written other articles about
 4 executive coaching.
 5 A. Executive functioning?
 6 Q. Say that again.
 7 A. Do you mean executive functioning?
 8 Q. That might be what it's called.
 9 It's not a term that I know so that's why I was
 10 asking. What exactly is that?
 11 A. Executive functioning is all --
 12 it's an umbrella term used for things like
 13 organization and time management, figuring out
 14 short term/long term strategies.
 15 Q. Are you talking about executive in
 16 terms of like level of thought or are you
 17 talking about executive as in somebody who runs
 18 a company, a title?
 19 A. No. Can you clarify by telling me
 20 what article you're referring to?
 21 Q. Some of the bylines I've seen with
 22 your name on it talk about life coaching and
 23 things like that.
 24 A. Right.
 25 Q. You said executive functioning is

1 something that you've done. I'm trying to
 2 understand, because executive could be --
 3 there's different levels of intelligence.
 4 Executive is one of those. But the term could
 5 also be used to describe somebody as a job
 6 title.
 7 A. Sure. Well, you don't always get
 8 to choose what titles people put for you under
 9 bylines. And the work that we do at Green Ivy
 10 Educational Consulting around executive
 11 functioning coaching is also looked at as life
 12 coaching in the same way.
 13 Q. So what -- executive functioning is
 14 what I'm trying to understand, the title. Are
 15 you talking about levels of thought or are you
 16 talking about executives as in a job title?
 17 A. Where? On that byline that says
 18 executive/life coach or executive functioning in
 19 general?
 20 Q. Just in general.
 21 A. When I talk about executive
 22 functioning I'm talking about -- executive
 23 functioning is a learning difference. It's a
 24 diagnosed learning difference.
 25 Q. You're not talking about --

1 A. Executives in America?
 2 Q. Correct.
 3 A. At this moment when you're talking
 4 about executive functioning, I'm talking about
 5 executive functioning, the disorder.
 6 Q. The levels of intelligence.
 7 A. It's not a level of intelligence.
 8 Q. I know I'm using it wrong and it
 9 probably grates on you as somebody who that's
 10 your field of expertise.
 11 So you're talking about a learning
 12 thought process? Just so the transcript is
 13 clear. Not about a job title of somebody who is
 14 executive vice president.
 15 A. Yes.
 16 Q. And describe for me then what this
 17 executive functioning is.
 18 A. Executive functioning, as I
 19 mentioned, is a field that includes
 20 organization, time management, being able to
 21 prioritize, being able to look at the bigger
 22 picture and break down things into little
 23 pieces. It's basically a lot of figuring out
 24 what you need to do to be successful in school.
 25 And in life. And in life. An adult who suffers

1 from executive functioning, there are always
 2 ways that that shows up.
 3 Q. Does Green Ivy Educational
 4 Consulting work with adults who aren't parents
 5 of kids?
 6 A. Define what an adult is.
 7 Q. Somebody is over the age of --
 8 somebody who is no longer in school.
 9 A. Well, define what you mean by
 10 "school." I'm not trying to be difficult.
 11 Q. I'm trying to work around it, too.
 12 I would say somebody over the age of 18, your
 13 response is going to be yes because you work
 14 with college people. There's a good question
 15 about whether people in college are adults or
 16 not.
 17 Somebody -- let's define "adult"
 18 for this limited purpose as somebody who is no
 19 longer in high school or college or graduate
 20 school.
 21 A. And not a parent?
 22 Q. And not a parent of somebody who's
 23 in that bracket.
 24 A. Not that I can recall off the top
 25 of my head, but I honestly could not say one way

1 or another. We have worked with older adults
 2 before. However, I can't recall a specific
 3 instance at this time to give you an example.
 4 In general, no.
 5 Q. For instance, I'll state on the
 6 record I have no kids, I'm not the target
 7 audience for Green Ivy Educational Consulting.
 8 A. No, not that I know of. I'm not
 9 sure. But I would say no.
 10 Q. You mentioned that there are eight
 11 other employees at the company.
 12 A. About.
 13 Q. About. What do they do, just in
 14 general?
 15 A. It depends. They do a wide number
 16 of different things and each person does
 17 different activities. But they work with
 18 students, they write student updates, they help
 19 with workshop development. They make sure the
 20 office runs smoothly, they greet parents.
 21 Q. Angry parents?
 22 A. No, they greet parents.
 23 Q. I thought you said angry.
 24 Do any of these other employees
 25 help you with curriculum development when

