

**FREEDOM COURT REPORTING**

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1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE NORTHERN DISTRICT OF ALABAMA  
 3 EASTERN DIVISION  
 4  
 5 CASE NUMBER: CV-06-BE-0408-E  
 6  
 7 SHARON L. RUTHERFORD,  
 8 Plaintiff,  
 9 vs.  
 10 THE CONSOLIDATED PUBLISHING  
 11 COMPANY, INC., d/b/a THE  
 12 ANNISTON STAR,  
 13 Defendant.  
 14  
 15 DEPOSITION OF BRANDT AYERS  
 16  
 17 In accordance with Rule 5(d) of  
 18 The Alabama Rules of Civil Procedure, as  
 19 amended, effective May 15, 1988, I Beth  
 20 C. Word, am hereby delivering to  
 21 Ms. Candis A. McGowan the original  
 22 transcript of the oral testimony taken on  
 23 the 27th day of April 2007, along with

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1 exhibits.  
 2 Please be advised that this is  
 3 the same and not retained by the Court  
 4 Reporter, nor filed with the Court.  
 5  
 6 **STIPULATIONS**  
 7 **IT IS STIPULATED AND AGREED** by  
 8 and between the parties through their  
 9 respective counsel, that the deposition  
 10 of BRANDT AYERS may be taken before Beth  
 11 C. Word, Commissioner, at the offices of  
 12 Campbell & Hopkins, 1302 Noble Street,  
 13 Suite 3-H, Lyric Square Building,  
 14 Anniston, Alabama, on the 27th day of  
 15 April 2007.  
 16 **IT IS FURTHER STIPULATED AND**  
 17 **AGREED** that the signature to and the  
 18 reading of the deposition by the witness  
 19 is waived, the deposition to have the  
 20 same force and effect as if full  
 21 compliance had been had with all laws and  
 22 rules of Court relating to the taking of  
 23 depositions.

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1 **IT IS FURTHER STIPULATED AND**  
 2 **AGREED** that it shall not be necessary for  
 3 any objections to be made by counsel to  
 4 any questions except as to form or  
 5 leading questions, and that counsel for  
 6 the parties may make objections and  
 7 assign grounds at the time of the trial,  
 8 or at the time said deposition is offered  
 9 in evidence, or prior thereto.  
 10 **IT IS FURTHER STIPULATED AND**  
 11 **AGREED** that the notice of filing of the  
 12 deposition by the Commissioner is waived.  
 13  
 14  
 15 **APPEARANCES**  
 16  
 17 **WIGGINS, CHILDS, QUINN &**  
 18 **PANTAZIS, LLC**, by Ms. Candis A. McGowan  
 19 and Ms. Ann Robertson, The Kress  
 20 Building, 301 Nineteenth Street North,  
 21 Birmingham, Alabama 35203, (205)  
 22 314-0513, appearing on behalf of the  
 23 Plaintiff.

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1 **JAMES C. AYERS, JR.**, Attorney  
 2 At Law, 10 West 11th Street, Suite 1-A,  
 3 Anniston, Alabama 36201, (256) 235-3903,  
 4 appearing on behalf of the Defendant.  
 5  
 6 **ALSO PRESENT:**  
 7 Sharon Rutherford  
 8  
 9  
 10  
 11 **INDEX**  
 12  
 13 **EXAMINATION BY: PAGE NUMBER:**  
 14 Ms. McGowan 6  
 15  
 16 **EXHIBITS:**  
 17 PX- 1 7  
 18 PX- 2 43  
 19 PX- 3 54  
 20 PX- 4 54  
 21 PX- 5 54  
 22 PX- 6 73  
 23 PX- 7 73

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 2 PX- 9 95  
 3 PX-10 109  
 4 PX-11 113  
 5 PX-12 120  
 6 PX-13 124  
 7 PX-14 125  
 8 PX-15 132  
 9 PX-16 138  
 10 PX-17 140  
 11  
 12  
 13 I, BETH C. WORD, a Court  
 14 Reporter of Gadsden, Alabama, acting as  
 15 Commissioner, certify that on this date,  
 16 as provided by the Alabama Rules of Civil  
 17 Procedure and the foregoing stipulation  
 18 of counsel, there came before me at the  
 19 offices of Campbell & Hopkins, 1302 Noble  
 20 Street, Suite 3-H, Lyric Square Building,  
 21 Anniston, Alabama, beginning at  
 22 9:15 a.m., BRANDT AYERS, witness in the  
 23 above cause, for oral examination,

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1 whereupon the following proceedings were  
 2 had:  
 3  
 4 THE COURT REPORTER: Usual  
 5 stipulations?  
 6 MS. McGOWAN: Yes.  
 7 MR. AYERS: Yes.  
 8  
 9  
 10 BRANDT AYERS,  
 11 being first duly sworn, was examined and  
 12 testified as follows:  
 13  
 14 EXAMINATION BY MS. McGOWAN:  
 15 Q. Would you state your name for  
 16 the record, please, sir?  
 17 A. Harry Brandt Ayers.  
 18 Q. Mr. Ayers, do you go by  
 19 Brandy?  
 20 A. Unfortunately, yes.  
 21 Q. Do you mind if I call you  
 22 that?  
 23 A. No.

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1 (Whereupon, Plaintiff's Exhibit  
 2 One was marked for identification and  
 3 same is attached hereto.)  
 4  
 5 Q. Okay. Let me show you what I  
 6 have marked as Exhibit Number One, which  
 7 is your deposition notice. Have you seen  
 8 this before today?  
 9 A. No, I don't think so.  
 10 Q. It asks you to bring some  
 11 documents with you that you have utilized  
 12 or reviewed to prepare for this  
 13 deposition. Have you looked at any  
 14 documents to prepare for your deposition  
 15 testimony?  
 16 A. Yeah. I saw some that he  
 17 brought.  
 18 Q. Okay. Do you remember what  
 19 documents you reviewed?  
 20 A. Yes.  
 21 Q. Can you tell me those?  
 22 A. A memorandum that I wrote to  
 23 Ed Fowler and I think a response to his

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1 response.  
 2 Q. Were those E-mails?  
 3 A. Yes.  
 4 Q. Anything else?  
 5 A. Not that I recall.  
 6 Q. Are those the only documents  
 7 you reviewed?  
 8 A. That's the only thing that  
 9 comes to mind right now.  
 10 Q. If you remember anything  
 11 else, will you let me know?  
 12 A. Okay. It will pop out.  
 13 Q. Have you ever given your  
 14 deposition testimony before today?  
 15 A. I got deposed by Donald  
 16 Stewart. And so I imagine that --  
 17 Q. That counts.  
 18 A. -- qualifies me for the  
 19 Purple Heart.  
 20 Q. What kind of case was that?  
 21 A. He sued us for libel on the  
 22 basis of a story that we had gotten from  
 23 court records.

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1 **Q. So you gave your testimony in**  
 2 **that case?**  
 3 A. Yes.  
 4 **Q. So you understand you need to**  
 5 **give a verbal response so the court**  
 6 **reporter can make a record and take down**  
 7 **what you say and what I say.**  
 8 A. Yes.  
 9 **Q. And if the answer is yes or**  
 10 **no, you need to say yes or no so she can**  
 11 **make a record.**  
 12 A. Okay. All right. Surely.  
 13 **Q. Can you give me your address,**  
 14 **please, sir?**  
 15 A. Are you ready for this?  
 16 **Q. Yes, sir.**  
 17 A. Number 1 Booger Hollow.  
 18 **Q. All right. And it's spelled**  
 19 **just like that, I assume.**  
 20 A. B-o-o-g-e-r.  
 21 **Q. And where is this located?**  
 22 A. It's in Anniston.  
 23 **Q. And the zip code?**

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1 A. 36207. We are Number 1. I  
 2 see you have got it, the first Booger.  
 3 **Q. And where are you employed?**  
 4 A. At The Anniston Star.  
 5 **Q. What position?**  
 6 A. Chairman of Consolidated  
 7 Publishing and publisher of The Star.  
 8 **Q. The Star is one of the papers**  
 9 **that Consolidated operates?**  
 10 A. Yes.  
 11 **Q. If at any point, you don't**  
 12 **understand my questions, will you ask me**  
 13 **to repeat or rephrase the question?**  
 14 A. Of course.  
 15 **Q. Sometimes I tend to look down**  
 16 **and mumble. So if you don't hear me, let**  
 17 **me know. Okay?**  
 18 A. Okay.  
 19 **Q. Can we have the agreement, if**  
 20 **you don't ask me to repeat or rephrase**  
 21 **the question, you have heard my question,**  
 22 **you understand my question and you are**  
 23 **giving me the best possible answer to**

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1 **that question?**  
 2 A. I understand.  
 3 **Q. Give me your educational**  
 4 **background starting from high school and**  
 5 **going forward.**  
 6 A. Junior high here.  
 7 **Q. In Anniston? When you say**  
 8 **here, you are talking about Anniston,**  
 9 **Alabama?**  
 10 A. Yes.  
 11 **Q. Then prep school in Danbury,**  
 12 **Connecticut, the Wooster School. I**  
 13 **graduated from the University of Alabama.**  
 14 **Q. What year?**  
 15 A. In '59.  
 16 **Q. What was your degree?**  
 17 A. BA. I was a Nieman Fellow at  
 18 Harvard University in '67, '68, a Gannet  
 19 Fellow, Senior Fellow, at Columbia  
 20 University in '89, '90. And that about  
 21 did it.  
 22 **Q. In any of your schools or**  
 23 **seminars or universities or continuing**

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1 **education classes, have you had any**  
 2 **training on discrimination laws?**  
 3 A. No.  
 4 **Q. Have you had any training on**  
 5 **employment laws?**  
 6 A. No.  
 7 **Q. Any training or classes or**  
 8 **seminars on the Family and Medical Leave**  
 9 **Act?**  
 10 A. No.  
 11 **Q. All right. Have you ever had**  
 12 **any training or continuing education or**  
 13 **school classes on sexual harassment?**  
 14 A. No.  
 15 **Q. Have you offered any training**  
 16 **for your employees of Consolidated on**  
 17 **sexual harassment?**  
 18 A. No.  
 19 **Q. Have you offered any training**  
 20 **for your employees of Consolidated on the**  
 21 **Family Medical Leave Act?**  
 22 A. No.  
 23 **Q. Have you offered any training**

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1 **for your employees of Consolidated – and**  
 2 **when I say Consolidated, I mean all of**  
 3 **the papers or all of the employees of**  
 4 **Consolidated on discrimination laws.**  
 5 A. No.  
 6 **Q. Did you have any involvement**  
 7 **in developing the employee handbook?**  
 8 A. The slightest.  
 9 **Q. What was your involvement?**  
 10 A. Just looking it over.  
 11 **Q. Who was responsible for**  
 12 **drafting the employee handbook?**  
 13 A. Probably multiple people. I  
 14 think Phil was the principal initiator.  
 15 **Q. Now, you and Phil are the**  
 16 **primary stockholders of Consolidated?**  
 17 A. Well, actually my sister and  
 18 I are the primary stockholders.  
 19 **Q. And Phil is married to your**  
 20 **sister.**  
 21 A. That's right.  
 22 **Q. And your sister's name?**  
 23 A. Elise.

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1 **Q. Can you spell that?**  
 2 A. E-l-i-s-e.  
 3 **Q. Sanguinetti?**  
 4 A. Elise Ayers Sanguinetti,  
 5 uh-huh (indicating yes).  
 6 **Q. And throughout the deposition**  
 7 **I may ask you to spell names for the**  
 8 **record so the court reporter gets them**  
 9 **correct.**  
 10 A. Of course. That's very good  
 11 Journalism 101 training.  
 12 **Q. Let's go through your history**  
 13 **with The Star, The Anniston Star. Did**  
 14 **you start out as the chairman, or did you**  
 15 **work your way up?**  
 16 A. I started out as a cub  
 17 reporter. Then after graduation, I went  
 18 off to --  
 19 **Q. Graduation from?**  
 20 A. From the University of  
 21 Alabama.  
 22 **Q. Okay.**  
 23 A. I went off to work for The

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1 Star for a while. I covered my first  
 2 murder and then went off to Raleigh where  
 3 I worked for the Raleigh Times as a  
 4 political writer.  
 5 **Q. Does The Anniston Star or**  
 6 **Consolidated have any ownership interest**  
 7 **in the Raleigh paper?**  
 8 A. No, but it's a family paper.  
 9 **Q. So friends with the family?**  
 10 A. Yeah  
 11 **Q. And you were –**  
 12 A. The Daniels family, and at  
 13 that time owned the Raleigh Times and the  
 14 Raleigh News and Observer. It was an  
 15 interesting period. The two governors  
 16 were Luther Hodges and Terry Sanford.  
 17 And they set kind of a model of southern  
 18 moderation in the State House. And so it  
 19 was a useful time for a young man, a  
 20 young journalist, to see how people can  
 21 do it better.  
 22 **Q. And this was in North**  
 23 **Carolina.**

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1 A. Yeah.  
 2 **Q. What year was this?**  
 3 A. This was '60 to '62.  
 4 **Q. And you were the political**  
 5 **reporter?**  
 6 A. I was a political writer.  
 7 **Q. A political reporter.**  
 8 A. Yeah, a political writer.  
 9 And then I went to Washington for the  
 10 News and Observer and a News Bureau  
 11 serving about thirty southeastern and  
 12 southwestern newspapers and covered the  
 13 justice department among other beats. I  
 14 covered Congress for the North Carolina  
 15 papers, two North Carolina papers and for  
 16 The Star.  
 17 **Q. How long were you in D.C.?**  
 18 A. Just a couple of years.  
 19 **Q. That would be about '64 or**  
 20 **'65?**  
 21 A. Yeah, to '64. And my dad was  
 22 beginning to have several accidents, and  
 23 I was called home.

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1 **Q. And that would have been in**  
 2 **'64?**  
 3 A. Yes. One week I was having  
 4 lunch with senators and the White House  
 5 aides at the Sans Souci. And the next  
 6 week, we had just bought the Piedmont  
 7 Journal, and I was having lunch at the  
 8 Little Jim Cafe.  
 9 **Q. Quite a change. Welcome back**  
 10 **to Alabama.**  
 11 A. Crash. It's good to have  
 12 that scope of experience.  
 13 **Q. That it is. Have you**  
 14 **remained in Alabama since '64?**  
 15 A. Except for the Nieman year  
 16 and the Gannet year.  
 17 **Q. When you were doing your two**  
 18 **fellowships, were you still working for**  
 19 **The Star, or did you just dip back?**  
 20 A. When I did the Gannet  
 21 Fellowship, I wrote a weekly column for  
 22 The Star and attended Board meetings  
 23 during vacations and things of that

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1 nature. The Nieman year was just devoted  
 2 to Cambridge and that wonderful banquet  
 3 that they just throw open to you. It's  
 4 just eat what you like.  
 5 **Q. What were you actually**  
 6 **studying that year?**  
 7 A. Well, I went to -- my course  
 8 of study in my application to get a  
 9 Nieman Fellowship, it was the  
 10 Consequences of Extremism in American  
 11 Political Life. You remember George  
 12 Wallace was the leading moderate in  
 13 Alabama in those days.  
 14 **Q. Yes.**  
 15 A. And I took a professor of  
 16 constitutional history to lunch to ask  
 17 him to help me with my course of study.  
 18 And then when I said it's the  
 19 Consequences of Extremism in American  
 20 Life, he said you have only got half the  
 21 question.  
 22 And I was stumped. He said  
 23 what you need to study is The Values and

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1 Consequences of Extremism in American  
 2 Life. Shay's Rebellion, which probably  
 3 has a lot to do with the Continental  
 4 Congress and the Constitution. That was  
 5 extreme. The Civil Rights Movement was  
 6 not a tea party.  
 7 **Q. No.**  
 8 A. It was extreme, out of the  
 9 norm. And so it gave me a whole new  
 10 prospective. I think I probably  
 11 understood George Wallace's appeal better  
 12 after going to Harvard.  
 13 **Q. What year was this? What**  
 14 **year were you at Harvard?**  
 15 A. That was basically when I did  
 16 it.  
 17 **Q. I know, but what year was**  
 18 **this? I'm sorry.**  
 19 A. Oh, I'm sorry. It was '67,  
 20 '68. I also learned about the Vietnam  
 21 War.  
 22 **Q. Right. Kind of like the war**  
 23 **we are in now.**

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1 A. Yeah, a mistake.  
 2 **Q. Exactly. Let's go through**  
 3 **the organizational structure of**  
 4 **Consolidated and The Star. And I am**  
 5 **going to focus you on a date.**  
 6 A. Okay. I hope you are getting  
 7 a sense of how this operation really  
 8 works.  
 9 **Q. Is The Consolidated really**  
 10 **just The Star or The Consolidated runs**  
 11 **the other papers but it's housed at The**  
 12 **Star? Explain how that interacts.**  
 13 A. It has been, in effect,  
 14 headquarters and Camp Swampy.  
 15 **Q. All right.**  
 16 A. And we are now trying to pull  
 17 everybody together and remind everybody  
 18 that we all work for the same  
 19 corporation. And it's hard to do that  
 20 because we have been distant. And so we  
 21 pretty much let everybody, you know,  
 22 operate under their own management. I  
 23 don't tell the publisher of the Daily



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1 Home who to endorse in a political  
 2 campaign. I would be shocked if she  
 3 didn't endorse the right one, but --  
 4 **Q. Now, you might not want to**  
 5 **say that one on the record.**  
 6 A. But at any rate, we have been  
 7 sort of -- it is not a tight management  
 8 structure, neither within The Star nor  
 9 Consolidated.  
 10 **Q. What are the papers under**  
 11 **Consolidated? I know we have got The**  
 12 **Anniston Star.**  
 13 A. Uh-huh (indicating yes). We  
 14 have got the Daily Home.  
 15 **Q. Which is Talladega?**  
 16 A. Talladega.  
 17 **Q. Okay.**  
 18 A. That's a daily paper. We  
 19 have two dailies.  
 20 **Q. And The Anniston Star is a**  
 21 **daily paper, correct?**  
 22 A. Yes, a very distinguished  
 23 daily paper.

