ESTTA Tracking number:

ESTTA1314667

Filing date:

10/07/2023

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

Proceeding no.	92078349		
Party	Plaintiff Judith Gurley Plastic Surgery, LLC		
Correspondence address	ANNETTE P. HELLER HELLER & ASSOCIATES 400 CHESTERFIELD CENTER SUITE 400 CHESTERFIELD [ST LOUIS], MO 63017 UNITED STATES Primary email: TMAttorneyHeller@aol.com Secondary email(s): TMAttorneyPTO@aol.com 314-469-2610		
Submission	Testimony For Plaintiff		
Filer's name	Annette P Heller		
Filer's email	tmattorneyheller@aol.com, tmattorneyPTO@aol.com, tmattorney- Spann@gmail.com		
Signature	/aph76/		
Date	10/07/2023		
Attachments	Testimony Declaration of Spann signed7.pdf(93605 bytes ) B-1 - B10.pdf(5388752 bytes ) B-11 -B17.pdf(4461614 bytes ) B-18-B23.pdf(3876473 bytes ) B-24-B25.pdf(1471676 bytes )		

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

Judith Gurley Plastic Surgery, LLC,		
Petitioner		Cancellation No. 92078349
		Registration No. 5845907
<b>v.</b>		
David J. Witchell Salon & Spa, Inc.,		
Respondent.		

### **TESTIMONY DECLARATION OF KELLY M SPANN**

(Trial Exhibit B)

- I, Kelly M. Spann, declare under penalty of perjury as follows:
  - 1. I am an attorney working with Petitioner's counsel, Annette P. Heller. I make this declaration in support of Petitioner's Petition for Cancellation. Except where otherwise indicated, this declaration is based upon my own personal knowledge, and I could and would testify competently to the truth of the matters stated herein if called upon to do so.
  - 2. On October 3, 2023, I accessed the internet site www.web.archive.org. From there, I searched the url www.judithgurley.com as provided by Petitioner in its responses to Registrants' First Request for Production of Documents and First Interrogatories.

    Attached as B-1 is a true and correct copy of the screenshot of the webpage showing the search results. From there I clicked on the year "2009" then the snapshot taken on January 30, 2009. Attached as B-2 is a true and correct copy of the screenshot of the webpage showing the snapshot date. From there I clicked on the snapshot link "01:44:45". Attached as B-3 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on January 30, 2009.
- 3. From there I went back to the search results and clicked on the year "2010" then the

  Testimony Declaration of Kelly M. Spann

  Trial Exhibit B
  Page 1 of 4

- snapshot taken on January 16, 2010. Attached as B-4 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "17:39:52". Attached as B-5 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on January 16, 2010.
- 4. From there I went back to the search results and clicked on the year "2011" then the snapshot taken on January 1, 2011. Attached as B-6 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "04:57:30". Attached as B-7 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on January 1, 2011.
- 5. From there I went back to the search results and clicked on the year "2013" then the snapshot taken on February 14, 2013. Attached as B-8 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "01:50:55". Attached as B-9 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on February 14, 2013.
- 6. From there I went back to the search results and clicked on the year "2014" then the snapshot taken on February 14, 2014. Attached as B-10 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "01:25:30". Attached as B-11 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on February 14, 2014.
- 7. From there I went back to the search results and clicked on the year "2016" then the snapshot taken on November 8, 2016. Attached as B-12 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "08:36:02". Attached as B-13 is a true and correct copy of the screenshot

- of the webpage showing the snapshot taken on November 8, 2016.
- 8. From there I went back to the search results and clicked on the year "2017" then the snapshot taken on October 2, 2017. Attached as B-14 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "04:52:31". Attached as B-15 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on October 2, 2017.
- 9. From there I went back to the search results and clicked on the year "2019" then the snapshot taken on January 13, 2019. Attached as B-16 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "09:30:42". Attached as B-17 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on January 13, 2019.
- 10. From there I went back to the search results and clicked on the year "2020" then the snapshot taken on August 4, 2020. Attached as B-18 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "00:08:11". Attached as B-19 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on August 4, 2020.
- 11. From there I went back to the search results and clicked on the year "2021" then the snapshot taken on April 13, 2021. Attached as B-20 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "10:41:24". Attached as B-21 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on April 13, 2021.
- 12. From there I went back to the search results and clicked on the year "2022" then the snapshot taken on March 16, 2022. Attached as B-22 is a true and correct copy of the

screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "19:04:34". Attached as B-23 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on March 16, 2022.