1 curriculum development is something that Green
 2 Ivy Educational Consulting has been hired to do?
 3 A. They could, yes.
 4 Q. So it depends on what the project
 5 is?
 6 A. Yes. Everything's dependent on the
 7 project.
 8 Q. Are all of these eight other people
 9 tutors as well?
 10 A. No.
 11 Q. How many actually do the tutoring?
 12 A. I believe around -- I mean, we have
 13 one office manager so everyone else tutors.
 14 Q. The number of employees goes up and
 15 fluctuates over time, correct?
 16 A. Absolutely.
 17 Q. Based on need?
 18 A. Based mainly on -- yeah, sure,
 19 based on need.
 20 Q. Can you tell me the last time that
 21 Green Ivy Educational Consulting held a seminar
 22 outside of the State of California?
 23 A. I believe we came to New York
 24 earlier -- I can't -- within the last year but I
 25 can't remember the exact date. But yes. And

1 we've done workshops in the past in Dubai, in
 2 LA, in -- it depends on -- and then I visited
 3 other schools, so yeah.
 4 Q. The question was can you tell me
 5 the last time.
 6 A. It would have been within the year.
 7 I'm trying to think if it was within the year,
 8 but in New York. They were advertised on our
 9 website. It's not there anymore.
 10 Q. When you say within the year, do
 11 you mean within the last 12 months or within the
 12 calendar year 2014?
 13 A. Within the last 12 months. But I'm
 14 not a hundred percent certain.
 15 Q. How often does Green Ivy
 16 Educational Consulting conduct seminars or
 17 workshops outside of the State of California?
 18 A. It depends. It really depends
 19 on -- I travel all over the nation and sometimes
 20 I'll give a talk and someone will want a seminar
 21 as well. For instance, I'm heading to Nashville
 22 in October and I'm giving a talk and I may do a
 23 seminar there, I haven't decided.
 24 Q. Now, when you were contacted to
 25 give this talk in Nashville in October --

1 A. I was not contacted.
 2 Q. Who was contacted?
 3 A. My speaking agent.
 4 Q. So you have an agent.
 5 A. I have a speaking agent.
 6 Q. Are you receiving an honorarium for
 7 this talk?
 8 A. Absolutely.
 9 Q. Who or what is the honorarium being
 10 paid to?
 11 A. I believe it is paid to the Penguin
 12 Speakers Bureau.
 13 Q. That's the publisher of your books?
 14 A. That's the Speakers Bureau. Not
 15 every author is part of the Speakers Bureau. So
 16 it's separate checks, separate W -- whatever.
 17 Q. But it's through -- it's related to
 18 the publisher.
 19 A. Yes.
 20 Q. So this talk that you're giving,
 21 it's not Green Ivy Educational Consulting that's
 22 been retained to give the talk, it's you
 23 personally that's been retained to give a talk.
 24 A. It's -- well, I am a part of Green
 25 Ivy Educational Consulting. And the talk is

1 based on my work at Green Ivy Educational
2 Consulting.
3 Q. But it's not Green Ivy Educational
4 Consulting that was hired.
5 A. Well, I mean, I don't know who they
6 hired. I didn't have the conversation with
7 them. I'm personally a person, obviously. And
8 I -- well.
9 Q. So you don't know who was actually
10 hired to give this talk, whether it was you or
11 whether it was Green Ivy Educational Consulting.
12 A. Well, I wasn't there for the
13 conversation.
14 Q. Does your speaker publicist
15 represent Green Ivy Educational Consulting?
16 A. No.
17 Q. Is Green Ivy Educational Consulting
18 part of the Speakers Bureau?
19 A. Well, only humans can be part of
20 the Speakers Bureau, not companies.
21 Q. Do you know whether you're being
22 asked to give this talk because of one of your
23 books?
24 A. I mean, I would assume. I don't
25 know.

1 before Green Ivy Educational Consulting
2 attempted to register a trademark?
3 A. I didn't realize I probably should
4 have. I was 24 when I started Green Ivy
5 Educational Consulting. I wish I had.
6 Q. Was there a reason that Green Ivy
7 Educational Consulting sought to register a
8 trademark in 2013?
9 A. Yes.
10 Q. What was that reason?
11 A. We developed our brand over the
12 last number of years and we wanted to make sure
13 that we were protecting it.
14 Q. Was there an event that triggered
15 your decision to -- strike that. I keep saying
16 "you." Was there an event that triggered Green
17 Ivy Educational Consulting to seek to register a
18 trademark?
19 A. Yes.
20 Q. What was that event?
21 A. We received a call in late
22 March/early April 2013 from an individual asking
23 if we were opening up a school on Wall Street.
24 Q. What was the substance of that
25 conversation?