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1 **Q. Okay. Well, I'm an NPR**  
 2 **listener.**  
 3 A. Well, I used to do  
 4 commentaries for NPR.  
 5 **Q. I don't read our local paper.**  
 6 A. It's gotten better since my  
 7 time.  
 8 MS. MCGOWAN: This is off the  
 9 record.  
 10 (Whereupon, a discussion was  
 11 held off the record.)  
 12  
 13 **Q. So you have the Daily Home**  
 14 **and The Anniston Star. And they both are**  
 15 **daily papers.**  
 16 A. Right.  
 17 **Q. Are there any other daily**  
 18 **papers?**  
 19 A. No.  
 20 **Q. What are the other papers?**  
 21 A. We have the Cleburne News.  
 22 **Q. Is that weekly or biweekly?**  
 23 A. Weekly. In Heflin. We have

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1 the Piedmont Journal, which I edited when  
 2 I came back from Washington.  
 3 **Q. Is that a weekly paper?**  
 4 A. That's weekly.  
 5 **Q. What else?**  
 6 A. The Jacksonville News.  
 7 **Q. Is that a weekly?**  
 8 A. Weekly. And then the  
 9 St. Clair Times, which is a free  
 10 distribution weekly that goes to every  
 11 household in the area. We also publish  
 12 Long Leaf, which is an up-scale magazine  
 13 with a brilliant but unpaid editor called  
 14 Josephine Ayers.  
 15 **Q. And is that a monthly**  
 16 **publication, weekly publication?**  
 17 A. It's quarterly now. We hope  
 18 it will be monthly at some point.  
 19 **Q. Okay. Any other**  
 20 **publications?**  
 21 A. Well, there is some -- the  
 22 marketing side has some free distribution  
 23 things for different areas.

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1 **Q. Like The Star Homes?**  
 2 A, **Oh, Star Homes, that's big,**  
 3 **yeah.**  
 4 **Q. The Marketplace?**  
 5 A. (Witness nods head  
 6 affirmatively.)  
 7 **Q. All right. Back in 2004, the**  
 8 **January time frame of 2004, what was the**  
 9 **organizational structure of The Star? If**  
 10 **you can just walk me down the chain of**  
 11 **command from top to bottom.**  
 12 A. 2004, it would be chairman,  
 13 me; president, Phil; vice-president, Ed  
 14 Fowler; advertising director -- was that  
 15 the title?  
 16 **Q. I think so. Was there a**  
 17 **marketing director?**  
 18 A. Was it marketing director?  
 19 MS. RUTHERFORD: (Nods head  
 20 affirmatively.)  
 21 A. Okay. And then advertising  
 22 director.  
 23 **Q. And who was that?**

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1 A. That was Trish.  
 2 **Q. Who was marketing director?**  
 3 A. That was --  
 4 **Q. Ken Warren?**  
 5 A. Ken Warren, yeah.  
 6 **Q. Was it advertising manager?**  
 7 A. I think --  
 8 MR. JIM AYERS: Are you  
 9 talking about was Trish advertising --  
 10 MS. MCGOWAN: Manager.  
 11 MR. JIM AYERS: -- manager?  
 12 And Ken was advertising director?  
 13 MS. MCGOWAN: Yes.  
 14 A. Well --  
 15 **Q. Did Ken --**  
 16 A. Ken had a bigger title --  
 17 **Q. Than Trish.**  
 18 A. -- than Trish.  
 19 **Q. And Trish reported to Ken.**  
 20 A. Yeah.  
 21 **Q. Okay. And this was in the ad**  
 22 **department.**  
 23 A. 2004. Now, that's before

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1 Robert came.  
 2 **Q. Correct.**  
 3 A. Yeah, okay.  
 4 **Q. When did Robert come; do you**  
 5 **know? Was that '05, June of '05? Is**  
 6 **that when Robert came?**  
 7 A. Well, he came earlier, but he  
 8 went sort of on an executive training  
 9 tour. He started out in the newsroom and  
 10 did circulation and advertising. And he  
 11 impressed everybody. He would do the dog  
 12 work and stay later than anybody.  
 13 And so everybody said, you  
 14 know, don't let him leave. Can we keep  
 15 him. And that really indicated that he  
 16 was a sharp, young man. He married my  
 17 daughter, which also was in his favor.  
 18 And so we made him assistant  
 19 vice-president for operations under Ed.  
 20 And I think that was in 2005.  
 21 **Q. Who was responsible for the**  
 22 **daily operations in 2004?**  
 23 A. In terms of operations, I

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1 would say that Ed was the COO.  
 2 **Q. What were Ken Warren's duties**  
 3 **in '04 as advertising director or**  
 4 **marketing director, whatever the title**  
 5 **was?**  
 6 A. I'm the newspaper man.  
 7 **Q. Okay. So you were just**  
 8 **over --**  
 9 A. You know, I am worrying about  
 10 foreign policy and who is going to be the  
 11 next president of the United States. And  
 12 that's --  
 13 **Q. That's where you take your**  
 14 **focus.**  
 15 A. Yeah, right.  
 16 **Q. Who is responsible for**  
 17 **overseeing the employees?**  
 18 A. You know, Ken was always kind  
 19 of a mystery to me. In the old office,  
 20 my office had this mischievous wall. One  
 21 of the walls of the office would actually  
 22 open like an accordion. And that was  
 23 into the conference room. And the

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1 advertising staff would have a weekly  
 2 conference. And all these parade of  
 3 ladies, including Sharon, was very  
 4 pleasant to see.  
 5 And they would all go in.  
 6 And I could hear just everything that was  
 7 going on. And year after year, week  
 8 after week, year after year, the voice I  
 9 heard running the show was Trish. And I  
 10 think I remember seeing Ken there once or  
 11 twice. But the person who was really  
 12 running the show as it came to me through  
 13 the cracks in the wall --  
 14 **Q. Did you ever go do any**  
 15 **investigation to see who was really --**  
 16 **what was going on?**  
 17 A. No, no. In fact, at that  
 18 point, we had a really bifurcated  
 19 responsibility. I was editor and  
 20 publisher, and Phil was president.  
 21 **Q. So Phil was in charge of that**  
 22 **area.**  
 23 A. Yeah, right.

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1 **Q. And you were more concerned**  
 2 **with the publishing and the articles and**  
 3 **the journalism aspect of the paper.**  
 4 A. The product.  
 5 **Q. The product.**  
 6 A. Yeah.  
 7 **Q. Was it your decision on what**  
 8 **was run in the paper --**  
 9 A. Yes.  
 10 **Q. -- like feature articles or**  
 11 **front page articles?**  
 12 A. Well, you know, not every  
 13 one, but it was -- I gave a sense of  
 14 direction and I hope set certain  
 15 standards of fairness and accuracy and  
 16 set the editorial page in direction.  
 17 This is not a model that would be copied  
 18 at the Harvard B School. The only reason  
 19 it could work is because Phil and I like  
 20 each other. And we stayed out of each  
 21 other's hair.  
 22 **Q. Did you leave the handling of**  
 23 **the employment matters to Phil and you**

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1 **focused on the news matters?**  
 2 A. Yeah.  
 3 **Q. Would that be a fair --**  
 4 A. Yeah.  
 5 **Q. -- synopsis of how it worked?**  
 6 A. Yeah. Crazy. Nobody else  
 7 does it that way.  
 8 MR. JIM AYERS: When you were  
 9 talking about the old office, you are  
 10 talking about before we moved to the new  
 11 building.  
 12 THE WITNESS: Oh, yeah.  
 13 MR. JIM AYERS: Just so we  
 14 know the time frame.  
 15 THE WITNESS: Yeah. It's  
 16 still roughly that way.  
 17 **Q. Has it changed any since you**  
 18 **moved to the new building? Are you still**  
 19 **focusing on the newspaper end and letting**  
 20 **Phil focus on the employment issues?**  
 21 A. Yes. Yes. I have crossed  
 22 the line only in this sense. Phil had a  
 23 terrible bleeding ulcer. And we found

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1 him on the floor in his bathroom. Elise,  
 2 my sister, called. And I thought that he  
 3 had had a stroke or something. But it  
 4 was kind of a wake-up call.  
 5 Two things simultaneously  
 6 happened. Kind of a perfect financial  
 7 storm. The interest rates on our loan  
 8 for the new building sky-rocketed. The  
 9 period in which we were only paying  
 10 interest ended. And we were paying  
 11 principal.  
 12 We are sort of a forgiving  
 13 family corporation. And we have got  
 14 folks drawing salaries who don't do a  
 15 whole lot. But they have been there for  
 16 many, many, many, many years. And we are  
 17 not the kind of corporation that would do  
 18 the proper thing in the B school sense.  
 19 And that is, if you look like you are  
 20 losing money, you get rid of people. And  
 21 the bottom line suddenly looks a lot  
 22 better.  
 23 **Q. What year is this?**

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1 A. This was last year.  
 2 **Q. 2006?**  
 3 A. Yeah, 2005 and 6. 2006 is  
 4 when Phil had that terrible bleeding  
 5 ulcer. And we had lost about a million  
 6 dollars. And I determined that the  
 7 advertising staff was not getting the job  
 8 done. I mean, we were not meeting our  
 9 numbers. We, for a variety of reasons,  
 10 we were losing money. And there was also  
 11 the specter of Phil's health, which was  
 12 contingent.  
 13 And I made the decision that  
 14 Ed -- and discussed it with Phil, and he  
 15 agreed, that we need to have a real  
 16 grownup who has a very strong marketing  
 17 degree, who is friendly, agreeable, easy  
 18 to get along with but has a lot of  
 19 management experience.  
 20 **Q. And this is Mr. Downey?**  
 21 A. Yeah.  
 22 **Q. And when was he brought in?**  
 23 A. He's been there about five



## FREEDOM COURT REPORTING

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1 months, I think.  
 2 **Q. So sometime in 2006.**  
 3 A. Yeah. And I guess my job  
 4 description is, if I have to make a  
 5 personnel decision, it's a whopper. I  
 6 mean, it's an executive editor who has to  
 7 be eased out or a new vice-president has  
 8 to come in and really help turn the paper  
 9 around.  
 10 **Q. What is Mr. Downey's job?**  
 11 A. He is vice-president of  
 12 marketing and sales. Ed used to be  
 13 responsible for both operations and  
 14 sales. So it makes Ed's job a lot  
 15 simpler and clearer. And happily it's  
 16 showing results.  
 17 **Q. What is Mr. Downey's first**  
 18 **name?**  
 19 A. Bill. William.  
 20 **Q. What was his background?**  
 21 **Mr. Downey's.**  
 22 A. He worked in banking for a  
 23 while. Then he was in marketing. He was

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1 advertising director of the Greensboro  
 2 News in North Carolina. And Pat worked  
 3 for him in Greensboro.  
 4 **Q. Pat?**  
 5 A. Pat Taylor. And then Pat  
 6 left us to be general manager in Winston  
 7 Salem. And Bill worked for him as  
 8 advertising manager. And then there was  
 9 a corporate -- one of those hiccups of a  
 10 big corporation. And they did away with  
 11 the general managers in all of their  
 12 papers. And Bill left. And he had a  
 13 sort of general sales, marketing  
 14 responsibility for a group of newspapers  
 15 based in Paducah.  
 16 **Q. Kentucky?**  
 17 A. Yeah. They reach all the way  
 18 to Carrollton. It's a growing concern.  
 19 And a head hunter found him. And he was  
 20 tired of working for corporations that --  
 21 that life is so contingent, you just  
 22 don't know from one day to the next  
 23 whether you are going to have a job.

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1 **Q. So you brought him from**  
 2 **outside.**  
 3 A. Yeah.  
 4 **Q. He wasn't from one of your**  
 5 **inside papers.**  
 6 A. No.  
 7 **Q. Do you know what his**  
 8 **educational background is?**  
 9 A. He has a master's. I think  
 10 he was an undergraduate at Harvard. And  
 11 I forgot where he got his master's. I'm  
 12 not sure about his -- I have forgotten.  
 13 **Q. And he seems to be doing a**  
 14 **good job for you?**  
 15 A. Yeah. People like him. And  
 16 I feel like I have got two good wings  
 17 now.  
 18 **Q. Are you aware that Ed Fowler**  
 19 **doesn't have a college degree?**  
 20 A. No, I didn't know that. But  
 21 there is a lot of that going around. You  
 22 heard about the Dean at MIT, didn't you?  
 23 **Q. Do you know how much money**

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1 **was lost last year in sales on the**  
 2 **accounts that Sharon Rutherford had**  
 3 **handled for you?**  
 4 A. No.  
 5 **Q. Are you aware that there was**  
 6 **a substantial loss on her accounts?**  
 7 MR. JIM AYERS: I am going to  
 8 object to the characterization of  
 9 substantial. It's subjective.  
 10 **Q. Are you aware that sales went**  
 11 **down on her accounts last year?**  
 12 A. I just see a column of  
 13 figures. And I don't put a face to it.  
 14 I know that Sharon did a hell of a good  
 15 job.  
 16 **Q. Are you aware that Sharon was**  
 17 **selling about one point three million for**  
 18 **you a year?**  
 19 A. That's good.  
 20 **Q. Do you know how much the**  
 21 **sales went down last year for '06 for the**  
 22 **ad department, her department, former**  
 23 **department?**

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1 A. Well --

2 **Q. You said the numbers were**

3 **down. Do you know how much they were**

4 **down?**

5 A. No. No, not exactly.

6 **Q. Do you have a ballpark**

7 **estimate?**

8 A. Huh?

9 **Q. Do you have a ballpark**

10 **estimate?**

11 A. You can't trust a newspaper

12 man's ballpark estimates. He's got to

13 look it up.

14 **Q. All right. But enough to go**

15 **hire somebody and bring him in.**

16 A. That was -- yeah.

17 **Q. Now, you said if you get**

18 **involved in making a personnel decision,**

19 **it's a big one, such as hiring somebody**

20 **like Mr. Downey. What other personnel**

21 **decisions have you been involved in?**

22 A. The elevation of the right

23 person to be editor of the paper, which

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1 meant that the then editorial -- the then

2 news chief would be disappointed. We

3 offered him something else within the

4 corporation, but as expected, he shortly

5 left.

6 **Q. When was that?**

7 A. That was in 2005.

8 **Q. Any other employment**

9 **personnel decision in which you have been**

10 **involved?**

11 A. Not recently.

12 **Q. In the last five years?**

13 A. No.

14 **Q. Other than you and Phil, how**

15 **are Board members selected to the Board**

16 **of Directors?**

17 A. Either family or a trusted,

18 long-time employee. The recent additions

19 to the Board that I suggested, Bill

20 Downey was brought on. And Bob Davis,

21 the editor was brought on, and the

22 publisher of The Daily Home was brought

23 on.

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1 **Q. And who is the publisher of**

2 **The Daily Home?**

3 A. Carol Pappas, P-a-p-p-a-s.

4 That was to bring some young blood,

5 younger blood onto the Board to enhance

6 communication across the two sort of

7 Church and State separation that there is

8 in the newspapers between the business

9 side and the editorial side, but who need

10 to talk to each other.

11 **Q. All right. Were you involved**

12 **in hiring Sharon Rutherford when she came**

13 **to work for The Star?**

14 A. No.

15 **Q. Did you know Sharon before**

16 **she came to work for The Star?**

17 A. I don't think so, did I?

18 MS. RUTHERFORD: No.

19 A. No.

20 **Q. And you have to answer. She**

21 **can't answer for you.**

22 A. She's helping me.

23 **Q. I know, but technically she's**

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1 **not supposed to be.**

2 A. All right.

3 **Q. Did you ever evaluate Sharon**

4 **Rutherford's employment with The Star?**

5 A. No.

6 **Q. Did you ever receive any**

7 **complaints from anyone about Sharon**

8 **Rutherford's job performance?**

9 A. No.

10 **Q. Did you ever receive any**

11 **compliments from anyone about Sharon**

12 **Rutherford's job performance?**

13 A. I don't remember. I don't --

14 not anything spectacular.