13. From there I went back to the search results and clicked on the year "2023" then the snapshot taken on January 31, 2023. Attached as B-24 is a true and correct copy of the screenshot of the webpage showing the next snapshot date. From there I clicked on the snapshot link "20:35:11". Attached as B-25 is a true and correct copy of the screenshot of the webpage showing the snapshot taken on January 31, 2023.

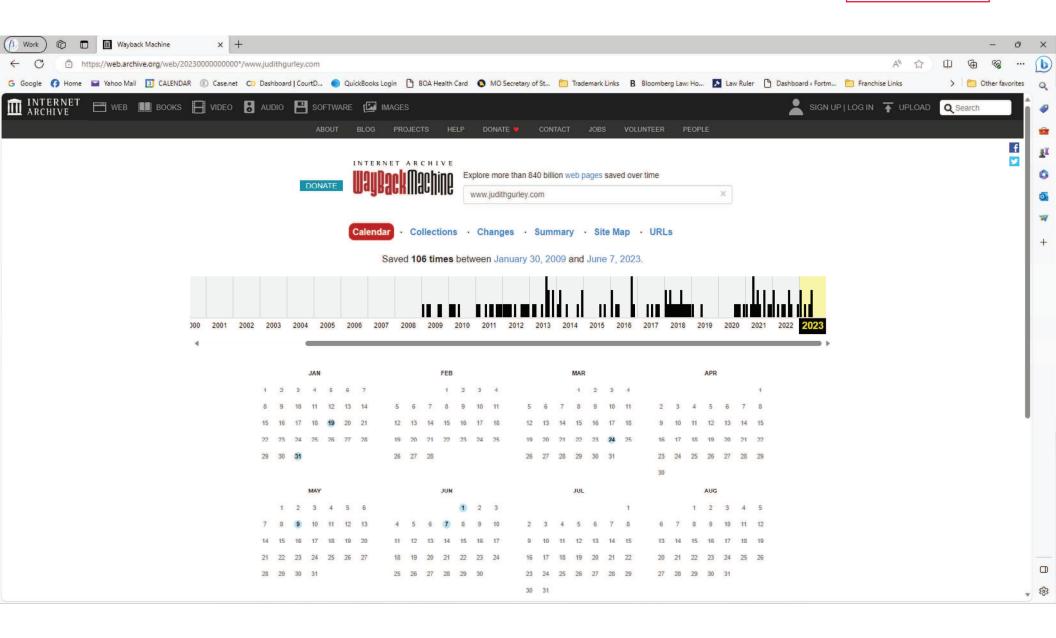
The signatory, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this submission, declares that all the statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