1 Q. Why is it that the Penguin Speakers
2 Bureau gets paid and not you directly?
3 A. Because any time you work with an
4 agent they pay the agency and then you get
5 the -- they take their cut and then you get the
6 rest.
7 Q. Do you anticipate that after your
8 agent takes their cut, that the remaining part
9 of the honorarium that gets paid is going to get
10 paid to you personally?
11 A. I mean, the check will be made out
12 to me, yes.
13 Q. You've talked a bit about your
14 brand and you mentioned trademark at one point.
15 Has Green Ivy Educational Consulting attempted
16 to register a trademark with the United States
17 Patent and Trademark Office?
18 A. I would have to see the documents.
19 I believe they have. They've tried to.
20 Q. Do you know when that attempt was
21 made?
22 A. It was made in 2013 at some point I
23 believe.
24 Q. Why did it take -- if this company
25 existed for 11 years, why did it take until 2013

1 A. I was not in the conversation, but
2 it was that the person had seen an article and
3 Googled and called our office. And then
4 subsequently I Googled Green Ivy Wall Street and
5 I came up with the article.
6 Q. Was that article in the New York
7 Post?
8 A. Yes.
9 Q. Do you know who authored that
10 article?
11 A. Right now, personally, no.
12 MR. BARSKY: Can you pull 18 out of
13 that stack.
14 Q. I'm showing you what was marked
15 yesterday as Exhibit 16. Is this the article
16 you're referring to?
17 A. Yes.
18 Q. So you said you weren't involved in
19 the telephone call that was received. Who was?
20 A. Emily Dixon.
21 Q. Is Ms. Dixon an employee of Green
22 Ivy Educational Consulting?
23 A. She just gave birth to a baby, so
24 she's no longer our day-to-day office manager.
25 Q. She's still employed though.

1 A. She hasn't worked a day since last
2 August. I'm not trying to be difficult.
3 Q. I don't want to ask you a question
4 that's going to create issues. I'm just trying
5 to figure out how to phrase it. Was she a
6 salaried employee?
7 A. No, she was hourly.
8 Q. If she wanted to return to work,
9 could she? For Green Ivy Educational
10 Consulting.
11 A. Absolutely.
12 Q. So Ms. Dixon, I think you said she
13 was the office manager.
14 A. At the time, yes.
15 Q. So she was -- your understanding is
16 she was the one who received a call from this
17 person.
18 A. Yes.
19 Q. Do you know the name of the person
20 who called?
21 A. I don't.
22 Q. Did they leave any contact
23 information?
24 A. No, because Ms. Dixon had no idea
25 what it was about and said no, we're not opening

1 up, and then called me.
2 Q. What was the substance of the
3 conversation that you had with Ms. Dixon?
4 A. She relayed to me what happened and
5 then I went to Google Green Ivy Wall Street and
6 found an article.
7 Q. This article being Exhibit 16.
8 A. Correct.
9 Q. What did you do next with respect
10 to this article and the phone call?
11 A. I called my attorney.
12 Q. Did you do anything else?
13 A. I can't remember.
14 Q. Did you ever attempt to reach out
15 to any of the people that are mentioned in
16 Exhibit 16?
17 A. No.
18 Q. Did Green Ivy Educational
19 Consulting receive any other phone calls from
20 anybody asking if you were opening up a school?
21 A. I don't know. That was the one
22 that triggered it. Emily answers about anywhere
23 from 10 to 35 phone calls a day about a lot of
24 different things from around the country. It's
25 very hard to say what else we got calls about.

1 Q. Did anybody else within Green Ivy
2 Educational Consulting come to you and say we
3 received another phone call?
4 A. Not that I remember.
5 Q. Are you the person that they would
6 go to with an issue like that?
7 A. Not always.
8 Q. So your testimony is that it's
9 possible another phone call was received but you
10 don't have any recollection of one right now.
11 A. Yes.
12 Q. Were there any other instances
13 where people asked Green Ivy Educational
14 Consulting about whether or not they were
15 opening up a school?
16 A. We had instances where there was
17 trademark con -- sorry, strike that. We had
18 incidences where there was consumer confusion.
19 Q. What were those incidences?
20 A. Well, one example that I can
21 remember clearly was that I was speaking at a
22 conference this past February and someone
23 came -- a head of school in the northwest came
24 up and asked me whether or not we were
25 affiliated.