15 **Q. Did anyone ever tell you that**

16 **Sharon Rutherford was your top**

17 **salesperson in the advertising**

18 **department?**

19 A. I knew that.

20 **Q. Okay. How did you know that?**

21 A. People told me.

22 **Q. Do you know that Sharon was**

23 **instrumental in getting The Star Homes up**

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1 **and running and that was part of her job**  
 2 **duties?**  
 3 A. Yes. I was aware of that.  
 4 **Q. And how did you learn that?**  
 5 A. Phil told me. Ed told me.  
 6 One of the officers.  
 7 **Q. Now, The Star Home was a new**  
 8 **publication, correct?**  
 9 A. Uh-huh (indicating yes).  
 10 **Q. Or expanded.**  
 11 A. Yeah, expanded is a better  
 12 term.  
 13 **Q. It had just been an insert;**  
 14 **is that right?**  
 15 A. Yeah.  
 16 **Q. And tell me how it expanded.**  
 17 **Explain what happened for the record.**  
 18 A. It had a glossy cover and it  
 19 was printed wherein --  
 20 **Q. So it became like a magazine**  
 21 **instead of just an insertion?**  
 22 A. Yeah.  
 23 **Q. How were they distributed?**

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1 A. To a lot of retail  
 2 establishments.  
 3 **Q. Were there charges for it, or**  
 4 **was it just like a free --**  
 5 A. No. It was free.  
 6 **Q. Okay. So the ad sales in it**  
 7 **were important to cover the cost of it.**  
 8 A. Absolutely.  
 9 **Q. Do you know how much it cost**  
 10 **to produce it?**  
 11 A. No. You wonder what I do  
 12 around there I guess.  
 13 **Q. Well, I think we have already**  
 14 **established that you let Phil worry about**  
 15 **the numbers and you worry about the**  
 16 **article content.**  
 17 A. Yeah.  
 18 **Q. That's fine. So did anyone**  
 19 **ever come to you and complain about**  
 20 **anything they thought Sharon was or**  
 21 **wasn't doing on her job?**  
 22 A. No.  
 23

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1 (Whereupon, Plaintiff's Exhibit  
 2 Two was marked for identification and  
 3 same is attached hereto.)  
 4 **Q. Let me show you what I have**  
 5 **marked as Exhibit Two to your deposition**  
 6 **and ask you, do you recall getting this**  
 7 **document?**  
 8 A. (Witness reviewing  
 9 document.)  
 10 **Q. Have you had a chance now to**  
 11 **read over this Exhibit Number Two?**  
 12 A. Uh-huh (indicating yes).  
 13 **Q. It's a June 5, 2003 letter to**  
 14 **you signed dedicated employee. Do you**  
 15 **recall --**  
 16 A. It's to my residence.  
 17 **Q. That's correct, it is. Do**  
 18 **you recall getting this document?**  
 19 A. Yes.  
 20 **Q. All right. Do you know who**  
 21 **sent you this document?**  
 22 A. No.  
 23 **Q. There is some handwriting on**

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1 **the upper right-hand corner that says, no**  
 2 **indication this is from Rutherford.**  
 3 A. I don't know who did that.  
 4 **Q. You don't recognize that**  
 5 **writing?**  
 6 A. No.  
 7 **Q. What did you do when you got**  
 8 **this letter?**  
 9 A. I had received other unsigned  
 10 correspondence. And I basically did what  
 11 I always do with unsigned correspondence,  
 12 I don't credit correspondence that  
 13 comes -- it just didn't strike me as  
 14 being credible. There was no  
 15 specificity. It seemed to strain to make  
 16 a point about somebody. And I just don't  
 17 give much credit to unsigned  
 18 correspondence.  
 19 **Q. Did you do any investigation**  
 20 **to see if anything in it was true?**  
 21 A. I think I may have said,  
 22 Phil, did you get any correspondence like  
 23 this. I don't -- no, I did not, you

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1 know, launch any sort of investigation.  
 2 **Q. What other kind of**  
 3 **correspondence had you been getting along**  
 4 **this line? You said you had received**  
 5 **some other correspondence.**  
 6 A. Uh-huh (indicating yes).  
 7 **Q. Describe that.**  
 8 A. It was similar. And it was  
 9 having to do with the relationship  
 10 between Ed and Trish.  
 11 **Q. And at this point, Ed and**  
 12 **Trish were still married to other people,**  
 13 **correct?**  
 14 A. I haven't fixed that time  
 15 line in my head, but, you know, it may  
 16 be.  
 17 **Q. At some point, did you**  
 18 **approach Ed and ask him whether he was**  
 19 **having an affair with Trish?**  
 20 A. I did.  
 21 **Q. And what did he tell you?**  
 22 A. He hesitated, and then he  
 23 said yes.

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1 **Q. At one point did he not admit**  
 2 **it to you and you learned later that it**  
 3 **was true?**  
 4 A. I did not ask him  
 5 specifically. I don't remember the  
 6 occasion. But I remember saying to Ed  
 7 that it's important for me to be able to  
 8 trust you. And it may have been on that  
 9 occasion in which I asked him if what I  
 10 heard was true.  
 11 **Q. And what did he say then?**  
 12 A. He said yes.  
 13 **Q. If Ed testified that the**  
 14 **first time you approached him, he lied to**  
 15 **you about it, would that be a**  
 16 **misunderstanding on his part, or do you**  
 17 **just not recall that?**  
 18 A. Well, I would accept his  
 19 characterization.  
 20 **Q. At some point, did you learn**  
 21 **that Ed hadn't been totally forthcoming**  
 22 **with you about his relationship with --**  
 23 A. That's true.

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1 **Q. And how did you learn that,**  
 2 **that he had not been totally forthcoming**  
 3 **with you about his relationship with**  
 4 **Trish?**  
 5 A. From him.  
 6 **Q. From him. Was it after**  
 7 **receiving a letter such as this?**  
 8 A. I don't know.  
 9 **Q. What did you do with the**  
 10 **other letters you received?**  
 11 A. I think I filed them.  
 12 **Q. Where would you have filed**  
 13 **them?**  
 14 A. I put them in a box, and  
 15 somebody picks them up and puts them  
 16 somewhere.  
 17 **Q. Did you put them in their**  
 18 **personnel files? I mean, is this**  
 19 **something you would maintain in a**  
 20 **personnel file, or do you have a separate**  
 21 **file on anonymous letters?**  
 22 A. Oh, no. I don't think I  
 23 retained anonymous letters.

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1 **Q. Did you give Phil copies of**  
 2 **the letters?**  
 3 A. I may have talked to him  
 4 about it. He sent me copies of some  
 5 things he got and some things he didn't  
 6 send me that he got. I don't know how  
 7 that worked.  
 8 **Q. Did you read, as this letter**  
 9 **suggested, the recent letter sent to**  
 10 **Ms. Flint by a departing employee?**  
 11 A. I didn't see a letter sent to  
 12 Ms. Flint from a departing employee.  
 13 **Q. Do you know what employee**  
 14 **that was that's being referenced?**  
 15 A. I don't.  
 16 **Q. Do you know who left about**  
 17 **this time frame?**  
 18 A. No.  
 19 **Q. Did you go ask anybody in the**  
 20 **news staff how many times they had**  
 21 **witnessed Ed and Trisha switching**  
 22 **vehicles?**  
 23 A. Certainly not.

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1 **Q. Were you concerned that this**  
 2 **affair might be causing problems in the**  
 3 **workplace?**  
 4 A. Let me tell you what my  
 5 concern was when I learned that it was  
 6 true and that it was causing distraction  
 7 in the advertising staff. I called Ed in  
 8 and as I recall, the conversation began  
 9 from Ed, am I fired. And my answer was,  
 10 not yet.  
 11 What was in my mind was, here  
 12 is the chief operating officer of the  
 13 company with an extraordinary array of  
 14 talents. Here is the advertising manager  
 15 of the company. If I fire one, I will  
 16 probably fire both, and I cripple this  
 17 corporation.  
 18 And so I think I told Ed that  
 19 I will write a memorandum about what you  
 20 need to do to repair the situation. The  
 21 judgment of this anonymous author is that  
 22 time would not cure everything. As it  
 23 turns out, time has cured the problems of

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1 the corporation for which I am greatly  
 2 relieved. I'm sorry about Sharon's --  
 3 **Q. Well, Ms. Fowler no longer**  
 4 **works there, does she?**  
 5 A. No.  
 6 **Q. And, in fact, you had to hire**  
 7 **a new person in to run the marketing and**  
 8 **advertising to increase sales, didn't**  
 9 **you?**  
 10 A. Uh-huh (indicating yes).  
 11 **Q. Were you concerned about any**  
 12 **liability that the company might have if**  
 13 **Ed and Trish broke up? He was her boss.**  
 14 **She was a subordinate. Were you**  
 15 **concerned about liability The Star may**  
 16 **have if this affair broke up?**  
 17 MR. AYERS: Object to the  
 18 form. Go ahead if you have an answer.  
 19 A. That never occurred to me.  
 20 **Q. Did you discuss that issue**  
 21 **with Phil?**  
 22 A. It takes a smart lawyer to  
 23 think up something like that.

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1 **Q. Were you aware that Phil was**  
 2 **handing out news articles to some of the**  
 3 **other employees about liability caused**  
 4 **from workplace romances?**  
 5 A. That sounds like him.  
 6 **Q. Did that worry you, the**  
 7 **liability that may be caused from a**  
 8 **workplace romance?**  
 9 A. No, it did not worry me. I  
 10 was not worried. I probably should have  
 11 been.  
 12 **Q. Were you aware that**  
 13 **Ms. Rutherford made an oral complaint to**  
 14 **Phil in August of '03 about the problems**  
 15 **that were being created in the workplace**  
 16 **as a result of this affair?**  
 17 A. I may have learned about that  
 18 later on. I don't recall having any  
 19 Summit meeting about anything of that  
 20 nature.  
 21 **Q. Were these complaints what**  
 22 **prompted you to finally call Ed in and**  
 23 **talk to him?**

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1 MR. JIM AYERS: Which  
 2 complaints were those?  
 3 MS. MCGOWAN: All the  
 4 anonymous complaints and Ms. Rutherford's  
 5 oral complaint to Phil on August the 9th  
 6 of 2003.  
 7 A. There was a gathering storm  
 8 and, you refreshed my memory that I did  
 9 drop by his office and say I hear some  
 10 things. You should know that I hear some  
 11 things.  
 12 **Q. Who is his office?**  
 13 A. Huh?  
 14 **Q. You need to identify his**  
 15 **office. Whose office did you drop by?**  
 16 A. Ed's office.  
 17 **Q. Ed's office.**  
 18 A. And at that point, I guess he  
 19 told me there was nothing to it. And my  
 20 basic posture is sort of the Henry  
 21 Stimson formula. The way to find out if  
 22 you can trust a man is to trust him. So  
 23 at that point, I took him at his word.



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1 But it was a kind of gathering storm.  
 2 Word came, you know, from one person or  
 3 another. And so it reached a point where  
 4 I called Ed in.  
 5 **Q. Do you recall how you learned**  
 6 **that he hadn't been truthful with you the**  
 7 **first time that there really was an**  
 8 **affair? You said there was a storm and a**  
 9 **gathering point. Do you recall what made**  
 10 **you believe it?**  
 11 A. I would say that my wife  
 12 reinforced the impression that this  
 13 really is happening. But it was multiple  
 14 factors. There wasn't, you know, a sort  
 15 of blinding Saw of Tarsus, you know, that  
 16 here is the one trigger that means that  
 17 today I have got to speak to Ed.  
 18 **Q. Did Phil tell you that Sharon**  
 19 **Rutherford had come to him on August the**  
 20 **9th and made an oral complaint?**  
 21 A. Not that I recall.  
 22 **Q. All right.**  
 23

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1 (Whereupon, Plaintiff's  
 2 Exhibits Three, Four and Five were marked  
 3 for identification and same is attached  
 4 hereto.)  
 5  
 6 **Q. Let me show you what I have**  
 7 **marked as Exhibits Three, Four, and Five**  
 8 **to your deposition.**  
 9 MR. JIM AYERS: Can we take a  
 10 quick break?  
 11 MS. McGOWAN: Yes.  
 12  
 13 (Whereupon, a brief recess was  
 14 taken.)  
 15  
 16 **Q. I have shown you what we**  
 17 **have marked as Exhibits Three, Four and**  
 18 **Five to your deposition.**  
 19 A. Yes. And I concluded I was a  
 20 nice boss.  
 21 **Q. All right. Is Exhibit Number**  
 22 **Three the first -- you said you sent a**  
 23 **memo to Ed about this.**

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1 A. Yeah.  
 2 **Q. Was this your memo?**  
 3 A. Yeah.  
 4 **Q. In Exhibit Number Three, you**  
 5 **give him, it appears to be, one, two,**  
 6 **three, four directives you want followed.**  
 7 A. Uh-huh (indicating yes).  
 8 **Q. To accomplish what you think**  
 9 **would be to smooth the -- what did you**  
 10 **want to accomplish? Maybe I will let you**  
 11 **explain that to me.**  
 12 A. To reassure all the  
 13 department heads that there was no  
 14 inflated company wide authority that  
 15 Trish had accumulated because of her  
 16 association with him.  
 17 **Q. Was that one of the**  
 18 **complaints, people were complaining that**  
 19 **she was using her relationship to run**  
 20 **things or get what she wanted and going**  
 21 **around Ken?**  
 22 MR. JIM AYERS: Object to the  
 23 form. Go ahead.

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1 **Q. You can answer.**  
 2 A. I heard that.  
 3 **Q. All right. Did Ken Warren**  
 4 **complain to you?**  
 5 A. No.  
 6 **Q. Do you know where you heard**  
 7 **that? Well, there was a complaint about**  
 8 **it in this letter, Exhibit Two.**  
 9 A. I heard secondhand.  
 10 **Q. All right. Did you recognize**  
 11 **that as one of the complaints being made**  
 12 **in Exhibit Number Two to your deposition?**  
 13 **The last paragraph.**  
 14 A. I didn't focus that much on  
 15 an unsigned letter.  
 16 **Q. Well, when you got this**  
 17 **unsigned letter, it said -- there was no**  
 18 **name, but a dedicated employee. And they**  
 19 **took the time to send it to your home**  
 20 **address. Were you concerned that this**  
 21 **employee was concerned but was scared of**  
 22 **coming forward out of retaliation or some**  
 23 **perceived retaliation?**

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1 A. I don't know. It's hard for  
2 me to imagine that because, you know,  
3 it's such a -- you know, I heard a number  
4 of people say that the hardest thing in  
5 the world to do is to get fired by The  
6 Anniston Star. It's just such a  
7 forgiving, friendly atmosphere. This  
8 obviously had some -- created some  
9 distractions in the advertising  
10 department.  
11 And I had heard that people  
12 thought that because of that, Trish would  
13 be able to sort of roll over other  
14 departments. And so I wanted Ed to speak  
15 to each department head and say look,  
16 things are all the same. And, you know,  
17 don't be concerned about it, come to me  
18 if you have any problems, if you have any  
19 criticism, et cetera.  
20 **Q. In fact, you tell him that**  
21 **Trish is not to be thought of as Deputy**  
22 **Ed in number three.**  
23 A. Yeah.

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1 **Q. What did that mean?**  
2 A. Well, that's exactly what I  
3 was talking about.  
4 **Q. And you had gotten some**  
5 **complaints that people thought that?**  
6 A. I heard secondhand.  
7 **Q. Where did you get your**  
8 **information secondhand?**  
9 A. I don't know. I forgot who  
10 told me.  
11 **Q. Then number four, it says,**  
12 **Trish will sit down with Ken and with**  
13 **every person in the department to listen,**  
14 **really listen, to what they have to say**  
15 **and will attend a seminar on management**  
16 **style. What did you mean by that? Were**  
17 **there complaints about her management**  
18 **style, that she didn't listen?**  
19 A. I think Ed said that, you  
20 know, sometimes -- about Trish -- that  
21 she may be a little abrupt.  
22 **Q. Did you have any complaints**  
23 **that Ed was abrupt and had a temper?**

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1 A. Ed have a temper? I've seen  
2 it once or twice. In the appropriate  
3 occasion, it is a wonderful thing to see.  
4 **Q. But sometimes it's not the**  
5 **appropriate occasion.**  
6 A. Sometimes it's not.  
7 **Q. Did you ever suggest Ed go to**  
8 **any management courses or seminars?**  
9 A. No. No, I never did.  
10 **Q. And why not?**  
11 A. Huh?  
12 **Q. And why not?**  
13 A. Well, he's been to every kind  
14 of management situation that you can have  
15 in our business. And his temperament is  
16 something that I don't think could be  
17 adjusted by a seminar.  
18 **Q. Did you ever follow-up to see**  
19 **if Trisha went to any of these management**  
20 **seminars?**  
21 A. I did not. You know, I know  
22 there was some effort to find the  
23 appropriate place and setting. And then

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1 it just sort of disappeared. And I don't  
2 think I raised it again, pretty much on  
3 the same basis that, you know, if you get  
4 that far in life, your character and your  
5 personality and temperament are pretty  
6 well set. And you develop the  
7 self-discipline to deal with it or you  
8 don't and bear the consequences.  
9 **Q. Were you aware that the whole**  
10 **advertising staff went to Phil**  
11 **Sanguinetti in March of '05 complaining**  
12 **that Trisha doesn't listen, doesn't**  
13 **manage correctly, her management style is**  
14 **bad?**  
15 A. I have not heard that until  
16 this moment.  
17 **Q. Do you think maybe if she**  
18 **would have attended some of these classes**  
19 **like you suggested, maybe that could have**  
20 **prevented some of the heartache being**  
21 **caused?**  
22 MR. JIM AYERS: Object to the  
23 form.

15 (Pages 57 to 60)

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1 **Q. Or what the advertising staff**  
 2 **perceived as problems?**  
 3 MR. JIM AYERS: Object to the  
 4 form. Speculative.  
 5 A. Well, you know, my previous  
 6 answer is I think the appropriate one.  
 7 **Q. Which is?**  
 8 A. Which is that I don't think  
 9 that a seminar would have changed her  
 10 style.  
 11 **Q. All right. Number one on**  
 12 **your directive says that there will be a**  
 13 **rigorous respect for the hierarchies and**  
 14 **that Trish will clear everything with Ken**  
 15 **before she comes to Ed.**  
 16 A. Right.  
 17 **Q. Did you follow through to see**  
 18 **if she was doing that?**  
 19 A. No.  
 20 **Q. All right. Are you aware**  
 21 **that less than approximately thirty-seven**  
 22 **days later that Trisha wrote up**  
 23 **Ms. Rutherford by going to Ed first and**

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1 **not clearing it through Ken?**  
 2 MR. JIM AYERS: Object to the  
 3 form.  
 4 A. No, I am not aware of that.  
 5 **Q. Were you aware that Sharon**  
 6 **Rutherford received a September 30th,**  
 7 **2003 writeup from Trish that she**  
 8 **discussed with Ed but not with Ken?**  
 9 MR. JIM AYERS: Object to the  
 10 form.  
 11 A. No.  
 12 **Q. If you had known that, what**  
 13 **would you have done?**  
 14 A. Well, that's purely  
 15 speculative because that's not my area of  
 16 operation.  
 17 **Q. Well, did you intend for Ed**  
 18 **to follow these four directives set out**  
 19 **in this memo?**  
 20 A. Uh-huh (indicating yes).  
 21 Yes.  
 22 **Q. If you had known he was**  
 23 **ignoring these four directives and not**

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1 **complying with them, what would you have**  
 2 **done?**  
 3 MR. JIM AYERS: Object to the  
 4 form.  
 5 **Q. In September of 2003, if you**  
 6 **had learned that Ed and Trisha were not**  
 7 **following these four directives, what**  
 8 **would you have done?**  
 9 MR. JIM AYERS: Object to the  
 10 form.  
 11 MS. MCGOWAN: You can answer.  
 12 He's just preserving an objection.  
 13 MR. JIM AYERS: And that's  
 14 different from the first question that  
 15 you asked. You asked him a question and  
 16 then you sort of re-asked the question.  
 17 But those two questions are different.  
 18 MS. MCGOWAN: You can answer  
 19 either one. Can you read my last  
 20 question?  
 21  
 22 (Whereupon, the desired portion  
 23 of the proceedings was read back.)