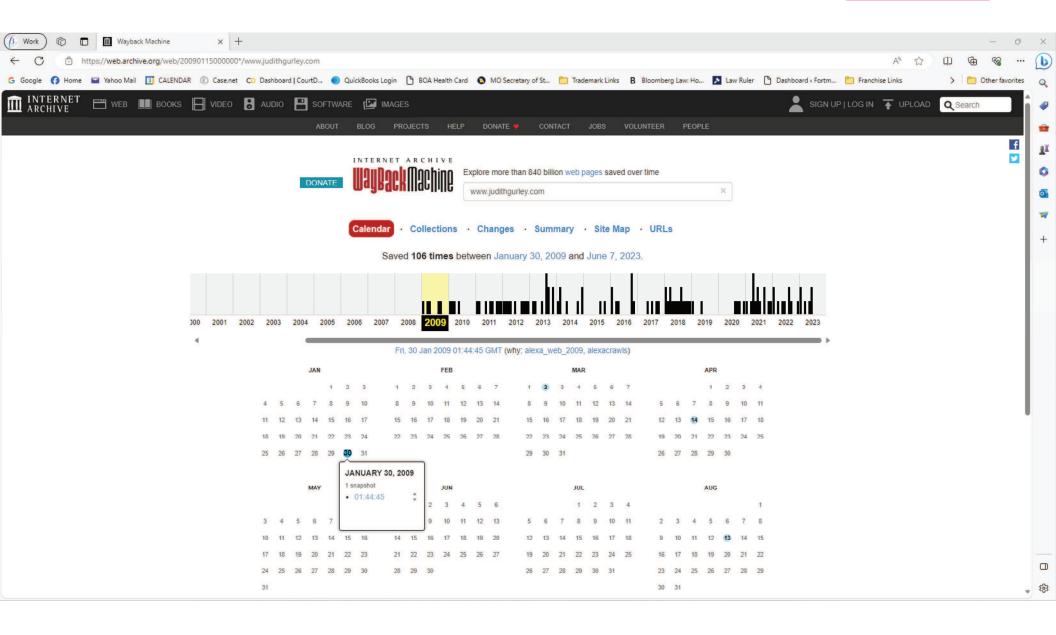
Date: 10/4/2023 By: Kelly M Spann

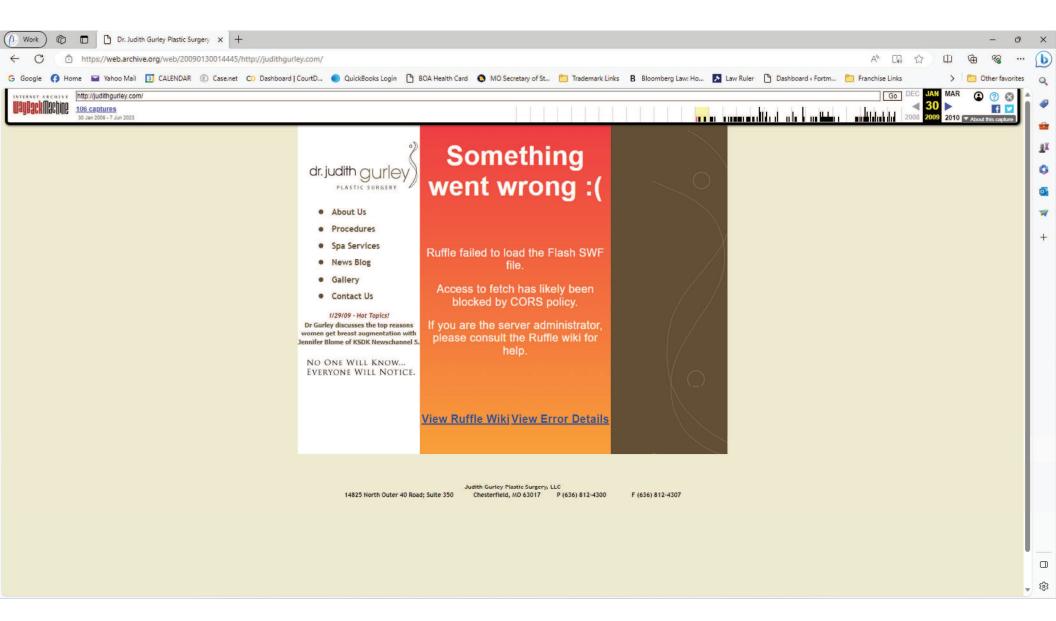
# **CERTIFICATE OF SERVICE**

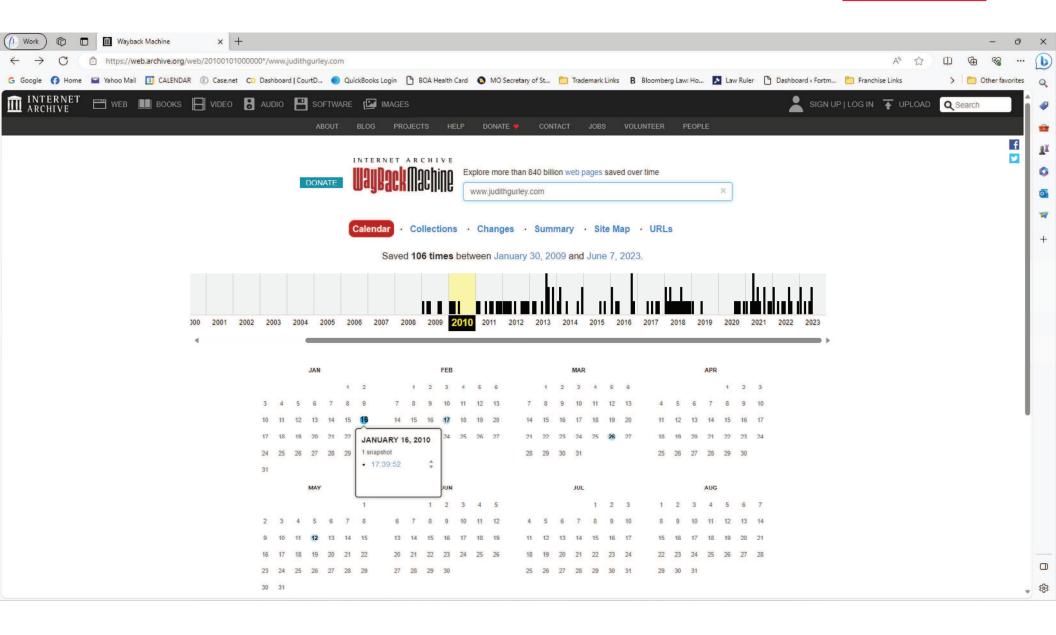
I, Annette P. Heller, attorney for Petitioner, hereby certify that a copy of this document was served on counsel of record, Frank J Bonini, via email to <a href="mailto:fbonini@boninilaw.com">fbonini@boninilaw.com</a> this <a href="mailto:fbonini.google-part">fbonini.google-part</a> day of October, 2023.