1 Q. And what was your response?
2 A. No.
3 Q. Do you know why this person asked
4 you?
5 A. Because we have the same name.
6 Q. Were they looking to open up a
7 school as well?
8 A. Not that I know of, but I'm not
9 sure.
10 Q. Were they looking to hire any type
11 of services, if you know, relating to education?
12 MS. MCARDLE: Objection,
13 speculation.
14 Q. If you know.
15 A. I don't know.
16 Q. Were there any other instances of
17 confusion?
18 A. Exhibit 19 seems like an example of
19 confusion.
20 Q. So let's -- since you're looking at
21 that, it's on the table, this is Exhibit 19 from
22 yesterday. This is what Green Ivy Educational
23 Consulting says is an instance of confusion
24 between the Green Ivy Schools and Green Ivy
25 Educational Consulting, correct?

1 A. Yes.
 2 Q. What is Exhibit 19?
 3 A. Exhibit 19 is a package received at
 4 our Los Altos office addressed to Green Ivy
 5 Educational Consulting, 302 Main Street, suite
 6 201, Los Altos, California. And the name at the
 7 top is Jennifer Jones, Ph.D., founder and CEO.
 8 Q. And the address on that is the
 9 address for Green Ivy Educational Consulting,
 10 correct?
 11 A. Yes.
 12 Q. And the document says Structuretone
 13 Organization Journal, the outside of the
 14 envelope.
 15 A. Yes.
 16 Q. Do you know what Structuretone
 17 Organizational Journal is?
 18 A. I have no idea.
 19 Q. Did you ever hear of it before?
 20 A. No.
 21 Q. And you were here yesterday when
 22 Ms. Jones said she had no idea what it was
 23 either.
 24 A. I think she also said it was a
 25 construction company she was familiar with.

1 Q. Your testimony is you believe she
 2 knows what Structuretone is, not Organizational
 3 Journal.
 4 A. I don't know what Ms. Jones knows
 5 or doesn't know. All I know is I didn't know
 6 this. I didn't know who these people were. And
 7 I also -- Jennifer Jones obviously doesn't work
 8 at Green Ivy Educational Consulting.
 9 Q. Did you open this envelope?
 10 A. No.
 11 Q. Did you forward it on to Ms. Jones?
 12 A. I don't know where Ms. Jones is.
 13 Or at the time I didn't.
 14 Q. Did you do anything with respect to
 15 this package that you got?
 16 A. I don't know. Not that I know of.
 17 I took a picture of it, clearly.
 18 Q. Why did you decide to take a
 19 picture of it?
 20 A. Because it was an evidence of
 21 consumer confusion.
 22 Q. Was this after you had spoken to an
 23 attorney?
 24 MS. MCARDLE: Objection to the
 25 extent it calls for any privileged information.

1 A. I don't know. I don't believe so.
 2 I don't know. I don't know.
 3 Q. Was there a reason other than
 4 speaking to an attorney that you were making --
 5 memorializing what you say are evidences of
 6 consumer confusion?
 7 A. What do you mean?
 8 Q. Well, I don't want you to tell me
 9 anything that an attorney told you. But if
 10 you're taking pictures to memorialize what you
 11 are terming evidence of consumer confusion, I
 12 want to know if there's any reason other than
 13 speaking to an attorney that you would have done
 14 that.
 15 A. I don't know.
 16 Q. Is Structuretone Organization
 17 Journal a consumer of services offered by Green
 18 Ivy Educational Consulting?
 19 A. I don't know. I don't think so.
 20 Q. Are there any other instances of
 21 what you consider to be consumer confusion?
 22 A. I think --
 23 MS. MCARDLE: Objection to the
 24 extent it calls for a legal conclusion.
 25 A. There are -- there seems to be many