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1  
 2 **Q. In September of 2003, if you**  
 3 **had known that Ed and Trisha were not**  
 4 **following the four directives in your**  
 5 **August 23rd memo to him, what would you**  
 6 **have done?**  
 7 A. I think that Ed did make an  
 8 effort to sit down with the department  
 9 heads and to respect the hierarchy. But  
 10 as I said earlier, it's very difficult to  
 11 have a hierarchy if an element of the  
 12 hierarchy is mysteriously absent.  
 13 **Q. Who was mysteriously absent**  
 14 **in September of '03?**  
 15 A. Ken.  
 16 **Q. And why was that?**  
 17 A. I don't know. I mean, he was  
 18 always sort of a mystery to me.  
 19 **Q. Did you ever go talk to him**  
 20 **to find out --**  
 21 A. He's a nice guy. But, no, I  
 22 never went and talked to him. That's --  
 23 **Q. Were you aware that Phil was**

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1 pleased with his --  
 2 A. That's Phil's responsibility.  
 3 MR. JIM AYERS: Let him  
 4 finish his answer.  
 5 Q. Did you ever talk to Phil  
 6 about him?  
 7 A. No. And Phil, bless his  
 8 heart, never came and talked to me about  
 9 editorials that he disagreed with. And  
 10 he is a Republican.  
 11 Q. Were you aware that Ken was  
 12 there in September of '03? He was not  
 13 out on any kind of medical leave in  
 14 September of '03.  
 15 A. As far as I was concerned,  
 16 Ken was smoke. I mean, I didn't hear  
 17 noise. I didn't see him. I didn't hear  
 18 anything good, bad. Except I heard that  
 19 he was very good at automobile sales.  
 20 Q. And that was one of your  
 21 largest generators of revenue in that  
 22 ad's department, correct?  
 23 A. That's true.

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1 Q. Now, in October of '03, you  
 2 had a meeting with Ms. Rutherford and  
 3 Phil, didn't you?  
 4 A. Uh-huh (indicating yes).  
 5 Q. In fact, she informed you  
 6 that she had been demoted and received  
 7 this writeup in September; is that  
 8 correct?  
 9 A. I don't think that -- I don't  
 10 know of any demotion that anybody  
 11 received.  
 12 Q. Did she tell you that she  
 13 felt she had been demoted?  
 14 A. I know she felt -- she said  
 15 she felt grieved.  
 16 Q. Tell me what you recall being  
 17 discussed in this meeting with Sharon in  
 18 October of '03.  
 19 A. It was sort of a cascade of  
 20 hurt and issues that it was just a blur  
 21 to me.  
 22 Q. Did you make any notes?  
 23 A. No.

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1 Q. Do you recall her complaining  
 2 in this meeting with you that the  
 3 relationship between Trisha and Ed was  
 4 creating a hostile environment in the  
 5 advertising department?  
 6 A. I know that -- I don't know  
 7 whether it was that specific language.  
 8 Very strongly and repeatedly, she  
 9 complained about the relationship, I  
 10 think, maybe even morally.  
 11 Q. And did she tell you that she  
 12 felt like they were discriminating  
 13 against Ken Warren, trying to push him  
 14 out of the way, that Trisha was using the  
 15 relationship to go around Ken?  
 16 A. I don't recall that.  
 17 Q. Is it possible she did, and  
 18 you just don't recall it?  
 19 A. It certainly is, uh-huh  
 20 (indicating yes).  
 21 Q. Did she complain about Ed  
 22 Fowler running free ads on one of her  
 23 accounts?

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1 A. Oh, yes. I do remember that.  
 2 Q. And do you recall Phil making  
 3 a comment that, you know, that is taking  
 4 money from the company?  
 5 A. Uh-huh (indicating yes).  
 6 Q. Did you do anything to  
 7 address that complaint?  
 8 A. No.  
 9 Q. Why not?  
 10 A. Oh, yeah, I think I did. I  
 11 think I did. I think I said later to Ed,  
 12 you know, people are noticing that you  
 13 are kind of taking free ads. And it's  
 14 run long enough. How about just letting  
 15 it die.  
 16 Q. Are you aware that they  
 17 didn't stop until January of '05?  
 18 A. No.  
 19 Q. And this was back in October  
 20 of '03 that she complained?  
 21 A. Is that so?  
 22 Q. Yes, sir.  
 23 A. Well, the guy who is in

## FREEDOM COURT REPORTING

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1 charge of pinching the pennies should  
 2 have pinched that one.  
 3 **Q. Were you concerned that maybe**  
 4 **some of the other advertisers might learn**  
 5 **about it and be upset that this real**  
 6 **estate company was getting free ads?**  
 7 A. This real estate company.  
 8 That was --  
 9 **Q. The ads that were being**  
 10 **run --**  
 11 A. -- Ed's house.  
 12 **Q. Right. But it had a picture**  
 13 **of the agent and her husband that were**  
 14 **selling it and their agency's name on it.**  
 15 A. If I was advertising  
 16 director, that would be a concern to me.  
 17 **Q. Do you know it ran over a**  
 18 **hundred and forty-one times, which would**  
 19 **probably have cost about thirty-two**  
 20 **thousand dollars in sales? Are you aware**  
 21 **of that?**  
 22 A. No.  
 23 **Q. Do you recall anything else**

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1 **that was discussed in this meeting with**  
 2 **Sharon and Phil in October of --**  
 3 A. Well, the substance, as I  
 4 recall, was that Sharon wanted a written  
 5 agreement that she would have a job. And  
 6 that was something that we weren't  
 7 prepared to do. And I sort of protested  
 8 that, Sharon, you know us. You know we  
 9 are not going to let anybody hender you  
 10 or run you out of here. And we have  
 11 known each other for all these years.  
 12 **Q. Was Sharon complaining that**  
 13 **she was scared that she might be**  
 14 **retaliated against by Ed and Trisha for**  
 15 **complaining about the relationship and**  
 16 **felt like she might get fired?**  
 17 A. Well, what I tried to say was  
 18 that, you know, we wouldn't let anything  
 19 of that nature happen.  
 20 **Q. But that was her general**  
 21 **complaint. She was worried about being**  
 22 **retaliated against.**  
 23 A. Evidently so.

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1 **Q. And did you have a**  
 2 **gentleman's handshake with her that you**  
 3 **would protect her? Do you recall**  
 4 **something about a gentleman's handshake?**  
 5 A. Well, that's basically the  
 6 way I concluded it. And I think that we  
 7 pretty much honored it. I don't know  
 8 anything she asked for that she didn't  
 9 get.  
 10 **Q. Were you aware she wasn't**  
 11 **allowed to attend sales meetings?**  
 12 A. No.  
 13 **Q. Were you aware that she**  
 14 **wasn't given the training that the other**  
 15 **sales reps got for the new computer**  
 16 **system coming in that was discussed in**  
 17 **these sales meetings so they would be**  
 18 **ready to go?**  
 19 A. No. That was --  
 20 **Q. Were you aware that she was**  
 21 **not allowed to participate in contests**  
 22 **that the advertising department was**  
 23 **having?**

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1 A. No. I was not aware of  
 2 that --  
 3 **Q. Were you aware that --**  
 4 A. -- if that is the case.  
 5 **Q. Were you aware that she was**  
 6 **not given her separate computer, like**  
 7 **everyone else had a computer but she**  
 8 **didn't?**  
 9 A. As I recall, when she made a  
 10 point of it, she got a computer.  
 11 **Q. But were you aware there was**  
 12 **a period where she didn't have one? For**  
 13 **approximately a year.**  
 14 A. No.  
 15 **Q. Were you aware that she lost**  
 16 **income on some of her accounts because**  
 17 **Trisha was selling ads on her accounts**  
 18 **and not giving them to her?**  
 19 MR. JIM AYERS: Object to the  
 20 form.  
 21 **Q. Such as Sea Doo and a tractor**  
 22 **account, Valley Tractor.**  
 23 A. You know, that's on the other

18 (Pages 69 to 72)

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|   |   |
|---|---|
| Page 73   | Page 75   |
| <p>1 side of the wall.</p> <p>2</p> <p>3 (Whereupon, Plaintiff's</p> <p>4 Exhibits Six and Seven were marked for</p> <p>5 identification and same is attached</p> <p>6 hereto.)</p> <p>7 <b>Q. All right. Let me show you</b></p> <p>8 <b>what I have marked as Exhibits Six and</b></p> <p>9 <b>Seven to your deposition.</b></p> <p>10 A. Okay.</p> <p>11 <b>Q. And ask you if you recall</b></p> <p>12 <b>seeing Exhibit Six first, which is a</b></p> <p>13 <b>September 30th, 2003 memo to Sharon from</b></p> <p>14 <b>Trisha.</b></p> <p>15 A. (Witness reviewing</p> <p>16 document.)</p> <p>17 <b>Q. Have you seen this?</b></p> <p>18 A. September 30, 2003, no, I did</p> <p>19 not see this.</p> <p>20 <b>Q. All right. Were you aware</b></p> <p>21 <b>that -- did Sharon discuss this memo with</b></p> <p>22 <b>you in your meeting of October 9th?</b></p> <p>23 A. Discuss this memo</p>   | <p>1 <b>that position.</b></p> <p>2 A. Yeah. I think that's the</p> <p>3 sequence, yeah.</p> <p>4 <b>Q. All right. Did you ever</b></p> <p>5 <b>summarize Sharon's concern about the</b></p> <p>6 <b>September 30th memo from Trish as a silly</b></p> <p>7 <b>school girl spat?</b></p> <p>8 A. Did I summarize --</p> <p>9 <b>Q. Yes. Did you ever tell</b></p> <p>10 <b>anyone you thought that this -- Sharon</b></p> <p>11 <b>being upset about this memo from Trisha</b></p> <p>12 <b>was just a silly school girl spat between</b></p> <p>13 <b>Sharon and Trisha or words to that</b></p> <p>14 <b>effect?</b></p> <p>15 A. Well, I knew that there was a</p> <p>16 separation between two people who had</p> <p>17 been friends and had worked together.</p> <p>18 And they were at odds with each other. I</p> <p>19 don't know how I characterized it. I</p> <p>20 could have said that. I speak colorfully</p> <p>21 on occasion.</p> <p>22 <b>Q. Exhibit Number Seven is an</b></p> <p>23 <b>October 1st, 2003 memo to Sharon from Ed,</b></p>   |
| Page 74   | Page 76   |
| <p>1 (indicating)?</p> <p>2 <b>Q. No, Exhibit Number Six, the</b></p> <p>3 <b>September 30th, Exhibit Number Six memo.</b></p> <p>4 <b>Do you recall Sharon discussing this memo</b></p> <p>5 <b>with you?</b></p> <p>6 A. It could have been one of the</p> <p>7 things in the cascade of complaints.</p> <p>8 <b>Q. Were you aware that Sharon</b></p> <p>9 <b>had been promoted by Pat Taylor and</b></p> <p>10 <b>reported directly to Ken back in '95?</b></p> <p>11 A. I recall that coming up and</p> <p>12 being somehow reminded. Or was that</p> <p>13 later when both Trish and Sharon were</p> <p>14 reporting to Robert?</p> <p>15 <b>Q. That was originally in '95,</b></p> <p>16 <b>Pat Taylor promoted both Trish and</b></p> <p>17 <b>Sharon. Were you aware of that?</b></p> <p>18 A. Yeah.</p> <p>19 <b>Q. Okay. And I think after</b></p> <p>20 <b>Sharon made her complaint and had her</b></p> <p>21 <b>meeting with you and Mr. Sanguinetti,</b></p> <p>22 <b>Phil located the memo where Pat Taylor</b></p> <p>23 <b>had promoted her and reinstated her in</b></p> | <p>1 <b>which comes a day after Trisha's memo</b></p> <p>2 <b>where she's told that she reports to</b></p> <p>3 <b>Trisha, and Trisha reports to Ken, Ken</b></p> <p>4 <b>reports to Ed and Ed reports to the Board</b></p> <p>5 <b>of Directors. Do you see that down about</b></p> <p>6 <b>four paragraphs from the bottom?</b></p> <p>7 A. Uh-huh (indicating yes).</p> <p>8 <b>Q. All right. And then the next</b></p> <p>9 <b>line says, none of us should try to get</b></p> <p>10 <b>around these reporting relationships or</b></p> <p>11 <b>advise other people to go around them.</b></p> <p>12 <b>This policy should be followed going up</b></p> <p>13 <b>or going down the reporting ladder. Phil</b></p> <p>14 <b>and Brandy concur with this as well. Are</b></p> <p>15 <b>you aware she received this after she had</b></p> <p>16 <b>complained to Phil Sanguinetti about the</b></p> <p>17 <b>relationship?</b></p> <p>18 A. No. I wasn't aware of that</p> <p>19 sequencing.</p> <p>20 <b>Q. Is there an open door policy</b></p> <p>21 <b>at The Star?</b></p> <p>22 A. Oh, of course.</p> <p>23 <b>Q. So if an employee has a</b></p> |

19 (Pages 73 to 76)

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1 **concern, there is nothing wrong with**  
 2 **going directly to Phil?**  
 3 A. No, of course, not, no.  
 4 **Q. Do you know in the meeting**  
 5 **that they had on October the 1st, did**  
 6 **Sharon tell you that she was reprimanded**  
 7 **orally by Ed for taking her concerns to**  
 8 **Phil?**  
 9 A. I don't recall her saying  
 10 that to me.  
 11 **Q. If Sharon had been orally**  
 12 **reprimanded by Ed for going to Phil with**  
 13 **a concern, would that have concerned you?**  
 14 A. Well, it would have been --  
 15 it would have been a concern if it was  
 16 harsh and loud. It would depend on the  
 17 character of the reprimand.  
 18 **Q. If it had been harsh and**  
 19 **loud, would that have bothered you?**  
 20 A. Of course.  
 21 **Q. You got cc'd with this memo**  
 22 **dated October 1st, 2003. Did you and Ed**  
 23 **have any discussions before this memo was**

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1 **sent that he was going to send it out to**  
 2 **Sharon?**  
 3 A. Yeah. Obviously, we did.  
 4 **Q. Do you recall those**  
 5 **discussions?**  
 6 A. Not in detail. I think it's  
 7 fairly well set forth here, although it  
 8 seems to contradict what Pat Taylor's  
 9 memo said. And I guess the Taylor memo  
 10 surfaced later on.  
 11 **Q. Were you involved in the**  
 12 **decision to give Sharon this memo that's**  
 13 **been marked as Exhibit Seven?**  
 14 A. I don't know if I -- I don't  
 15 recall that I saw the memo. But the  
 16 thrust of it, he discussed with both of  
 17 us. And, you know, it strikes me as  
 18 being fairly straightforward.  
 19 **Q. Did he tell you that he**  
 20 **obtained his information for this memo**  
 21 **from Trish and not Ken, who Ken was the**  
 22 **head of the department? Did Ed tell you**  
 23 **that?**

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1 MR. JIM AYERS: Object to the  
 2 form.  
 3 MS. MCGOWAN: You can answer.  
 4 MR. JIM AYERS: I don't think  
 5 that's in evidence.  
 6 MS. MCGOWAN: You can answer.  
 7 A. No.  
 8 **Q. Did you ever send Ed anymore**  
 9 **E-mails such as the ones that were marked**  
 10 **as Exhibits Three, Four and Five in your**  
 11 **deposition?**  
 12 A. Not affecting Sharon, that I  
 13 can recall.  
 14 **Q. Did you consider that a**  
 15 **reprimand or a corrective action memo?**  
 16 A. Which?  
 17 **Q. The first E-mail. Exhibit**  
 18 **Number Three, I think, isn't it? Yes.**  
 19 A. I considered it very strong  
 20 management advice that followed a  
 21 conversation in which he asked, am I  
 22 fired. And I said not yet. So it was a  
 23 very strong sense of I want to get these

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1 things done. You know, I want this sense  
 2 of calm restored and for people to  
 3 understand that a mystery of the heart is  
 4 not going to affect in any way the  
 5 corporation's stream of management.  
 6 **Q. But then less than two months**  
 7 **later, you have Sharon coming to you**  
 8 **complaining about some issues. Were you**  
 9 **concerned that the matter hadn't been**  
 10 **resolved?**  
 11 A. You know, I don't recall --  
 12 and at one point in a Board meeting, I  
 13 asked her Uncle Al, I said, do you recall  
 14 in your fifty years with the company  
 15 anybody who has been so disgruntled so  
 16 long.  
 17 **Q. That's not my question to**  
 18 **you.**  
 19 MR. JIM AYERS: Well, he's  
 20 trying to answer the question. Just let  
 21 him answer the question.  
 22 **Q. Did you have the --**  
 23 A. And I --

20 (Pages 77 to 80)

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1 MR. JIM AYERS: Let him  
 2 finish his answer.  
 3 Q. I want to find out when this  
 4 Board meeting was. Was this like in the  
 5 October '03 Board time frame?  
 6 A. I don't recall. But the --  
 7 Q. Now, I am saying when Sharon  
 8 came to you in October of '03.  
 9 A. The series of complaints,  
 10 anonymous letters, a series of, you know,  
 11 unending complaints. I just saw this as  
 12 something that goes on from year to year  
 13 to year.  
 14 Q. Are you saying that you think  
 15 Sharon sent those anonymous complaints to  
 16 you you were receiving at your home?  
 17 A. I have no idea.  
 18 Q. Did you think that?  
 19 A. Well, that may have crossed  
 20 my mind.  
 21 Q. So when she came to you in  
 22 October of '03, which was the first time  
 23 she had come to you, you thought there

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1 had been a series of complaints by her up  
 2 to that point? I am talking about  
 3 October of '03.  
 4 MR. JIM AYERS: Well, I am  
 5 going to object to the form because I  
 6 think Sharon has had complaints over the  
 7 years dating back years and years before  
 8 this. So I think you are getting a  
 9 little confusing.  
 10 MS. McGOWAN: No. I am  
 11 asking him what he means by a series of  
 12 complaints.  
 13 A. There was a series of three  
 14 or four anonymous letters. They seem to  
 15 hit the same points as the points that  
 16 Sharon makes when she is declaring  
 17 herself. You know, I have no idea  
 18 whether the anonymous complaints are --  
 19 who the author was. There was no way of  
 20 knowing.  
 21 Q. And you didn't try to  
 22 investigate to find out?  
 23 A. Who the anonymous --

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1 Q. Right.  
 2 A. No.  
 3 Q. And in one of the letters we  
 4 have marked in --  
 5 A. How would one go about that?  
 6 Q. Well, did you have a meeting  
 7 with all the employees and say, hey, I'm  
 8 getting these anonymous complaints and  
 9 let's talk about what the issues are?  
 10 A. No.  
 11 Q. In Exhibit Number Two, they  
 12 suggest you talk to your secretary and  
 13 others to verify their employment was a  
 14 focal point when they mentioned the  
 15 rumors going around. Did you talk to  
 16 your secretary?  
 17 A. No.  
 18 Q. And I think you already  
 19 testified you didn't ask the news staff  
 20 what they had been observing.  
 21 A. (Witness nods head  
 22 affirmatively.)  
 23 Q. That's correct?