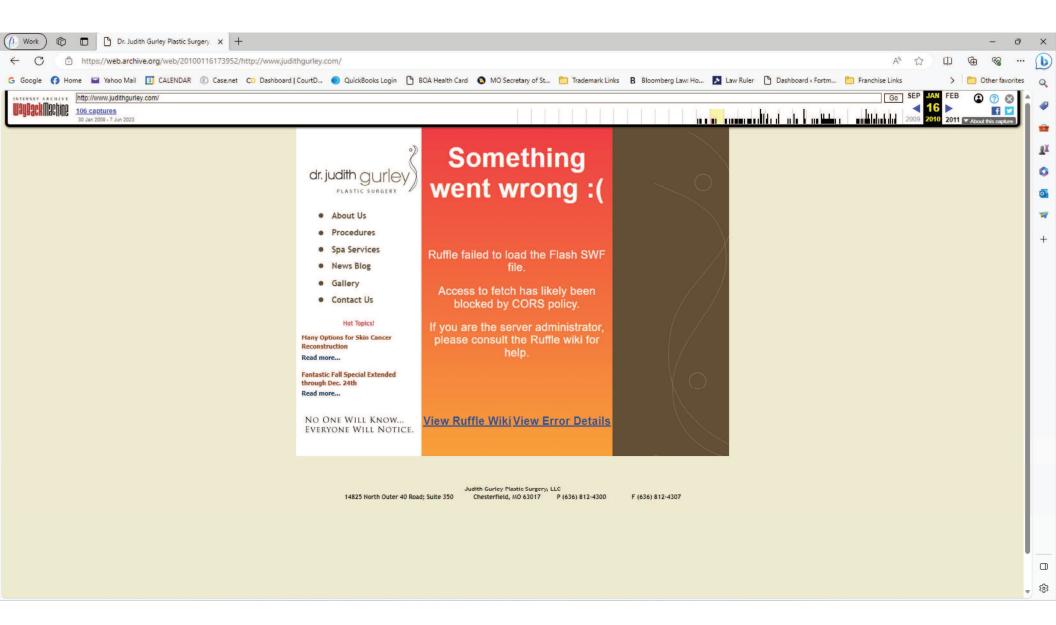
/aph76/ Annette P. Heller, Attorney for Petitioner