1 situations where there's consumer confusion at
 2 this point. And I can't think of any more
 3 specific examples right at this moment.
 4 Q. Well, there must be some. You said
 5 there seems to be a lot of them, so what are
 6 they?
 7 A. I don't think I said "a lot." I
 8 think there certainly are a great deal. And
 9 another example would be the e-mail that was
 10 forwarded to me by Ms. Jones.
 11 MR. BARSKY: Let's mark this as 21.
 12 I know we marked the whole packet earlier.
 13 (Exhibit 21 for
 14 identification, Subset of Exhibit 18)
 15 Q. Ma'am, I'm showing you what has
 16 been marked as Exhibit 21. Is this the -- it's
 17 a subset of Exhibit 18 from yesterday. Is this
 18 the e-mail you were referring to?
 19 A. It does look like the e-mail I'm
 20 referring to.
 21 Q. Take a moment to take a look at it
 22 and confirm that it is or is not.
 23 A. It is.
 24 Q. And the second page, the e-mail
 25 that was forwarded to you is from a Colleen

1 O'Kane, correct?
 2 A. Yes.
 3 Q. Do you know who Ms. O'Kane is?
 4 A. I do not.
 5 Q. Have you ever spoken to her?
 6 A. No.
 7 Q. When you received this e-mail that
 8 is Exhibit 21 from Ms. Jones, what did you do?
 9 A. I forwarded it to my attorney at
 10 the time. My attorney at the time.
 11 Q. You switched attorneys during the
 12 course of this litigation, correct?
 13 A. Not during the course of the
 14 litigation.
 15 Q. Let's take a look at --
 16 A. When we registered the trade -- I
 17 would need clarification on that. But yes,
 18 whatever you're --
 19 Q. We'll just mark this as 22.
 20 (Exhibit 22 for
 21 identification, Trademark Application)
 22 A. Yes. I mean, there was -- what we
 23 first filed -- again, this is not something I'm
 24 clear on because I'm not a lawyer. So when we
 25 first did the first thing that we could do, we

1 realized -- I needed -- yeah. So Bryan Davis
 2 did represent me and that's who I forwarded this
 3 e-mail to originally.
 4 Q. Let me go back to the question I
 5 was going to ask you. Have you seen Exhibit 22
 6 before?
 7 A. A copy of this was sent to me.
 8 Q. Did you do -- we'll get back to
 9 Exhibit 22 in a moment. Did you do anything
 10 else with respect to Exhibit 21 other than
 11 forward it to your attorney?
 12 A. What are you trying to clarify?
 13 Q. I just want to know if you did
 14 anything else with it other than forward it to
 15 your attorney.
 16 A. I forwarded probably to several
 17 other people, but my attorney mainly.
 18 Q. Who else did you forward it to?
 19 A. I don't know.
 20 Q. Are you sure that you actually did
 21 forward it to anybody else?
 22 A. I don't know.
 23 Q. Did you speak to anybody other than
 24 your attorney about this e-mail?
 25 A. Not that I remember.

1 Q. Did you attempt to contact
 2 Ms. Jones?
 3 A. No.
 4 Q. Why not?
 5 A. Because I didn't want to.
 6 Q. Why not?
 7 A. Because I didn't feel the need.
 8 Q. Why did you not feel the need to
 9 contact her?
 10 A. I didn't.
 11 Q. You didn't want to discuss this
 12 e-mail with her at all?
 13 MS. MCARDLE: Objection. Asked and
 14 answered.
 15 Q. You may answer.
 16 A. I did not want to discuss the
 17 e-mail with her at all.
 18 Q. Have you ever spoken to Ms. Jones?
 19 A. I met her yesterday.
 20 Q. Other than meeting her yesterday,
 21 have you ever spoken to her?
 22 A. Not that I know of.
 23 Q. In this e-mail she sets forth a
 24 couple proposals to you and asks if you'd be
 25 open to having a phone conversation to discuss.

1 Is it correct from your answers that you were
 2 not interested in speaking with her about
 3 anything relating to Green Ivy Educational
 4 Consulting or Green Ivy Schools?
 5 A. No. I started my brand 11 years
 6 ago and I built it up to be a parent brand. A
 7 brand that parents trust. I was not interested
 8 in speaking with Jennifer Jones about her work.
 9 Q. You said it's "a brand that parents
 10 trust." Have you ever commissioned any kind of
 11 surveys relating to what you consider to be your
 12 brand?
 13 A. No.
 14 Q. Have you ever commissioned any
 15 studies relating to brand awareness for what you
 16 consider to be your brand?
 17 A. Not that I'm aware of.
 18 Q. You say not that you're aware of.
 19 Is there anybody else at Green Ivy Educational
 20 Consulting who would have had authority to
 21 commission such a survey?
 22 A. No.
 23 Q. So it's safe to say that no such
 24 survey has been conducted.
 25 A. Probably not.