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1 A. That's correct.  
 2 Q. Were you aware that there  
 3 were comments being made in the workplace  
 4 in the advertising department by several  
 5 employees about Trisha and Ed and their  
 6 comings and goings and leavings and what  
 7 they were observing?  
 8 A. I heard that.  
 9 Q. Did you hear these comments  
 10 were of a sexual nature?  
 11 MR. JIM AYERS: I am going to  
 12 object to the form.  
 13 A. No. I didn't hear that they  
 14 were of a sexual nature. You mean having  
 15 sex at the paper?  
 16 Q. No. I'm talking about, did  
 17 you hear people were saying oh, they are  
 18 leaving again? I think one of the  
 19 comments we have heard they had said,  
 20 they're going on a wienie ride, or we saw  
 21 her with her head down giving him a blow  
 22 job or comments such as that being made  
 23 in the workplace.

## FREEDOM COURT REPORTING

|   |  |
|---|--|
| <p style="text-align: right;">Page 85</p> <p>1 A. Shame on you.</p> <p>2 <b>Q. Well, I'm just repeating what</b></p> <p>3 <b>the evidence has been testified to. I</b></p> <p>4 <b>didn't make the comments. I'm just</b></p> <p>5 <b>repeating them.</b></p> <p>6 A. You are going to make me</p> <p>7 blush. No, I didn't hear anything that</p> <p>8 explicit.</p> <p>9 <b>Q. All right. If you had known</b></p> <p>10 <b>those kind of comments were being made in</b></p> <p>11 <b>the workplace, would that have bothered</b></p> <p>12 <b>you?</b></p> <p>13 A. It would bother me. And, you</p> <p>14 know, office gossip and some of it</p> <p>15 malicious and some of it, you know,</p> <p>16 amateur comedian, I don't like that</p> <p>17 stuff, so it would bother me.</p> <p>18 <b>Q. Was there an HR manager?</b></p> <p>19 A. I guess Elaine was -- you</p> <p>20 know, in an informal family corporation,</p> <p>21 you just are not as explicit and</p> <p>22 detailed. And, you know, fortunately,</p> <p>23 Phil had nagged us into putting together</p>                            | <p style="text-align: right;">Page 87</p> <p>1 <b>Q. After you met with Sharon</b></p> <p>2 <b>October the 9th of '03, did you,</b></p> <p>3 <b>yourself --</b></p> <p>4 A. I never got a complaint on my</p> <p>5 side of the aisle of sexual harassment.</p> <p>6 <b>Q. Has The Star ever been sued</b></p> <p>7 <b>for sexual harassment?</b></p> <p>8 A. No.</p> <p>9 <b>Q. Has anyone made an internal</b></p> <p>10 <b>complaint and threatened a lawsuit?</b></p> <p>11 A. No.</p> <p>12 <b>Q. Was there a matter involving</b></p> <p>13 <b>a reporter and her parents threatening to</b></p> <p>14 <b>sue The Star over some inappropriate</b></p> <p>15 <b>conduct and touching?</b></p> <p>16 A. That didn't come to me.</p> <p>17 <b>Q. Was there an incident</b></p> <p>18 <b>involving someone dating an employee and</b></p> <p>19 <b>then they broke up and she sued The Star?</b></p> <p>20 A. I don't think so. Sued?</p> <p>21 <b>Q. Or threatened to sue.</b></p> <p>22 A. Well --</p> <p>23 <b>Q. Maybe a suit wasn't filed,</b></p>  |
| <p style="text-align: right;">Page 86</p> <p>1 a personnel handbook. So there really is</p> <p>2 some reference.</p> <p>3 But I guess, you know, he</p> <p>4 used to report to Al, her uncle, on</p> <p>5 personnel matters. And the poor fellow,</p> <p>6 he started getting a little dim. And so</p> <p>7 we transferred that responsibility I</p> <p>8 think to Elaine. And she's diligent, but</p> <p>9 not an authority.</p> <p>10 <b>Q. Who is responsible for making</b></p> <p>11 <b>sure that the employees knew about the</b></p> <p>12 <b>policies for The Star?</b></p> <p>13 A. Well, the memos about things</p> <p>14 like PTO time and, et cetera, they always</p> <p>15 flow from Phil or from Ed.</p> <p>16 <b>Q. After you received these</b></p> <p>17 <b>series of anonymous complaints and heard</b></p> <p>18 <b>some grumblings and heard some rumors,</b></p> <p>19 <b>did you recommend that the employees</b></p> <p>20 <b>receive any kind of training on the</b></p> <p>21 <b>policies or the sexual harassment policy</b></p> <p>22 <b>of The Star?</b></p> <p>23 A. No.</p> | <p style="text-align: right;">Page 88</p> <p>1 <b>but a threat.</b></p> <p>2 A. I didn't hear that. Now, I</p> <p>3 have heard of people who were dating and</p> <p>4 broke up and there was disappointment and</p> <p>5 ill feelings, but --</p> <p>6 <b>Q. Other than the lawsuit with</b></p> <p>7 <b>Donald Stewart suing about a newspaper</b></p> <p>8 <b>article, were there any other lawsuits</b></p> <p>9 <b>that you know of against The Star?</b></p> <p>10 A. Yes. There was a suit</p> <p>11 against an intern and The Star by</p> <p>12 somebody, a wife of the sheriff or a</p> <p>13 county commissioner in Cleburne County</p> <p>14 alleging that the intern had run in to</p> <p>15 this lady and it had caused injury.</p> <p>16 <b>Q. What kind of intern?</b></p> <p>17 A. He was a reporter intern. I</p> <p>18 can't remember his name now. But the</p> <p>19 attorney who was representing the</p> <p>20 insurance company had decided to settle.</p> <p>21 And we found out about it from the</p> <p>22 Cleburne County Courthouse. He did not</p> <p>23 speak to us. And he just settled it.</p> |

22 (Pages 85 to 88)

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**FREEDOM COURT REPORTING**

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1 **Q. Any other lawsuits you know**  
 2 **about?**  
 3 A. No. We've only been sued for  
 4 libel that one time. Oh, and there was  
 5 some things arising out of circulation.  
 6 **Q. Did that involve James**  
 7 **Finley?**  
 8 A. Yes. That name is familiar.  
 9 **Q. Are you aware of an incident**  
 10 **involving James Finley dating a woman and**  
 11 **as a result of the dating, either it was**  
 12 **settled or some money paid or something**  
 13 **done?**  
 14 A. I think Phil had the pleasure  
 15 of dealing with that incident. And I  
 16 don't recall the details of it. Would  
 17 you entertain me with your knowledge?  
 18 **Q. Well, I just want to know**  
 19 **what you know. I just get to ask you**  
 20 **what you know.**  
 21 A. Okay.  
 22 **Q. All right. Were you aware**  
 23 **that there were complaints by other**

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1 **people on the sales staff regarding the**  
 2 **situation being created by Ed and Trisha?**  
 3 A. As secondhand, I was aware  
 4 that there were divisions.  
 5 **Q. Did anyone come to you**  
 6 **personally?**  
 7 A. No.  
 8 **Q. After your meeting with**  
 9 **Sharon October 9th of '03, did you do**  
 10 **anything yourself to conduct any**  
 11 **investigation to issues raised by Sharon**  
 12 **in this meeting, or did you let Phil**  
 13 **handle it?**  
 14 A. I did not do anything myself.  
 15 I sort of disappeared from the scene at  
 16 that point. I mean, I wasn't directly --  
 17 **Q. When you say you disappeared**  
 18 **from the scene --**  
 19 A. Well, I didn't get  
 20 communications directed to me. I didn't  
 21 get that I recall many that copied me.  
 22 Phil seemed to be in the bull's eye and  
 23 then later Robert.

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1 **Q. Let me show you what I am**  
 2 **going to mark as Exhibit Eight to your**  
 3 **deposition and have you look at this.**  
 4  
 5 (Whereupon, Plaintiff's Exhibit  
 6 Eight was marked for identification and  
 7 same is attached hereto.)  
 8  
 9 A. Okay. (Witness reviewing  
 10 document.)  
 11 **Q. It's a six page document.**  
 12 **The first being a September 24th, 2004**  
 13 **letter to you and Phil from Ed in**  
 14 **response to Sharon complaints. And the**  
 15 **complaints are dated. And attached are**  
 16 **the three complaints of August 6th, '04,**  
 17 **September 7th, '04 and September 17th,**  
 18 **'04. Do you recall getting this memo?**  
 19 A. Yeah.  
 20 **Q. Okay. Did you have any**  
 21 **conversations with anyone prior to**  
 22 **getting this memo?**  
 23 A. Prior to getting the memo?

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1 **Q. Yes. Did you direct him to**  
 2 **draft this memo?**  
 3 A. No, I did not.  
 4 **Q. What did you do when you got**  
 5 **this memo?**  
 6 A. (Witness reviewing  
 7 document.) Well, I did get a copy, I  
 8 see.  
 9 **Q. What did you do after you**  
 10 **received this memo from Ed, if anything?**  
 11 A. I'm sure that I said  
 12 something to Phil probably in the nature  
 13 of the beat goes on. I mean, gosh, can't  
 14 we get this resolved somehow.  
 15 **Q. Do you recall saying that?**  
 16 A. I don't know, but I'm sure I  
 17 thought that.  
 18 **Q. Do you recall having any**  
 19 **meetings with Phil and Ed to discuss this**  
 20 **memo?**  
 21 A. No.  
 22 **Q. Did you take any initiative**  
 23 **to go talk to Sharon about her**



FREEDOM COURT REPORTING

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1 **complaints?**  
 2 A. No.  
 3 **Q. Did you direct anyone to go**  
 4 **talk to Sharon about her complaints?**  
 5 A. No.  
 6 **Q. Did you have any discussions**  
 7 **with Ed about this memo that you can**  
 8 **recall?**  
 9 A. No.  
 10 **Q. Do you recall having any**  
 11 **discussions with anyone about Exhibit**  
 12 **Number Eight or the contents in Exhibit**  
 13 **Number Eight?**  
 14 A. Before the memo, I don't --  
 15 you know, I don't remember a specific  
 16 meeting. But it's very likely that Ed  
 17 said we have this complaint and here is  
 18 what I intend to write. And then he  
 19 wrote this memorandum. I'm sure that  
 20 when I was copied that I said, you know,  
 21 to Phil, what is there to this. And we  
 22 probably asked Ed to tell us what this is  
 23 all about.

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1 **Q. But you are saying probably.**  
 2 **You don't recall? I don't need**  
 3 **speculation. I need to know what you**  
 4 **recall.**  
 5 A. I'm quite sure that upon  
 6 receipt of this memo, I said to Phil  
 7 and/or Ed, what is there to this. There  
 8 may have been a meeting in Phil's office  
 9 or my office. I don't recall the  
 10 specifics. But I know since I am copied,  
 11 I would want to be informed about what  
 12 there is to this memo and that it should  
 13 be answered.  
 14 **Q. Do you know whether or not it**  
 15 **was answered?**  
 16 A. Well, I would imagine --  
 17 well, obviously, Ed's memo of the 24th.  
 18 **Q. That's to you. Do you know**  
 19 **whether anyone responded to Sharon?**  
 20 A. No. I don't know.  
 21 **Q. Did you direct anyone to**  
 22 **respond to Sharon and her concerns?**  
 23 A. No, I did not.

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1 **Q. Do you know if anyone said**  
 2 **they were going to respond to Sharon and**  
 3 **her concerns?**  
 4 A. I don't know. I would  
 5 certainly think that would be  
 6 appropriate.  
 7 **Q. You think it would be**  
 8 **appropriate to respond to her?**  
 9 A. Uh-huh (indicating yes). Of  
 10 course.  
 11 **Q. Would you be shocked if you**  
 12 **learned no one did respond to Sharon?**  
 13 A. Surprised.  
 14 **Q. All right. Let me show you**  
 15 **what was marked in Ms. Rutherford's**  
 16 **deposition. It was marked as Exhibit**  
 17 **Four. And we're going to mark this as**  
 18 **Exhibit Nine to your deposition and ask**  
 19 **you if you ever saw documents like that**  
 20 **going around the advertising department.**  
 21  
 22 (Whereupon, Plaintiff's Exhibit  
 23 Nine was marked for identification and

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1 same is attached hereto.)  
 2  
 3 A. No. I have to tell you, this  
 4 is very creative, but I have not seen  
 5 this.  
 6 **Q. Okay. Were you aware that**  
 7 **people were making comments and putting**  
 8 **out fliers such as this back in '03 about**  
 9 **the relationship between Ed and Trisha**  
 10 **before it became public?**  
 11 A. No. And it makes me tired.  
 12 **Q. When you say it makes you**  
 13 **tired, how is that?**  
 14 A. Office gossip and  
 15 maliciousness makes me tired.  
 16 **Q. Did you ever go and ask any**  
 17 **of the employees how they felt about**  
 18 **being trapped in the middle of a**  
 19 **situation?**  
 20 A. No.  
 21 **Q. Could you see where some**  
 22 **employees were concerned?**  
 23 A. Remember, the way Phil and I

## FREEDOM COURT REPORTING

|   |   |
|---|---|
| <p style="text-align: right;">Page 97</p> <p>1 make this thing work is, you know, he<br/>2 doesn't go over and question employees<br/>3 about stories that they are working on or<br/>4 editorials that have been written. And<br/>5 he hears complaints in the community that<br/>6 we don't cover this or we are too liberal<br/>7 about that. But he doesn't go across the<br/>8 line and investigate. And so I don't<br/>9 cross the line and cut across his<br/>10 authority or Ed's.<br/>11 <b>Q. So you leave this for Phil to</b><br/>12 <b>handle.</b><br/>13 A. Uh-huh (indicating yes).<br/>14 <b>Q. That's his side of the shop,</b><br/>15 <b>as we can call it.</b><br/>16 A. That's right.<br/>17 <b>Q. Did Phil tell you he had a</b><br/>18 <b>meeting with Sharon in January of '06, a</b><br/>19 <b>lunch meeting?</b><br/>20 A. It seems to me I recall him<br/>21 saying that his -- I recall Phil saying,<br/>22 let me see if I can't get this thing<br/>23 settled down. And I do recall him saying</p> | <p style="text-align: right;">Page 99</p> <p>1 usually the base of the problem is<br/>2 miscommunication and that getting the<br/>3 EEOC into it is not the way to resolve<br/>4 things. I wish the two people who had<br/>5 worked together so cooperatively and<br/>6 seemingly as friends for so many years<br/>7 could sit down and work it out.<br/>8 <b>Q. But you, yourself took no</b><br/>9 <b>investigation --</b><br/>10 A. No.<br/>11 <b>Q. -- to find out what the issue</b><br/>12 <b>was.</b><br/>13 A. No.<br/>14 <b>Q. Are you aware that employees</b><br/>15 <b>have a right under a Federal statute to</b><br/>16 <b>file EEOC charges if they feel they have</b><br/>17 <b>been aggrieved?</b><br/>18 MR. JIM AYERS: I object to<br/>19 that. Are you saying they have got a<br/>20 right to file on any kind of grievance?<br/>21 <b>Q. No. My question to him is,</b><br/>22 <b>do you feel employees have a right under</b><br/>23 <b>Federal statute to go to the EEOC to seek</b></p> |
| <p style="text-align: right;">Page 98</p> <p>1 that at some point, he had a meeting with<br/>2 Sharon.<br/>3 <b>Q. Did he tell you what resulted</b><br/>4 <b>from the meeting or what was discussed in</b><br/>5 <b>the meeting?</b><br/>6 A. No. He didn't tell me what<br/>7 resulted. I mean, he didn't tell me what<br/>8 was discussed. He indicated that, you<br/>9 know, the status quo continues.<br/>10 <b>Q. Do you think it was</b><br/>11 <b>inappropriate for Ms. Rutherford to file</b><br/>12 <b>a charge with the EEOC?</b><br/>13 MR. JIM AYERS: Object to the<br/>14 form.<br/>15 MS. MCGOWAN: You can answer.<br/>16 A. You know, the nature of our<br/>17 business and the way it has been<br/>18 conducted, you know, I really was<br/>19 surprised by that. And I just, you know,<br/>20 didn't -- from what I could see from a<br/>21 distance, it just didn't seem to me that<br/>22 things were so bad that you had to go to<br/>23 the EEOC, that in the nature of things,</p>                       | <p style="text-align: right;">Page 100</p> <p>1 <b>advice?</b><br/>2 MR. JIM AYERS: On anything?<br/>3 On everything?<br/>4 MS. MCGOWAN: To seek advice,<br/>5 Jim. He can testify to what he wants to.<br/>6 MR. JIM AYERS: I am going to<br/>7 object.<br/>8 MS. MCGOWAN: Object to the<br/>9 form, but we're under the usual<br/>10 stipulations.<br/>11 MR. JIM AYERS: I am going to<br/>12 object to the form. It's a<br/>13 mischaracterization of the EEOC's jobs<br/>14 and duty.<br/>15 <b>Q. Do you feel employees have a</b><br/>16 <b>right to go to the EEOC?</b><br/>17 A. You know, I guess I'm talking<br/>18 about the distinction between rights. Of<br/>19 course, people have rights. But the<br/>20 nature of the company and the nature of<br/>21 the previous relationship was such that,<br/>22 you know, I think that was not a way of<br/>23 really resolving the issue. It was a way</p>   |