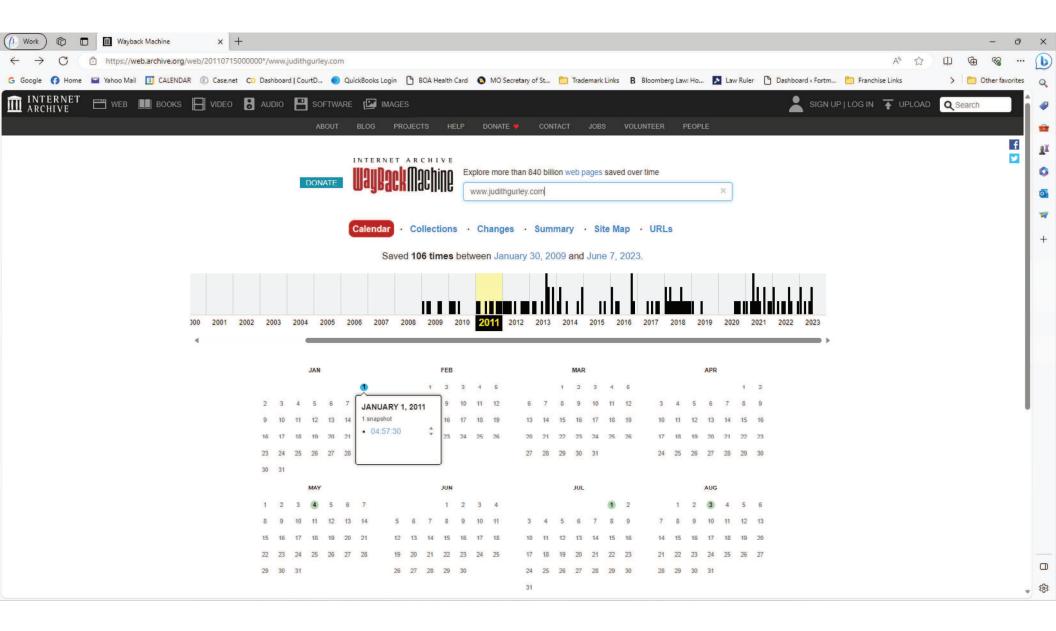


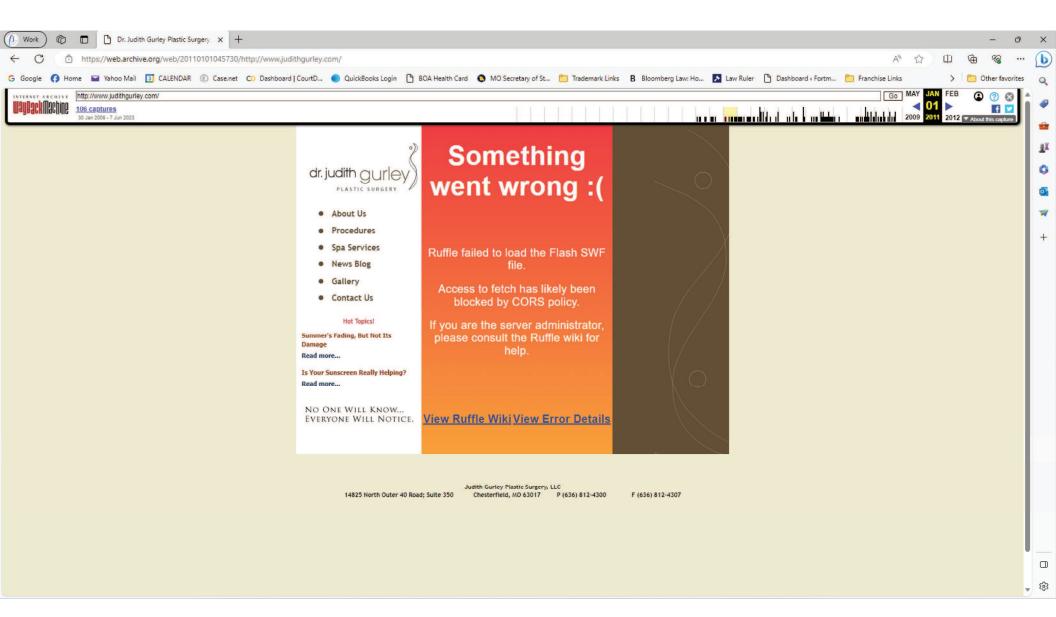


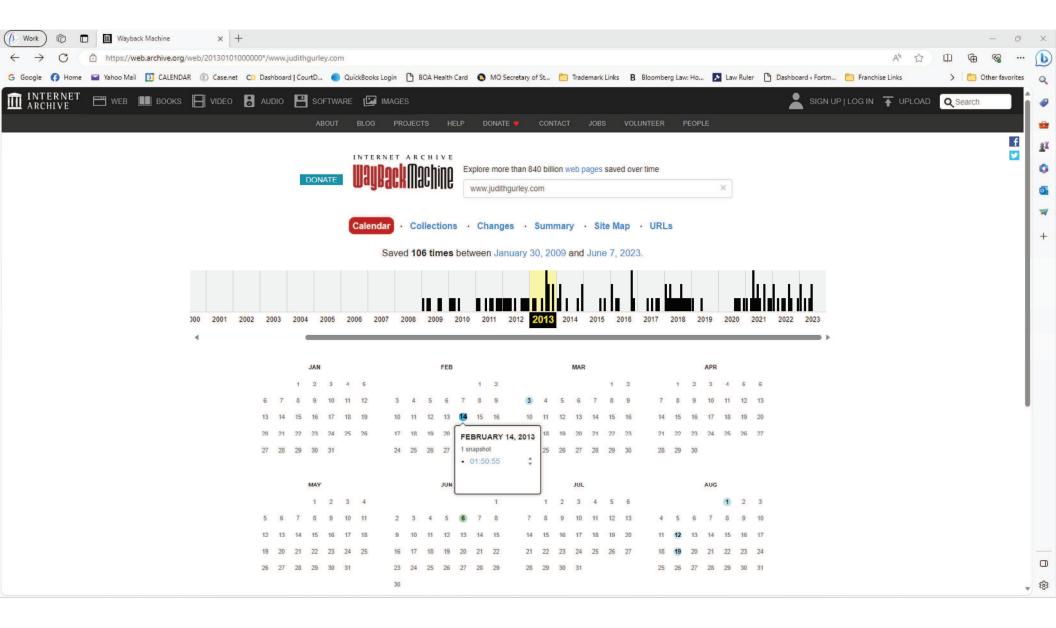