1 Q. Why would you qualify your answer
2 with "probably"?

3 A. I don't know because there's a wide
4 range of ways that that could be -- there's
5 not -- there's no reason -- let me strike that.
6 What I was going to -- we have parents who call
7 us regularly and we have educators who trust us
8 regularly. We have built a name for ourselves.

9 Q. That wasn't the question. The
10 question was why would you qualify your
11 statement --

12 A. There's really no reason.

13 Q. So it's safe to say that no such
14 survey has been conducted.

15 A. Not that I know of.

16 Q. Let's take a look at Exhibit 22,
17 the fourth page. This is -- I'll represent it's
18 the notice of opposition. Paragraph 1 says,
19 "Opposer is a well-known provider of various
20 education services, including academic coaching,
21 test preparation, counseling, curriculum
22 development, workshops and consultation services
23 relating to implementation of its organizational
24 time management program into school curriculums
25 and home environments."

1 A. Well, as I mentioned, there was
2 that article in The New York Times that was very
3 well regarded and well distributed. That was
4 national. That we received hundreds of e-mails
5 after, that was all about the work at Green Ivy
6 Educational Consulting. So I'm including a lot
7 of articles and a lot of national press, yes.

8 Q. So the answer to my question is
9 yes?

10 A. I guess so.

11 Q. You said that The New York Times
12 article was well regarded. We talked about well
13 distributed. But what is your basis for saying
14 it was well regarded?

15 A. I received a plethora of e-mails
16 after that article came out from around the
17 United States. And actually, I believe
18 internationally as well from parents who related
19 to the topic in the article and the work that we
20 do.

21 And we also frequently get -- this
22 is something I forgot to mention. We frequently
23 get requests and inquiries -- I guess that's
24 what I'm saying. We get inquiries from around
25 the nation. That's how I say well known.

1 A. Mm-hmm, yes, I see it.

2 Q. What is Green Ivy Educational
3 Consulting's basis for saying it's a well known
4 provider of educational services?

5 A. We receive hundreds if not
6 thousands of e-mails from all around the U.S.
7 and around the world. We have been in
8 international publications as well as national
9 publications. And our name has been mentioned
10 frequently.

11 We have -- yeah, so that's the
12 basis.

13 Q. Is there any other basis?

14 A. Not off the top of my head, but I
15 would think that that's sufficient.

16 Q. When you say that the name has been
17 mentioned frequently in publications, you're
18 including in that publications about you
19 personally that say that you founded Green Ivy
20 Educational Consulting, correct?

21 A. Sure.

22 Q. So that includes articles about you
23 personally or your books or the other activities
24 that you do and not about Green Ivy Educational
25 Consulting itself.

1 Q. You said it was well regarded
2 though. I'm trying to understand what your
3 basis for saying the article was well regarded.

4 A. Typically if people call you and
5 say they relate it to the article, it would be a
6 positive.

7 Q. Did the article win any kind of
8 awards?

9 A. I'm not aware of that.

10 Q. Paragraph 1 here says that
11 opposer -- one of your products that you provide
12 or services that you provide is academic
13 coaching. And that wasn't one of the areas that
14 we talked about earlier, so what is academic
15 coaching?

16 A. Academic coaching is working with
17 students on subject coaching as well as
18 organization and time management. A term we use
19 and that was used here was academic coaching.

20 Q. Is that similar to the time
21 organization and management?

22 A. It includes subject work as well.
23 So English, math, science, biology, whatever.

24 Q. So would that be what we talked
25 about, that hybrid that was time organization

1 management and subject matter tutoring?
 2 A. Yes.
 3 Q. Also it says "test preparation
 4 counseling" in paragraph 1 here of Exhibit 22.
 5 We didn't talk about that earlier either. What
 6 is test preparation counseling?
 7 A. We help students prepare for the
 8 ISEE, the SSAT, the SAT, the ACT and the HSPT.
 9 Q. Those are all standardized tests --
 10 A. Yes.
 11 Q. So is that kind of like what Kaplan
 12 does? They're kind of well known for that.
 13 MS. MCARDLE: Objection.
 14 A. I wouldn't compare myself to
 15 Kaplan -- I wouldn't compare Green Ivy's work to
 16 Kaplan.
 17 Q. Why not?
 18 A. Because -- I'm not familiar with
 19 Kaplan's methods for teaching these things.
 20 Q. You might have a different way of
 21 doing it --
 22 A. We have students with standardized
 23 exams.
 24 Q. If you turn the page on Exhibit 22
 25 to paragraph 2, it says that -- paragraph 2 says