25 (Pages 97 to 100)

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FREEDOM COURT REPORTING

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1 of saying I'm right, you know, and I can  
 2 back that up.  
 3 **Q. By filing a charge is a way**  
 4 **of saying I'm right? Is that what you're**  
 5 **saying? The charge with the EEOC?**  
 6 A. Yeah.  
 7 **Q. Have you ever read the**  
 8 **regulations of the EEOC, their operating**  
 9 **regulations or Title 7 statute?**  
 10 A. Boy, do you have to do that  
 11 in your business? No, I have not.  
 12 **Q. Have you ever read the Family**  
 13 **Medical Leave Act statute --**  
 14 A. No.  
 15 **Q. -- or the regulations of the**  
 16 **FMLA?**  
 17 A. No. I have read about it.  
 18 But I have never read the Act.  
 19 **Q. All right. Where did you**  
 20 **read about it?**  
 21 A. Wallstreet Journal, New York  
 22 Times.  
 23 **Q. In newspaper articles about**

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1 **it.**  
 2 A. Yeah.  
 3 **Q. Do you know why Sharon was**  
 4 **not allowed to work from home in January**  
 5 **of '06?**  
 6 A. January of '06.  
 7 **Q. Last January, a year ago.**  
 8 A. No.  
 9 **Q. Did anyone tell you she had**  
 10 **made a request to work from home?**  
 11 A. I heard something about that.  
 12 I think Robert mentioned it.  
 13 **Q. What did Robert say?**  
 14 A. I think he said that she's  
 15 requested to work at home.  
 16 **Q. Were you aware that she had**  
 17 **actually worked from home in June and**  
 18 **July -- the end of June, the first of**  
 19 **July time, just previously in '05?**  
 20 A. Yeah. I think I recall  
 21 something of that nature.  
 22 **Q. Did you have a problem with**  
 23 **her working from home?**

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1 A. You know, if you are an  
 2 editorial writer, you know, working from  
 3 home is one thing. But if you are a  
 4 salesperson, how can you do your job from  
 5 home. I didn't have any -- I didn't  
 6 offer any advice. I just, you know,  
 7 that's on your side of the divide.  
 8 **Q. You told Robert that?**  
 9 A. Do what you think is  
 10 appropriate.  
 11 **Q. You told Robert that or who?**  
 12 A. No. I just -- you know, he  
 13 informed me, and that was it.  
 14 **Q. Did he inform you he had made**  
 15 **a decision that she couldn't work from**  
 16 **home, or did he inform you she had made a**  
 17 **request to work from home?**  
 18 A. I think he informed me that  
 19 she had made a request. And I think on  
 20 one occasion or the other, he thought  
 21 that that was not appropriate.  
 22 **Q. Were you aware when she**  
 23 **worked from home in July that she had**

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1 **still been the top salesperson?**  
 2 A. No, I was not. But I'm not  
 3 surprised.  
 4 **Q. And that they were kicking**  
 5 **off a new Star Homes book when she worked**  
 6 **at home in July?**  
 7 A. The two are not put together  
 8 in my mind.  
 9 **Q. Who had the ultimate**  
 10 **decision-making authority on her request**  
 11 **to work from home in January of '06?**  
 12 A. I guess Phil.  
 13 **Q. Do you know why Robert wrote**  
 14 **Sharon up and gave her a corrective**  
 15 **action in January of '06?**  
 16 A. I don't know what writing up  
 17 and corrective action mean.  
 18 **Q. Were you aware that Robert**  
 19 **gave Sharon a memorandum dated January**  
 20 **the 26th reprimanding her and pointing**  
 21 **out what he perceived to be problems with**  
 22 **her work performance?**  
 23 A. I have seen that, that memo.

**FREEDOM COURT REPORTING**

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1 **Q. Okay. Were you aware that**  
 2 **she was going to get it before you saw**  
 3 **it?**  
 4 A. Yeah, I believe so.  
 5 **Q. How were you made aware of**  
 6 **that?**  
 7 A. I think Robert told me.  
 8 **Q. Did he seek your advice on it**  
 9 **before he drafted the memo?**  
 10 A. He probably did.  
 11 **Q. Were you aware that Sharon**  
 12 **had given him a memo the day before**  
 13 **pointing out some problems that she had**  
 14 **perceived on January the 25th?**  
 15 A. That is not fixed in my mind.  
 16 If I see the document, I probably --  
 17 **Q. Okay. I will get them out**  
 18 **for you. All right. Let me show you**  
 19 **what was previously marked as Exhibit**  
 20 **Four to Mr. Sanguinetti's deposition and**  
 21 **Exhibit Five to Mr. Sanguinetti's**  
 22 **deposition.**  
 23 A. (Witness reviewing document.)

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1 **Q. Have you ever seen Exhibit**  
 2 **Four, which is Sharon's January 25th,**  
 3 **2006 memo to Robert?**  
 4 A. (Witness reviewing  
 5 document.)  
 6 **Q. Do you recall seeing that**  
 7 **memo?**  
 8 A. It reads sort of like all of  
 9 them do. I don't know that I saw this  
 10 one.  
 11 **Q. Did Robert tell you about**  
 12 **getting it before he -- when he sought**  
 13 **advice on his January 26 letter?**  
 14 A. I remember hearing a lot  
 15 about Sharon and her complaints. And  
 16 that was within that train.  
 17 **Q. What train?**  
 18 A. A whole train of complaints  
 19 of retaliation and et cetera.  
 20 **Q. Did you help Robert draft his**  
 21 **January 26th memo to Sharon?**  
 22 A. No.  
 23 **Q. Did you know if anyone helped**

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1 **him draft his memo to Sharon?**  
 2 A. No.  
 3 **Q. Did he tell you whether**  
 4 **anybody helped him draft that memo?**  
 5 A. No.  
 6 **Q. Did you and Ed Fowler have**  
 7 **any discussions about the January 26th,**  
 8 **2006 memo to Sharon?**  
 9 A. No.  
 10 **Q. Did Robert tell you how he**  
 11 **was going to give Sharon the memo that's**  
 12 **marked as Exhibit Five to Sanguinetti's**  
 13 **deposition?**  
 14 A. No. How did he?  
 15 **Q. Would you be surprised to**  
 16 **learn he left it on her desk and didn't**  
 17 **talk to her about it in person?**  
 18 A. Well, if she wasn't there, I  
 19 suppose it was difficult to.  
 20 **Q. Do you know whether he had**  
 21 **scheduled a 3:30 appointment with her and**  
 22 **then left and didn't meet with her and**  
 23 **just had the memo waiting for her?**

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1 A. I don't have any knowledge of  
 2 that.  
 3 **Q. If those were the facts,**  
 4 **would that be the way you would handle**  
 5 **giving an employee a corrective action?**  
 6 MR. JIM AYERS: I am going to  
 7 object to the form because that wasn't  
 8 the testimony.  
 9 MS. MCGOWAN: You can answer.  
 10 MR. JIM AYERS: You can  
 11 answer.  
 12 THE WITNESS: Huh?  
 13 MS. MCGOWAN: You can answer.  
 14 He's just --  
 15 MR. JIM AYERS: I am just  
 16 objecting to the form because that wasn't  
 17 Robert's testimony.  
 18 A. Well, that's not the way I  
 19 operate on the news side.  
 20 **Q. All right. Let me show you**  
 21 **what I am going to mark as Exhibit Ten to**  
 22 **your deposition.**  
 23

## FREEDOM COURT REPORTING

|  |   |
|--|---|
| Page 109   | Page 111  |
| <p>1 (Whereupon, Plaintiff's Exhibit<br/>2 Ten was marked for identification and<br/>3 same is attached hereto.)<br/>4<br/>5 <b>Q. Have you ever seen this<br/>6 document?</b><br/>7 A. (Witness reviewing document.)<br/>8 I don't recall seeing this one.<br/>9 <b>Q. All right. Were you aware<br/>10 that Sharon --</b><br/>11 A. I think he said something to<br/>12 me.<br/>13 <b>Q. Robert did?</b><br/>14 A. That he was not going to<br/>15 approve.<br/>16 <b>Q. Her carrying over her PTO?</b><br/>17 A. Uh-huh (indicating yes).<br/>18 <b>Q. Do you know why? Did he tell<br/>19 you why he wasn't going to approve it?</b><br/>20 A. He probably did, but --<br/>21 <b>Q. Wasn't it Mr. Sanguinetti's<br/>22 decision to make?</b><br/>23 A. Wasn't it his decision --</p>                           | <p>1 <b>on her?</b><br/>2 A. Did I call Sharon?<br/>3 <b>Q. Yes.</b><br/>4 A. No.<br/>5 <b>Q. Did you suggest anyone call<br/>6 Sharon and check on her?</b><br/>7 A. That's really not my<br/>8 responsibility.<br/>9 <b>Q. Well, I mean, you have been<br/>10 talking about it being a small, family<br/>11 company business.</b><br/>12 A. Well, you know --<br/>13 <b>Q. Do you call your employees<br/>14 when they are having health issues and<br/>15 check on them?</b><br/>16 A. I assume if that is called<br/>17 for, then someone would do it.<br/>18 <b>Q. I'm not saying that there is<br/>19 anything wrong with it. I was just<br/>20 asking if that's how you operated.</b><br/>21 A. How I operate?<br/>22 <b>Q. Right. You have been giving<br/>23 some discussion about this being a family</b></p>               |
| Page 110   | Page 112  |
| <p>1 <b>Q. Mr. Sanguinetti's decision to<br/>2 make on whose PTO was carried over or not<br/>3 carried over.</b><br/>4 A. Yeah. I would assume that<br/>5 Robert would clear it with Phil.<br/>6 <b>Q. Do you know whether or not he<br/>7 did?</b><br/>8 A. I don't.<br/>9 <b>Q. You weren't involved in the<br/>10 decision --</b><br/>11 A. No.<br/>12 <b>Q. -- on whether or not --</b><br/>13 A. No.<br/>14 <b>Q. Were you aware that after<br/>15 Ms. Rutherford received this January 26,<br/>16 2006 memo from Robert that she started<br/>17 suffering blood pressure problems and her<br/>18 doctor took her out, off of work?</b><br/>19 A. No.<br/>20 <b>Q. Did anyone tell you that?</b><br/>21 A. They told me that that had<br/>22 been reported.<br/>23 <b>Q. Did you call Sharon to check</b></p> | <p>1 <b>run business.</b><br/>2 A. Uh-huh (indicating yes).<br/>3 <b>Q. How many employees are there?</b><br/>4 A. A hundred and twenty-five.<br/>5 <b>Q. Is that at The Star?</b><br/>6 A. Yeah. And that includes --<br/>7 well, carriers are not employees.<br/>8 <b>Q. Who aren't employees?</b><br/>9 A. The carriers are not<br/>10 employees.<br/>11 <b>Q. Okay. They are the people<br/>12 that deliver the papers?</b><br/>13 A. Yeah.<br/>14 <b>Q. Is that for Consolidated or<br/>15 just The Star?</b><br/>16 A. Just The Star.<br/>17 <b>Q. How many employees are there<br/>18 in Consolidated?</b><br/>19 A. I don't know.<br/>20 <b>Q. When Robert discussed this<br/>21 January 26, 2006 memo with you, did he<br/>22 tell you what kind of investigation he<br/>23 had done where he says, every allegation</b></p> |

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1 had been investigated in number one?  
 2 A. No.  
 3 Q. He did not?  
 4 A. No.  
 5 Q. Did you ask him?  
 6 A. What was the question?  
 7 Q. Did you ask him what kind of  
 8 investigation --  
 9 A. What kind of investigation,  
 10 no, no.  
 11 Q. Let me show you what I am  
 12 going to mark as Exhibit Eleven to your  
 13 deposition.  
 14  
 15 (Whereupon, Plaintiff's Exhibit  
 16 Eleven was marked for identification and  
 17 same is attached hereto.)  
 18  
 19 Q. This is Sharon's January 30th  
 20 letter to Robert in response to his memo.  
 21 Did you ever see this document?  
 22 A. (Witness reviewing document.)  
 23 Q. You were copied on it on page

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1 five. Do you recall receiving a copy?  
 2 A. (Witness reviewing document.)  
 3 Yes, I think I do.  
 4 Q. You do recall receiving this?  
 5 A. Uh-huh (indicating yes).  
 6 Q. In the opening paragraph,  
 7 Sharon states that she was very  
 8 disappointed that instead of Robert  
 9 meeting with her at their scheduled 3:30  
 10 meeting, he just simply placed the letter  
 11 in her chair and told her assistant that  
 12 he would answer any questions she had  
 13 later. Did you ask Robert why he did  
 14 that?  
 15 A. No, I did not.  
 16 Q. When you read that, did it  
 17 concern you?  
 18 MR. JIM AYERS: Are you  
 19 talking about that one statement?  
 20 MS. McGOWAN: This one  
 21 sentence, yes.  
 22 A. No.  
 23 Q. It didn't concern you?

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1 A. No.  
 2 Q. Did you read the letter and  
 3 have any conversations with anyone as a  
 4 result of this January 30th letter from  
 5 Sharon?  
 6 A. I don't think I had any  
 7 conversations. If I did, it would be,  
 8 you know, just to say this is all  
 9 repetitive. It's deja vu all over again.  
 10 Q. Well, now, in this letter,  
 11 she is asking for him to give her  
 12 specific guidelines on what he perceived  
 13 to be problems with her work.  
 14 A. Well --  
 15 Q. Did you ask him whether he  
 16 did that?  
 17 A. No, I did not.  
 18 Q. Was there anything wrong with  
 19 an employee asking for specific  
 20 guidelines to assist them in their  
 21 employment?  
 22 MR. JIM AYERS: Any kind of  
 23 employee or a twenty-eight year employee?

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1 MS. McGOWAN: Object to the  
 2 form or not object. We are under the  
 3 usual stipulations, Jim.  
 4 MR. JIM AYERS: Object to the  
 5 form.  
 6 MS. McGOWAN: Don't coach  
 7 your witness.  
 8 Q. Go ahead.  
 9 A. It seems to me that these  
 10 were not just, I don't know, please tell  
 11 me what I can do. It was basically in  
 12 the form of an accusation or a complaint,  
 13 and part of an endless train of  
 14 complaints.  
 15 Q. Were you aware that she was  
 16 asking that Robert come meet with her at  
 17 her house so they could talk over what he  
 18 wanted her to improve?  
 19 A. No. I certainly would have  
 20 advised him not to do that.  
 21 Q. Why is that?  
 22 A. Well, talk about sexual  
 23 harassment. I mean, that certainly opens

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1 things up for that sort of accusation.  
 2 **Q. Did you tell -- were you**  
 3 **aware that in Robert's letter to her that**  
 4 **was marked as Exhibit Five to**  
 5 **Mr. Sanguinetti's deposition that he**  
 6 **informed her if she continued to ignore**  
 7 **the duties of her position and continue**  
 8 **to fail to adhere to its policies and**  
 9 **procedures of the advertising department,**  
 10 **your employment will be terminated?**  
 11 A. That's from Phil?  
 12 **Q. No. That's from Robert to**  
 13 **Sharon. Are you aware he made that**  
 14 **statement?**  
 15 A. Yes.  
 16 **Q. Had you given him authority**  
 17 **to terminate Sharon?**  
 18 A. No.  
 19 **Q. Who had authority to**  
 20 **terminate Sharon?**  
 21 A. Phil.  
 22 **Q. Did you discuss with Phil**  
 23 **whether or not --**

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1 A. You know, I would say that  
 2 basically her immediate supervisor.  
 3 **Q. Which was Robert.**  
 4 A. Which is Robert.  
 5 **Q. Did you think it was wrong**  
 6 **for Ms. Rutherford to ask for him to**  
 7 **point out what policies he didn't think**  
 8 **she was following?**  
 9 A. No. There is nothing wrong  
 10 with her asking. But I mean, this is so  
 11 circular. As far as I know, you know --  
 12 **Q. What policies had Robert told**  
 13 **you she was not following?**  
 14 A. Robert didn't tell me in any  
 15 detail what policy she was not following.  
 16 **Q. Do you see in any detail in**  
 17 **Robert's letter to Sharon what policy she**  
 18 **is not following? This January 26 letter**  
 19 **to her.**  
 20 A. (Witness reviewing document.)  
 21 No, he does not. He is repeating  
 22 complaints that were received.  
 23 **Q. In this time frame, did**

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1 **anyone complain to you about Sharon's**  
 2 **performance?**  
 3 A. No.  
 4 **Q. Do you know why Sharon was**  
 5 **reprimanded for attending an after hours**  
 6 **meeting while she was out on PTO in**  
 7 **February of '06?**  
 8 A. I don't know that she was or  
 9 what she was.  
 10 **Q. Did anyone discuss that issue**  
 11 **with you?**  
 12 A. No.  
 13 **Q. Are you aware that Trisha**  
 14 **sent Sharon a letter telling her not to**  
 15 **attend a Home Builders council meeting**  
 16 **while she was out on PTO as a**  
 17 **representative of The Star?**  
 18 A. No. No, I was not.  
 19 **Q. Let me show you what I am**  
 20 **going to mark as Exhibit Twelve to your**  
 21 **deposition. Were you aware that Sharon**  
 22 **had given her E-mail log-in and password**  
 23 **to her assistant so that her assistant**

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1 **could assist in handling her accounts**  
 2 **while she was out on PTO?**  
 3 A. No.  
 4  
 5 (Whereupon, Plaintiff's Exhibit  
 6 Twelve was marked for identification and  
 7 same is attached hereto.)  
 8  
 9 **Q. What is the normal practice**  
 10 **if an employee is out on PTO? Do the**  
 11 **other employees pitch in and help with**  
 12 **their duties? Is there a written policy**  
 13 **on who handles their work, to your**  
 14 **knowledge?**  
 15 MR. JIM AYERS: I am going to  
 16 object. Are we talking about all  
 17 employees or are we talking about for the  
 18 advertising department?  
 19 **Q. I am talking about for The**  
 20 **Star. Are there policies on --**  
 21 A. PTO is a policy that is  
 22 evolving. Phil has been mainly in charge  
 23 of PTO, if there is any questions asked.