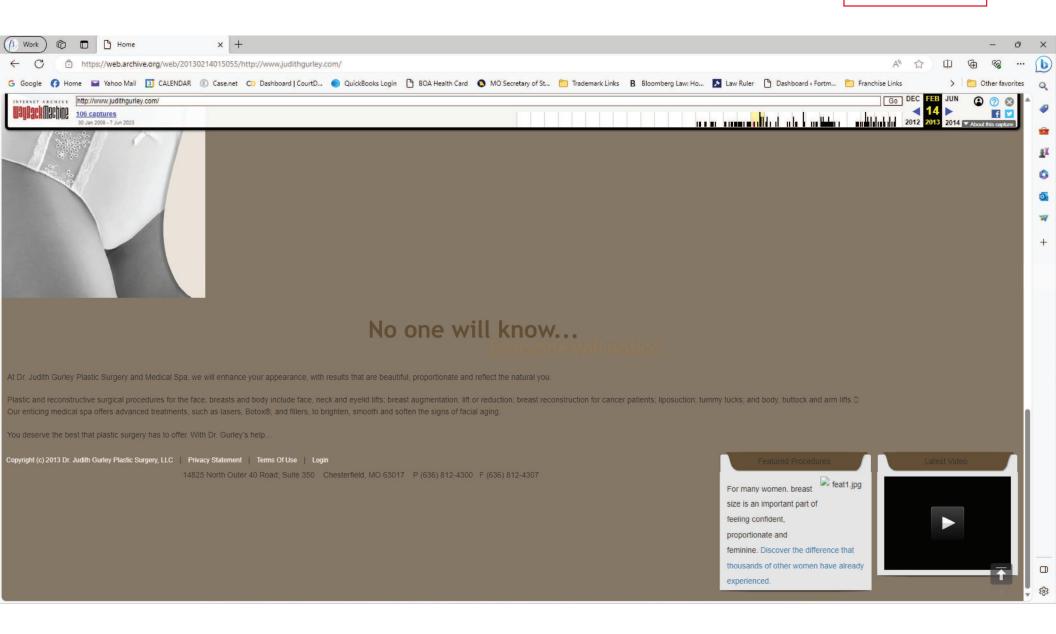


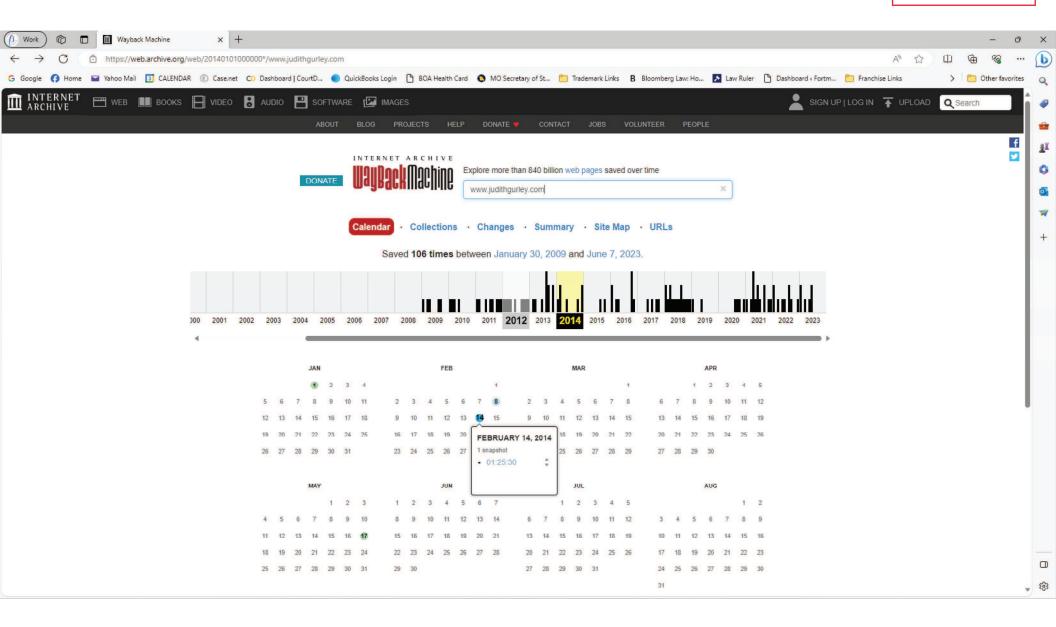