1 that "by reason of the adoption and continuous
 2 use of opposers Green Ivy's mark in the United
 3 States, that designation has acquired special
 4 and particular significance and very valuable
 5 goodwill as identifying opposer and its
 6 services."
 7 What is your basis for saying that
 8 there is valuable goodwill in Green Ivy
 9 Educational Consulting's alleged mark?
 10 A. We have phone calls, inquiries,
 11 e-mails from all over the United States and all
 12 over the world. We have clients in London,
 13 Dubai, we work with schools all over the U.S.
 14 Green Ivy has built a brand that has a lot of
 15 goodwill and is very well regarded. I mean,
 16 that is what it is.
 17 Q. Has Green Ivy Educational
 18 Consulting ever had this alleged goodwill
 19 valued?
 20 A. No.
 21 Q. Does Green Ivy Educational
 22 Consulting have profit and loss statements?
 23 A. I believe so. My accountant would
 24 have information.
 25 Q. Does Green Ivy Educational

1 Consulting LLC file taxes?
 2 A. Yes.
 3 Q. On those tax documents is there a
 4 line item for goodwill?
 5 A. I don't know.
 6 Q. Go to paragraph 3 of Exhibit 22.
 7 This paragraph talks about a mark that Green Ivy
 8 Educational Consulting is attempting to
 9 register, correct?
 10 A. I'm sorry, which -- what are you
 11 referring to? Green Ivy Educational Consulting?
 12 Sure. And the filing date is April 25th, sure,
 13 okay.
 14 Q. Is that the trademark registration
 15 that we talked about earlier?
 16 A. I believe so, yes.
 17 Q. Is everything in paragraph 3 --
 18 take a moment to read it. I want to make
 19 sure -- the question is, is everything in
 20 paragraph 3 true and accurate as of today?
 21 A. (The witness reviews the document.)
 22 This is just for clarification
 23 purposes, but true for today is a hard thing to
 24 quantify because today I'm for example not
 25 giving career and educational counseling. I am

1 here. So what do you mean by "today"?
 2 Q. But your company is. Just because
 3 you're here doesn't mean the company's not.
 4 A. Sure. Yes. Now, the one thing
 5 that I would say is regarding providing K
 6 through 12 classroom instruction in the field of
 7 organization and time management, that would
 8 refer to our curriculum development and the work
 9 that we do with the schools. But other than
 10 that, everything seems very clear to me, and
 11 yes, we do it.
 12 Q. And the first use date of March 30,
 13 2004, is that accurate?
 14 A. Fairly -- I mean, yes. We
 15 designed -- I believe I decided on the name in
 16 2003, late 2003, and then yes, that's when I
 17 believe there was the d/b/a. So that's what I'm
 18 using as the first use date.
 19 Q. In any of Green Ivy Educational
 20 Consulting's materials, on the website, any
 21 published materials, does it ever use just the
 22 words "Green Ivy"?
 23 A. Yes.
 24 Q. Where?
 25 A. I don't know off the top of my

1 head, but a lot of times we say copyright Green
2 Ivy at the bottom of a handout. I'm not sure
3 where we use what, but Green Ivy is the main
4 mark that's known. Educational consulting is
5 simply a descriptor. Students will say I go to
6 Green Ivy.

7 Q. On your website does Green Ivy ever
8 appear without "Educational Consulting"?

9 A. I don't know. But if you look at
10 our logo it says Green Ivy.

11 Q. You're certain about that?

12 A. It says Green Ivy Educational
13 Consulting, but the Green Ivy is big and it's a
14 big part of the logo. There's a difference.

15 Q. Difference in font size.

16 A. I'm not a designer so I can't tell
17 you --

18 Q. When you say there's a difference,
19 it sounds to me like you're describing a
20 difference in font size. So what would you
21 describe the difference as?

22 A. That Green Ivy is a clarified name.
23 And educational is -- yes, that's it.

24 Q. What do you mean by "clarified
25 name"? You said that Green Ivy is the clarified

1 A. Okay.

2 Q. I'm looking at paragraph 11, the
3 last sentence.

4 A. Okay.

5 Q. It says, "Such confusion will
6 damage opposer and injure its reputation in the
7 trade and in the public." To your knowledge,
8 has Green Ivy Educational Consulting suffered
9 any damage because of the trademark registration
10 today?