## FREEDOM COURT REPORTING

|   |   |
|---|---|
| <p style="text-align: right;">Page 121</p> <p>1 Well, obviously, if somebody is gone and<br/>2 some work has to be done, they would<br/>3 pitch in.<br/>4 <b>Q. Would Phil be the person that<br/>5 would have the information about the PTO<br/>6 policy, the most knowledge about the PTO<br/>7 policy?</b><br/>8 A. Yeah.<br/>9 <b>Q. Do you know if employees in<br/>10 the ad department were entitled to<br/>11 receive commissions on their accounts<br/>12 while they were on PTO?</b><br/>13 A. No, I don't know. That's an<br/>14 interesting question.<br/>15 <b>Q. Who would know? Would that<br/>16 be Phil or the advertising director?</b><br/>17 A. Yeah.<br/>18 <b>Q. Do you know that Sharon had<br/>19 an assistant?</b><br/>20 A. Uh-huh (indicating yes). The<br/>21 only one who had an assistant.<br/>22 <b>Q. When you say the only one,<br/>23 what do you mean by that?</b></p> | <p style="text-align: right;">Page 123</p> <p>1 <b>Maybe I just didn't on that one. I'm<br/>2 sorry. Do you know why Sharon was placed<br/>3 on medical leave on February the 20th,<br/>4 2006? Under the Family and Medical Leave<br/>5 Act.</b><br/>6 A. No. Was that the back<br/>7 problem or something?<br/>8 <b>Q. Well, let me just ask you.<br/>9 Do you know who made the decision to<br/>10 retroactively place her on FMLA leave?</b><br/>11 A. No, I don't.<br/>12 <b>Q. Did you have any involvement<br/>13 in that decision?</b><br/>14 A. No.<br/>15 <b>Q. Were you aware that Trisha<br/>16 Flint had just left her a message<br/>17 previously -- Trish Fowler, telling her<br/>18 she could use PTO time or FMLA time, it<br/>19 was her choice?</b><br/>20 A. No, I don't.<br/>21 <b>Q. Let me mark this as Exhibit<br/>22 Thirteen to your deposition and ask you,<br/>23 why did you send Sharon this February</b></p> |
| <p style="text-align: right;">Page 122</p> <p>1 A. The only employee who had an<br/>2 assistant except for executives.<br/>3 <b>Q. Do you know why Sharon had an<br/>4 assistant?</b><br/>5 A. No.<br/>6 <b>Q. Do you know who made the<br/>7 decision?</b><br/>8 A. No.<br/>9 <b>Q. When you say the only<br/>10 employee except an executive, what do you<br/>11 mean by an executive?</b><br/>12 A. Or a manager.<br/>13 <b>Q. Sharon wasn't a manager, was<br/>14 she?</b><br/>15 A. No.<br/>16 <b>Q. She wasn't an executive, was<br/>17 she?</b><br/>18 A. No. Incidentally, my name<br/>19 does have an "S". It's Ayers, plural.<br/>20 <b>Q. I'm sorry. We'll correct<br/>21 that.</b><br/>22 A. Okay.<br/>23 <b>Q. I did on the other one.</b></p>   | <p style="text-align: right;">Page 124</p> <p>1 <b>22nd, 2006 letter?</b><br/>2<br/>3 (Whereupon, Plaintiff's Exhibit<br/>4 Thirteen was marked for identification<br/>5 and same is attached hereto.)<br/>6<br/>7 A. That's -- in the first line,<br/>8 our attorney informs me that you wish to<br/>9 resign. And I regret it. We have known<br/>10 each other I think happily for a couple<br/>11 of decades and a valuable employee, the<br/>12 top salesperson.<br/>13 <b>Q. Were you trying to ask her<br/>14 not to resign?</b><br/>15 A. No. I was informed that that<br/>16 was what she had decided to do, and I<br/>17 regretted that.<br/>18 <b>Q. Were you informed that this<br/>19 offer of resignation was part of a<br/>20 settlement proposal, that she would<br/>21 resign and receive a severance package in<br/>22 order to settle this matter without<br/>23 having to file a lawsuit? Were you told</b></p>          |

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|   |  |
|---|--|
| Page 125  | Page 127   |
| <p>1 that was settlement discussions?<br/> 2 A. I don't recall that, no.<br/> 3 Q. Did you get a copy of<br/> 4 Sharon's March 2nd forced resignation<br/> 5 letter? I am going to mark it in as<br/> 6 Exhibit Fourteen.<br/> 7<br/> 8 (Whereupon, Plaintiff's Exhibit<br/> 9 Fourteen was marked for identification<br/> 10 and same is attached hereto.)<br/> 11<br/> 12 Q. Did you get a copy of that?<br/> 13 A. As I recall, she -- yes, I<br/> 14 did get a copy.<br/> 15 Q. Flip over to page two of this<br/> 16 letter.<br/> 17 A. Okay.<br/> 18 Q. Where it says, in addition to<br/> 19 the letter from Ms. Estes, she received a<br/> 20 February 22nd letter from you stating,<br/> 21 our attorney informs me that you wish to<br/> 22 resign and I regret that. Do you see<br/> 23 that?</p>  | <p>1 A. October 2nd?<br/> 2 Q. No. I'm sorry. I may have<br/> 3 said October. At the time of this March<br/> 4 2nd, 2006 letter, were you aware that<br/> 5 Sharon had already filed her lawsuit?<br/> 6 MR. JIM AYERS: What's the<br/> 7 date of service on the complaint?<br/> 8 MS. McGOWAN: I don't know.<br/> 9 MR. JIM AYERS: What is your<br/> 10 date of filing?<br/> 11 MS. McGOWAN: Sometime in<br/> 12 February. Like the 20 something.<br/> 13 A. No. I was not aware of that.<br/> 14 Q. After you read the letter in<br/> 15 which she says she felt like she was<br/> 16 forced to resign because of her being<br/> 17 placed on medical leave and her job being<br/> 18 eliminated and her accounts being taken<br/> 19 away from her, did you at that point<br/> 20 instruct anyone to talk to her and see if<br/> 21 there is a big misunderstanding here?<br/> 22 A. No.<br/> 23 Q. Were you aware that she had</p> |
| Page 126  | Page 128   |
| <p>1 A. Uh-huh (indicating yes).<br/> 2 Q. Sharon further goes on and<br/> 3 says, let me make this perfectly clear,<br/> 4 your attorney does not speak for me. Any<br/> 5 statement about resigning made by my<br/> 6 attorney to your attorney was done in<br/> 7 confidential settlement negotiations as a<br/> 8 possible option in an attempt to resolve<br/> 9 this matter without having to file a<br/> 10 lawsuit. Do you recall receiving this?<br/> 11 A. Yes.<br/> 12 Q. After you received this, did<br/> 13 you do anything to say oh, we have got a<br/> 14 misunderstanding or a miscommunication<br/> 15 here?<br/> 16 MR. JIM AYERS: Object to the<br/> 17 form.<br/> 18 A. No. I took it to mean that<br/> 19 this relationship can't be repaired and<br/> 20 that she would take some kind of action.<br/> 21 Q. At the time of this March 2nd<br/> 22 letter, she had already filed her<br/> 23 lawsuit. Were you aware of that?</p> | <p>1 been placed on medical leave and told<br/> 2 that her job would not be there and that<br/> 3 her accounts were being given to other<br/> 4 salespeople?<br/> 5 A. Something to that nature,<br/> 6 yeah.<br/> 7 Q. Who told you?<br/> 8 A. Probably Robert. Maybe --<br/> 9 yeah, probably Robert.<br/> 10 Q. Did he tell you who made the<br/> 11 decision to take this action against<br/> 12 Sharon?<br/> 13 MR. JIM AYERS: Object to the<br/> 14 characterization, action against Sharon,<br/> 15 but go ahead.<br/> 16 A. No, he did not tell me. He<br/> 17 would have obviously informed me and<br/> 18 first Phil.<br/> 19 Q. Did you express an opinion<br/> 20 one way or the other about placing<br/> 21 Ms. Rutherford on medical leave and<br/> 22 reassigning her accounts when Robert told<br/> 23 you?</p>  |

32 (Pages 125 to 128)

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1 A. As I recall, Sharon left  
 2 after she had received Robert's memo and  
 3 was gone for some time. And I don't --  
 4 from January until sometime in February.  
 5 **Q. But did you express an**  
 6 **opinion to Robert when he told you that**  
 7 **Sharon was being placed on FMLA leave and**  
 8 **her accounts were being reassigned?**  
 9 A. No. It struck me as being, I  
 10 guess, you know, what you do if somebody  
 11 is gone.  
 12 **Q. Let me show you what we**  
 13 **marked as Exhibit Ten to**  
 14 **Mr. Sanguinetti's deposition. This is**  
 15 **the February 20th letter to Sharon from**  
 16 **Ms. Estes informing her that she was**  
 17 **being placed on FMLA leave effective**  
 18 **February the 20th. Did you see that**  
 19 **letter?**  
 20 A. No.  
 21 **Q. Did you know she was**  
 22 **receiving that letter?**  
 23 A. No.

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1 **Q. Did you know --**  
 2 A. No, not any specific  
 3 knowledge. Somebody may have said, she's  
 4 on medical leave or something.  
 5 **Q. All right. In your letter to**  
 6 **Sharon of the 22nd, what did you mean**  
 7 **that she had lost enthusiasm for her**  
 8 **accounts? Is that what you say?**  
 9 A. For the job. Here we have a  
 10 whole train of complaints of harassment  
 11 and retaliation. And it struck me as  
 12 being an employee who is deeply unhappy.  
 13 And a nice way of saying it was that you  
 14 have lost your enthusiasm for the job.  
 15 **Q. What did you mean in the next**  
 16 **paragraph where it says, if you should**  
 17 **change your mind, you have already**  
 18 **received a letter outlining the necessary**  
 19 **process. Sorry about the legal language.**  
 20 **But you understand the business world as**  
 21 **well as anyone who has worked at The**  
 22 **Star. What did you mean by that?**  
 23 A. I assumed that some

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1 communication had been sent, and maybe I  
 2 got a copy of it, that would indicate the  
 3 steps that would be taken to re-institute  
 4 her employment.  
 5 **Q. Are you talking about the**  
 6 **letter from Elaine Estes, or was someone**  
 7 **else supposed to have sent her a letter?**  
 8 MR. JIM AYERS: That sounds  
 9 like a reference to some of the  
 10 settlement discussion. So I am going to  
 11 reserve my objection on it. As far as  
 12 the admissibility --  
 13 THE WITNESS: Yeah. That's  
 14 what it sounds like to me.  
 15 **Q. Do you recall seeing a letter**  
 16 **setting out what she would have to do?**  
 17 A. No, no.  
 18 **Q. Let me show you what I am**  
 19 **marking as Exhibit Fifteen to your**  
 20 **deposition, which has been a document**  
 21 **that was produced to us by your attorney**  
 22 **setting forth Ms. Rutherford's earnings**  
 23 **from 1999 through 2006, yearly earnings.**

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1 A. Uh-huh (indicating yes).  
 2  
 3 (Whereupon, Plaintiff's Exhibit  
 4 Fifteen was marked for identification and  
 5 same is attached hereto.)  
 6  
 7 **Q. In 2005, she earned a hundred**  
 8 **and one thousand. Is that someone that**  
 9 **has lost enthusiasm for their job in your**  
 10 **opinion?**  
 11 MR. JIM AYERS: Object to the  
 12 form.  
 13 **Q. Well, let me clear that up.**  
 14 **You understand that she had a small base**  
 15 **salary and the majority of**  
 16 **Ms. Rutherford's income was based on**  
 17 **sales commissions.**  
 18 A. Yes. I understand that.  
 19 **Q. And each year her salary went**  
 20 **up, so one would assume that she was**  
 21 **selling more.**  
 22 MR. JIM AYERS: Well, I  
 23 object to that. Assuming the ones on her



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1 list bought more. If she had anything to  
 2 do with it --  
 3 **MS. MCGOWAN:** You can object  
 4 to the form, Jim, but I am going to  
 5 object to you giving him instructions and  
 6 speaking objections. You can object to  
 7 the form and reserve your objection. But  
 8 we're under the usual stipulations.  
 9 **MR. JIM AYERS:** The question  
 10 is misleading. I am going to object to  
 11 it.  
 12 **Q. Okay. You understand that**  
 13 **each salesperson had a small base hourly**  
 14 **rate.**  
 15 **A. Yes. I understand that.**  
 16 **Q. And then the majority of**  
 17 **their income came from commissions.**  
 18 **A. I understand that.**  
 19 **Q. And each year,**  
 20 **Ms. Rutherford's income went up each year**  
 21 **based on this document here.**  
 22 **A. Despite all the retaliation**  
 23 **and repressive measures taken against**

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1 her, her income has gone up.  
 2 **Q. Right. And each salesperson**  
 3 **had a commission, a quota to make,**  
 4 **correct?**  
 5 **A. Right.**  
 6 **Q. Are you aware that**  
 7 **Ms. Rutherford met her quota each year?**  
 8 **A. Well, evidently she did**  
 9 **because her income is rising.**  
 10 **Q. When you say that she had**  
 11 **lost her enthusiasm, did you look to see**  
 12 **what her sales were when you wrote that**  
 13 **letter?**  
 14 **A. That was a nice way of**  
 15 **saying, you are such an unhappy employee**  
 16 **and you have been for so long that it**  
 17 **seems to me that your desire to do this**  
 18 **job is not the same as it was.**  
 19 **Q. Other than that October 9th,**  
 20 **2003 meeting with Sharon and Phil, did**  
 21 **you ever sit down and talk to Sharon?**  
 22 **A. No.**  
 23 **Q. Did you ever think about --**

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1 **A. No.**  
 2 **Q. -- going and saying, you seem**  
 3 **so unhappy, can we talk?**  
 4 **A. Phil tried to do that. And**  
 5 **it was his responsibility to do that.**  
 6 **Q. Were you aware that on**  
 7 **January the 5th of 2006, Sharon and Phil**  
 8 **did meet and agree to bury the hatchet**  
 9 **and move forward if she could just work**  
 10 **without being retaliated against?**  
 11 **A. Well, that's fine.**  
 12 **Q. And then on January the 26th,**  
 13 **she gets a letter threatening**  
 14 **termination.**  
 15 **MR. JIM AYERS:** What is your  
 16 point? Is that the question?  
 17 **Q. Were you aware of that?**  
 18 **MR. JIM AYERS:** You already  
 19 asked that question. Object to the form.  
 20 **Q. You can answer.**  
 21 **A. I was not -- the phraseology,**  
 22 **we have agreed to bury the hatchet if I**  
 23 **am not retaliated against, that was not**

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1 communicated to me.  
 2 **Q. Phil didn't tell you that?**  
 3 **A. It would have been a**  
 4 **hallelujah day if this long train of**  
 5 **complaints had had a happy ending.**  
 6 **MS. MCGOWAN:** Let's take a  
 7 quick break.  
 8  
 9 (Whereupon, a brief recess was  
 10 taken.)  
 11  
 12 **A. My response with a little bit**  
 13 **of irony on Exhibit Fifteen was that**  
 14 **Sharon's income rose during the period of**  
 15 **the alleged retaliation.**  
 16 **Q. And what about that?**  
 17 **A. Well, I said that it was**  
 18 **during the period in which she was being**  
 19 **retaliated against. And I meant to say**  
 20 **alleged retaliation.**  
 21 **Q. All right. And did someone**  
 22 **tell you to change your testimony?**  
 23 **A. I was told what I said.**

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1 **Q. So after discussing with your**  
 2 **lawyer, you decided to correct your**  
 3 **testimony?**  
 4 A. Yes, to make it clear.  
 5 MR. JIM AYERS: To clear up  
 6 the context of what he meant, Candis.  
 7 **Q. Well, have you ever heard**  
 8 **that sometimes adversity makes people**  
 9 **work harder?**  
 10 A. I have heard that, yeah.  
 11 **Q. Have you ever written an**  
 12 **article about it?**  
 13 A. No, not precisely. There is  
 14 a point at which you don't build anymore  
 15 character, despite the pain.  
 16 **Q. So sometimes people are**  
 17 **determined to do their best even though**  
 18 **they feel like others don't want them to**  
 19 **succeed. Some people are just**  
 20 **determined. Would you agree with that?**  
 21 A. Well, I would say this is --  
 22 this suit is -- the whole series is a  
 23 very determined effort.