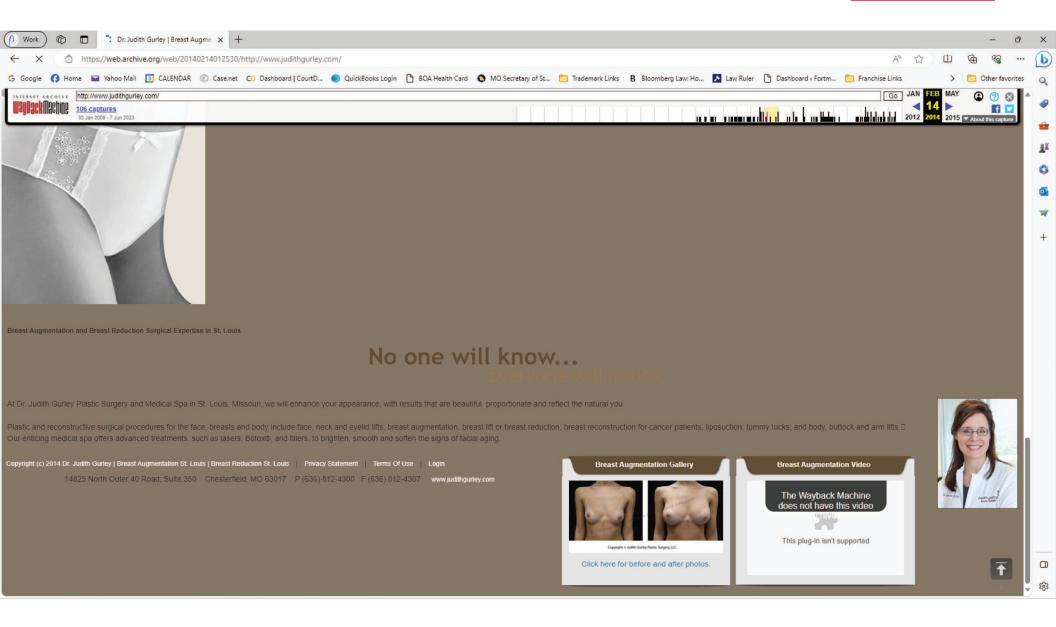


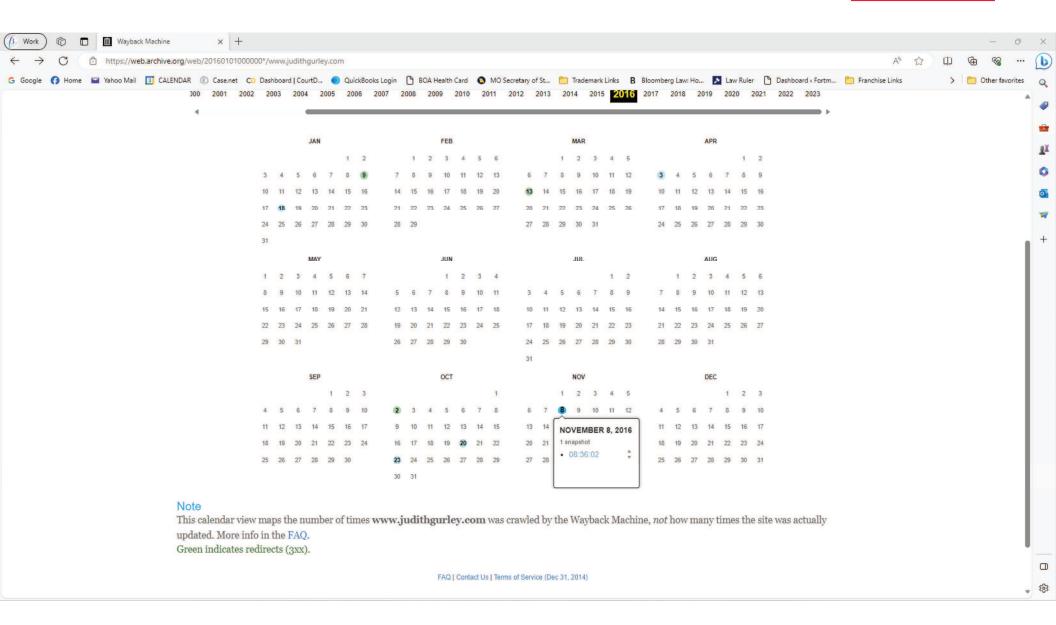




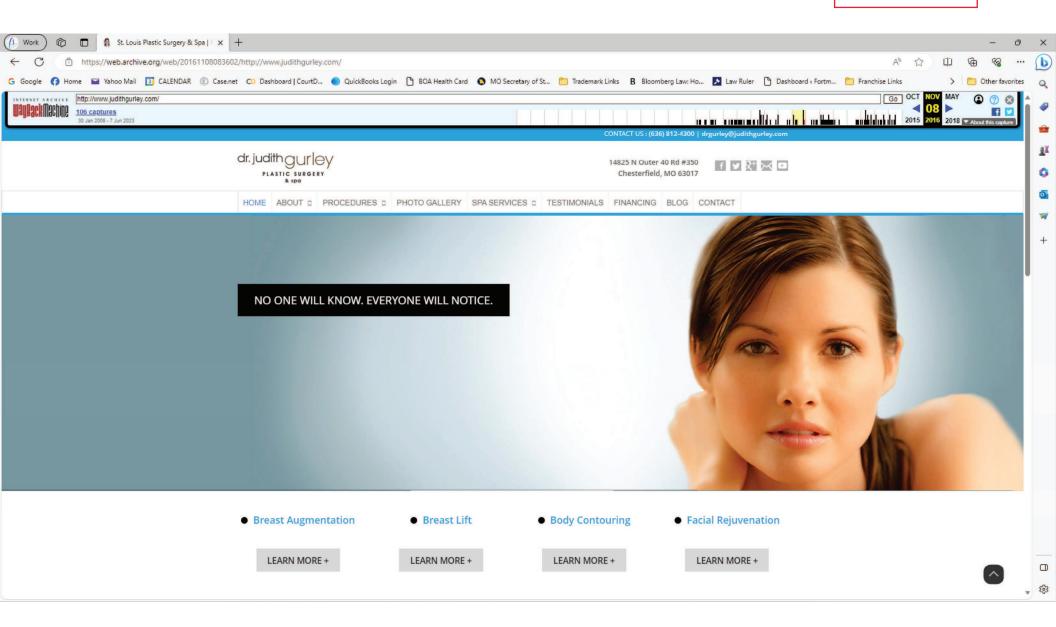