11 A. You just mentioned Green Ivy
12 Holdings, which is your client.

13 Q. I apologize. Green Ivy Educational
14 Consulting, I'll flip it around, because of
15 Green Ivy Holdings' trademark application.

16 A. I don't know.

17 Q. You have no knowledge one way or
18 another?

19 A. I don't know.

20 Q. I have nothing further.

21 MS. MCARDLE: I have just a few
22 questions.

23 EXAMINATION

24 BY MS. McARDLE:

25 Q. Earlier today you testified about a

1 name. What do you mean by that?

2 A. I simply mean that people use the
3 term "Green Ivy" when they refer to working with
4 us.

5 Q. Other than the phone call that we
6 talked about earlier, Exhibits 19 and 21, and
7 the conversation that you had with a
8 representative of a school in the northwest of
9 the United States, are there any other instances
10 of what you claim are consumer confusion between
11 the two Green Ivies?

12 MS. MCARDLE: Object to the form.

13 A. I still have to answer?

14 MS. MCARDLE: Mm-hmm.

15 A. Not that I know of. However --
16 yeah, not that I know of.

17 MR. BARSKY: It's been another
18 hour. Should we take another break?

19 MS. MCARDLE: Sure, that would be
20 great.

21 (Recess taken.)

22 BY MR. BARSKY:

23 Q. Exhibit 22, if you can turn to --
24 it's marked as page 4 but it's really the
25 seventh page of the document.

1 speaking engagement you will have in Nashville
2 later this year, is that correct?

3 A. Yes.

4 Q. And as part of that testimony, you
5 testified that the payment for that speaking
6 engagement will eventually go in your name, is
7 that correct?

8 A. Yes, it will say Ana Homayoun on
9 the check, likely.

10 Q. Where will that check get
11 deposited?

12 A. In the Green Ivy Educational
13 Consulting bank account.

14 Q. Is that your general practice when
15 you receive speaking engagement fees?

16 A. Yes.

17 Q. And when you are at that speaking
18 engagement, will you be using any materials?

19 A. Yes.

20 Q. Will you be handing out any
21 materials?

22 A. Yes.

23 Q. And will those materials have the
24 Green Ivy logo or say Green Ivy on them?

25 A. They will likely have the Green Ivy

1 logo and also say Green Ivy on them.
 2 Q. Thank you. No further questions.
 3 (TIME NOTED: 11:20 a.m.)
 4
 5 ANA HOMAYOUN
 6
 7 Subscribed and sworn to before me
 8 this _____ day of _____, 2014.
 9
 10 _____
 11 Notary Public
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 CERTIFICATE
 2
 3 STATE OF NEW YORK)
 4 : SS.
 5 COUNTY OF NEW YORK)
 6
 7 I, SUZANNE PASTOR, a Shorthand
 8 Reporter and Notary Public within and for the
 9 State of New York, do hereby certify:
 10 That ANA HOMAYOUN, the witness whose
 11 deposition is hereinbefore set forth, was duly
 12 sworn by me and that such deposition is a true
 13 record of the testimony given by the witness.
 14 I further certify that I am not
 15 related to any of the parties to this action by
 16 blood or marriage, and that I am in no way
 17 interested in the outcome of this matter.
 18 IN WITNESS WHEREOF, I have hereunto
 19 set my hand this May 1, 2014.
 20
 21 _____
 22 SUZANNE PASTOR
 23
 24
 25

1 WITNESS: _____
 2 DATE(S): _____
 3 CASE: _____
 4 I wish to make the following changes, for the
 5 following reasons:
 6
 7 PAGE LINE
 8 _____ CHANGE FROM: _____
 9 _____ CHANGE TO: _____
 10
 11 REASON: _____
 12 _____ CHANGE FROM: _____
 13 _____ CHANGE TO: _____
 14
 15 REASON: _____
 16 _____ CHANGE FROM: _____
 17 _____ CHANGE TO: _____
 18
 19 REASON: _____
 20 _____ CHANGE FROM: _____
 21 _____ CHANGE TO: _____
 22
 23 REASON: _____
 24 _____ CHANGE FROM: _____
 25 _____ CHANGE TO: _____
 26
 27 Subscribed and sworn to before me this _____ day
 28 of _____, 2014.
 29
 30 _____

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