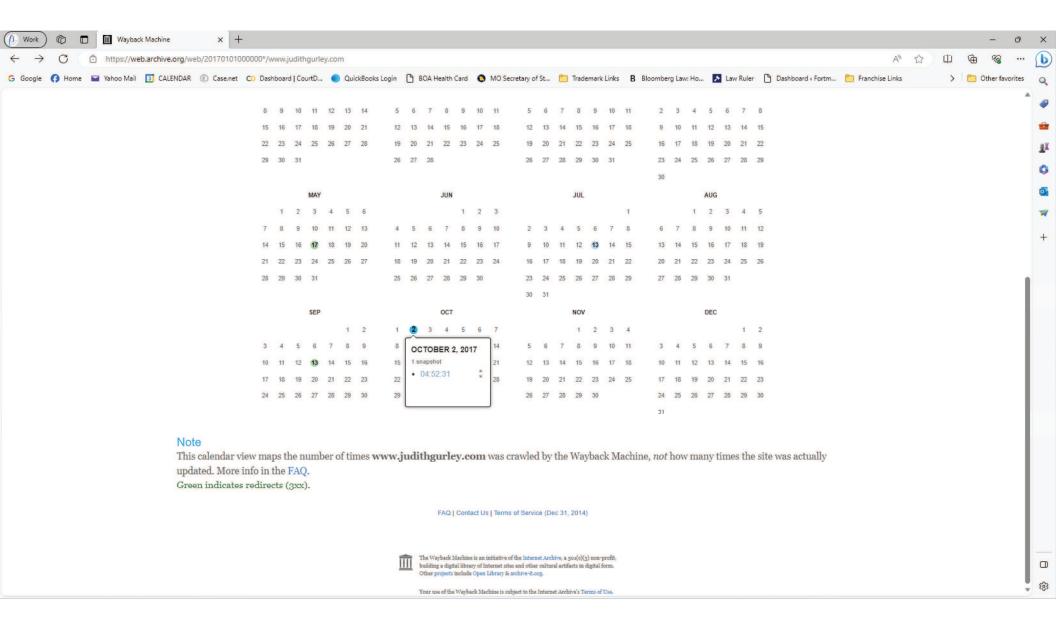




## Trial Exhibit B-13



#### Trial Exhibit B-14



## Trial Exhibit B-15