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1 (Whereupon, Plaintiff's Exhibit  
 2 Sixteen was marked for identification and  
 3 same is attached hereto.)  
 4  
 5 **Q. Let me show you what was**  
 6 **marked previously in Mr. Jackson's**  
 7 **deposition. And I am going to mark it as**  
 8 **Sixteen to yours --**  
 9 A. Okay.  
 10 **Q. -- which is an E-mail that**  
 11 **went around from Trish Fowler to, it**  
 12 **looks like just about everybody at The**  
 13 **Star.**  
 14 MR. JIM AYERS: Well, I will  
 15 object to the characterization.  
 16 **Q. Well, a lot of people at The**  
 17 **Star. There appear to be a lot of**  
 18 **Anniston Star addresses on here.**  
 19 MR. JIM AYERS: Well, the  
 20 document speaks for itself. It's  
 21 certainly not the hundred and twenty-five  
 22 people --  
 23 **Q. Did you get a copy of this?**

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1 **Are you listed on the recipient of this**  
 2 **E-mail?**  
 3 A. I don't know.  
 4 **Q. Do you see yourself on there?**  
 5 A. (Witness reviewing document.)  
 6 No, I don't see myself on this, do you?  
 7 **Q. Well, I don't know because I**  
 8 **don't know what your address is. All**  
 9 **right. Would you take a moment and look**  
 10 **at this and flip through and look at the**  
 11 **pictures. It appears to be Halloween**  
 12 **costumes.**  
 13 A. Yeah or Mardi Gras or  
 14 something terrible. Maybe I wasn't  
 15 copied because someone was aware that  
 16 that wasn't exactly my taste.  
 17 **Q. Do you think this is an**  
 18 **appropriate E-mail to be sending out at**  
 19 **work to your subordinate employees?**  
 20 A. No.  
 21 **Q. All right. I am going to**  
 22 **mark a copy, and we have got the original**  
 23 **newspaper here. It was hard to copy it**

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1 **because it wouldn't fit. I am going to**  
 2 **mark that as Exhibit Seventeen to your**  
 3 **deposition. Let me pull the original**  
 4 **real quick.**  
 5  
 6 (Whereupon, Plaintiff's Exhibit  
 7 Seventeen was marked for identification  
 8 and same is attached hereto.)  
 9  
 10 A. Okay.  
 11 **Q. Do you know why The Anniston**  
 12 **Star ran an article on adultery being**  
 13 **against the law back in October of '04?**  
 14 A. There must be something in  
 15 the body of the story that -- When a  
 16 Jacksonville Man Caught His Wife With  
 17 Another Man Last Week. No, I didn't ask  
 18 that that be written. It's a rehearsal  
 19 of an antique statute.  
 20 **Q. Okay.**  
 21 A. I think we had a statute on  
 22 the books that you are not allowed to  
 23 beat your wife with a stick any bigger

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1 around than this (indicating).  
 2 **Q. That doesn't surprise me.**  
 3 A. It's probably in the  
 4 Constitution.  
 5 **Q. All right. Were you aware**  
 6 **that Sharon made a complaint about two**  
 7 **account lists being kept on her by Trisha**  
 8 **where she wasn't getting all of the**  
 9 **commission she was due?**  
 10 A. No. I don't know what that  
 11 would be about.  
 12 **Q. Do you know why Sharon was**  
 13 **not paid her commissions through March**  
 14 **14th of 2006?**  
 15 A. No.  
 16 **Q. Are you aware that Sharon**  
 17 **requested in her March 2nd, 2006 letter**  
 18 **that she be paid all commissions due to**  
 19 **her on her accounts?**  
 20 A. March 2nd, that's the --  
 21 **Q. Resignation. Forced**  
 22 **resignation letter.**  
 23 A. Forced resignation letter,

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1 no. Was that in the letter?  
 2 **Q. Yes.**  
 3 A. Well, I guess I was made  
 4 aware of it, but it did not make a strong  
 5 impression on me.  
 6 **Q. Do you know who took over**  
 7 **Sharon's accounts?**  
 8 A. Who took over Sharon's  
 9 accounts.  
 10 **Q. Right.**  
 11 A. No, I'm not sure.  
 12 **Q. Did you have any involvement**  
 13 **in that decision?**  
 14 A. No.  
 15 **Q. Now, when we started your**  
 16 **deposition, I asked you about growing up**  
 17 **here. And you told me you had a sister.**  
 18 A. Uh-huh (indicating yes).  
 19 **Q. Do you have any other**  
 20 **relatives that live in Alabama?**  
 21 A. No.  
 22 **Q. And you have a daughter.**  
 23 A. Cousin Ayers here.

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1 **Q. Are you and Jim related?**  
 2 A. We may be somewhere back -- I  
 3 think we have a connection in Georgia. I  
 4 think we were on different sides when the  
 5 Normans invaded England. But we get  
 6 along better now.  
 7 **Q. Tell me, to what clubs and**  
 8 **organizations do you belong?**  
 9 A. Oh, God. Well, I belong to  
 10 the Century Foundation in New York.  
 11 **Q. I mean here in Alabama.**  
 12 **Just for jury purposes.**  
 13 A. Oh, okay.  
 14 **Q. I don't want some Board**  
 15 **member you sit with being on the jury.**  
 16 **That's what I am trying to find out, for**  
 17 **jury purposes.**  
 18 A. Organizations --  
 19 **Q. Clubs, social clubs,**  
 20 **churches.**  
 21 A. The Alabama Academy of Honor,  
 22 the Alabama Press Association Hall of  
 23 Honor, but there would be a lot of dead

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1 people in that and you wouldn't have to  
 2 worry about jury selection.  
 3 **Q. What about any civic clubs**  
 4 **here in Anniston or in Alabama?**  
 5 A. Anniston Country Club. But  
 6 the things that -- I am chairman of the  
 7 Anniston City Schools Foundation across  
 8 the way there. I have been very much  
 9 interested in education, civil rights. I  
 10 guess we are a member of the Chamber.  
 11 **Q. Do you belong to a church?**  
 12 A. Episcopal. Some people  
 13 believe that it's a Christian church and  
 14 some don't.  
 15 **Q. Do you hold an office in the**  
 16 **church?**  
 17 A. No.  
 18 **Q. Do you sit on any like**  
 19 **charitable boards besides the Education**  
 20 **Foundation Board, like the museum or**  
 21 **anything like that?**  
 22 A. No, no. Oh, the Alabama has  
 23 Archives, I'm a member of that Board. I

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|--|---|
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| <p>1 think that's pretty much it.</p> <p>2 <b>Q. I asked you if The Star had</b></p> <p>3 <b>ever been sued before. Have you</b></p> <p>4 <b>personally ever been sued in any kind of</b></p> <p>5 <b>lawsuit?</b></p> <p>6 A. No.</p> <p>7 <b>Q. Or sued someone and been</b></p> <p>8 <b>involved in a court action.</b></p> <p>9 A. No. The only other time I</p> <p>10 was deposed was I got to spend a day with</p> <p>11 Donald.</p> <p>12 <b>Q. Has The Star settled any</b></p> <p>13 <b>claims with any employees whether or not</b></p> <p>14 <b>a suit was filed involving inappropriate</b></p> <p>15 <b>touching of any nature?</b></p> <p>16 A. No. Well, that one I</p> <p>17 mentioned.</p> <p>18 <b>Q. With Mr. Finley?</b></p> <p>19 A. No, no. The intern who ran</p> <p>20 into the sheriff's wife or something</p> <p>21 accidentally.</p> <p>22 <b>Q. Tell me every one other than</b></p> <p>23 <b>your attorney who you have discussed this</b></p>                    | <p>1 A. No. He's in Sharon's -- I</p> <p>2 mean in Trisha's old office.</p> <p>3 <b>Q. Why did Trish Fowler leave</b></p> <p>4 <b>The Star?</b></p> <p>5 A. Well, what she said was at a</p> <p>6 going away sort of gathering we had, she</p> <p>7 said it was the best thing for her</p> <p>8 personally and for the good of the</p> <p>9 company. I know that Sharon has felt</p> <p>10 stress. Trish has felt a great deal of</p> <p>11 stress. Probably that's what she meant.</p> <p>12 <b>Q. Did you ask her what she</b></p> <p>13 <b>meant, or are you just assuming?</b></p> <p>14 A. No, I didn't. I just hugged</p> <p>15 her and said, we'll miss you.</p> <p>16 <b>Q. When Mr. Downey came in, was</b></p> <p>17 <b>Trisha kind of demoted where she reported</b></p> <p>18 <b>to him instead of reporting directly to</b></p> <p>19 <b>Ed?</b></p> <p>20 A. I, of course, didn't want to</p> <p>21 characterize it that way. And I had</p> <p>22 hoped that, you know, because of his</p> <p>23 credentials and experience and his ideas</p> |
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| <p>1 <b>lawsuit with other than the attorney.</b></p> <p>2 A. My wife. I have kept it</p> <p>3 pretty closed in at the office. I</p> <p>4 don't -- you know, everybody in the</p> <p>5 executive wing is, of course, aware of</p> <p>6 it. But I haven't discussed it with the</p> <p>7 editor. You know, it's something that</p> <p>8 would be disturbing, and so I just</p> <p>9 haven't said anything.</p> <p>10 <b>Q. Who is the editor?</b></p> <p>11 A. Bob Davis.</p> <p>12 <b>Q. But you have not discussed it</b></p> <p>13 <b>with Bob?</b></p> <p>14 A. Huh-uh (indicating no).</p> <p>15 <b>Q. When you say executive wing,</b></p> <p>16 <b>what do you mean by that? You said</b></p> <p>17 <b>everybody in the executive wing. Who is</b></p> <p>18 <b>in the executive wing?</b></p> <p>19 A. Well, that's Ed, Phil, my</p> <p>20 wife, who edits Long Leaf, Josephine, me</p> <p>21 and Robert.</p> <p>22 <b>Q. Is Mr. Downey in the</b></p> <p>23 <b>executive wing?</b></p> | <p>1 that they could work together. But</p> <p>2 apparently, she felt that -- I don't know</p> <p>3 what she felt. I don't think she was</p> <p>4 happy to have somebody, you know, come in</p> <p>5 that had authority over her.</p> <p>6 I'm sure that she felt that</p> <p>7 she had been running things for so long</p> <p>8 that it wasn't needed. But for obvious</p> <p>9 reasons, I felt that somebody with a lot</p> <p>10 stronger credentials. I think Bill has</p> <p>11 written articles and national</p> <p>12 publications and is highly thought of.</p> <p>13 He was the result of a national search by</p> <p>14 a newspaper search firm.</p> <p>15 <b>Q. Does Pat Taylor still work</b></p> <p>16 <b>for The Star?</b></p> <p>17 A. No.</p> <p>18 <b>Q. Or for the Consolidated?</b></p> <p>19 A. No. He went on to Winston</p> <p>20 Salem. And that's where -- he and Bill</p> <p>21 Downey swapped jobs.</p> <p>22 <b>Q. Is he still in Winston Salem?</b></p> <p>23 A. No. Well, he's living there.</p>                               |

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| <p>1 But the company that they all work for<br/>2 just got rid of that layer of management<br/>3 company wide. And so all of a sudden,<br/>4 you are out of a job. He is doing<br/>5 consulting and other things of that<br/>6 nature.</p> <p>7 <b>Q. Who is John Childs? Is that</b><br/>8 <b>his name?</b></p> <p>9 A. John Childs ran our weekly, a<br/>10 weekly that we had that we sold. And Ken<br/>11 went to work for him. John was sort of<br/>12 thought of as a possibility for top<br/>13 management. But he just didn't work out.</p> <p>14 <b>Q. Who is Wendy Siegle?</b></p> <p>15 A. She was an intern that the<br/>16 Washington Post sent down to see if we<br/>17 couldn't develop her skills as a<br/>18 reporter.</p> <p>19 <b>Q. What year was that?</b></p> <p>20 A. I don't know. It was, I<br/>21 think, in the sixties.</p> <p>22 <b>Q. I know that sometimes the</b><br/>23 <b>Washington Post has connections with</b></p>  | <p>1 <b>inappropriately touched them?</b></p> <p>2 A. Not formally, no.</p> <p>3 <b>Q. Informally?</b></p> <p>4 A. Possibly.</p> <p>5 <b>Q. What do you recall when you</b><br/>6 <b>say possibly?</b></p> <p>7 A. What relevance does this<br/>8 have?</p> <p>9 MR. JIM AYERS: Is this<br/>10 within since 2003?</p> <p>11 <b>Q. Well, when did it happen</b><br/>12 <b>first?</b></p> <p>13 A. Back in the dim ages. I've<br/>14 been there for forty years. And it would<br/>15 have been --</p> <p>16 MR. JIM AYERS: Well before<br/>17 2003?</p> <p>18 THE WITNESS: Of course.</p> <p>19 <b>Q. Was it before the nineties?</b></p> <p>20 A. Uh-huh (indicating yes).</p> <p>21 <b>Q. Okay.</b></p> <p>22 A. Yes was the answer.</p> <p>23 <b>Q. And I think you have already</b></p> |
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| <p>1 <b>papers. Was that just a friendship you</b><br/>2 <b>had developed when you were in</b><br/>3 <b>Washington, or was there any connection</b><br/>4 <b>between The Star and The Post?</b></p> <p>5 A. It's basically because of our<br/>6 national reputation. And, you know,<br/>7 people who apply or have been interning<br/>8 with New York Times or Wallstreet Journal<br/>9 or Washington Post and, you know, want to<br/>10 go to get a full-time job with the paper,<br/>11 they say, you know, go to A, B or C. And<br/>12 we are in the A list of papers that they<br/>13 send to get further experience.</p> <p>14 <b>Q. Have you ever had any</b><br/>15 <b>employee make a complaint that they felt</b><br/>16 <b>you inappropriately touched them or made</b><br/>17 <b>an inappropriate sexual comment to them?</b></p> <p>18 A. In 2003, 2005?</p> <p>19 <b>Q. No. At any time.</b></p> <p>20 A. Has someone made --</p> <p>21 <b>Q. Any employee complained or</b><br/>22 <b>told you that they felt like you made an</b><br/>23 <b>inappropriate sexual comment to them or</b></p> | <p>1 <b>said this, but there have been no classes</b><br/>2 <b>or training on sexual harassment for the</b><br/>3 <b>employees of The Star.</b></p> <p>4 A. No.</p> <p>5 MS. MCGOWAN: That's all I<br/>6 have.</p> <p>7</p> <p>8</p> <p>9 FURTHER DEPONENT SAITH NOT</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>  |

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**CERTIFICATE**

**STATE OF ALABAMA  
ETOWAH COUNTY**

I hereby certify that the above and foregoing deposition was taken down by me in stenotype and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the testimony given by said witness upon said hearing.

I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

**BETH C. WORD**

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367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660



**FREEDOM COURT REPORTING**

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The Anniston Star

No indication  
this is from  
Rutherford.

June 5, 2003

H Brandt Ayers  
1 Booger Hollow Rd  
Anniston, Alabama 36254

Dear Mr, Ayers:

I find it insensitive, and disappointing that you have taken a cavalier attitude towards repairing the personnel damages within our company. Your failure to recognize or accept the situation goes against the policies and moralities that you have championed for throughout your carrier.

Let me be clear, time is not the cure all and will not alleviate the doubt, respect and dedication that is necessary for a leadership position. Employee's are finding and or looking for other jobs due to the lack of leadership and or antiquated management style.

There is doubt and disbelief from your perspective that all this is going on within the organization, you can verify everything I have said by asking a few questions.

- (a) Ask the news staff how many times they have witnessed the two switching vehicles during work hours. (Recently)
- (b) Read the letter sent to Ms Flint by a departing employee
- (c) Ask Linda if her employment was jeopardized if she didn't spy on co-workers.
- (d) Talk to your secretary and others to verify if their employment was a focal point when they mentioned the rumors going around.

I know that you need a take charge individual that is capable of running the organization, however what you don't need is a manager that is immature, and incapable of making decisions that benefit the organization, and getting decisions changed to smooth her ego, due to the relationship.

Dedicated Employee

PLAINTIFF'S  
EXHIBIT

2 - Bayers

**Subject: hba on our talk**

**Date: Sat, 23 Aug 2003 07:40:27 -0400**

**From: HBA1BH@aol.com**

**To: efowler@annistonstar.com**

**CC: psanguinetti@annistonstar.com**

Ed:

I have great respect for you as a professional, enjoy our friendship and appreciate the values we have shared, but I would not be honest if I did not acknowledge they have been strained by your failure to be honest with me. I am also deeply worried by the turmoil your relationship with Trish has caused in the central profit-generating department of the paper.

You are a big man, endowed with many strengths. I am confident that you can restore Phil's and my trust, rebuild the advertising department's morale and win back the respect of other department heads who need to deal with Trish as a peer - not as an extension of your authority.

That will take some doing, but you are equal to the task. I believe Trish is, too. As I remember Wednesday's conversation, we agreed that there must be an immediate and noticeable change. In order to accomplish that we agreed on at least these steps:

1. There will be a rigorous respect for hierarchies: Trish will clear everything with Ken before it comes to you.
2. Contact between you and Trish at the office will be minimized. It would be best not to take her to lunch or leave with her early in the day and not return to the office.
3. You will have one-on-one meetings with other department heads to let them know that they can come to you, even if they have a problem that affects Trish. She is not to be thought of as Deputy Ed.
4. Trish will sit down with Ken and with every person in the department to listen, really listen to what they have to say and will attend a seminar on management style.

As I said, I am confident that you can bring about the changes that will restore morale and rebuild respect and trust. Both of you are special people and I am pulling for you.

Your friend,  
Brandy

Cc: Phil

**PLAINTIFF'S  
EXHIBIT**

3-Bayers

September 24, 2004

To: Brandy Ayers, Phil Sanguinetti  
From: Ed Fowler  
Re: Response to Sharon Rutherford's complaints:

Here are my reactions to the complaints we have received from Sharon:

**Memo of August 6, 2004:**

Trisha Fowler implemented the \$20 per week incentive for her staff to encourage them to turn ads in on time. Since last October, Trisha has had no supervisory relationship with Sharon, at Sharon's request. Therefore Trisha should not have included her in the plan. If Ken Warren, who does supervise Sharon, wants to include her in that plan, fine. I told Ken that when we received this memo.

**Memo of September 7, 2004:**

Margaret Coley was part of Trisha's staff. I have not spoken with her about this, but am confident that she divided up the accounts based on current account lists and who needed extra accounts. Most of them are small accounts that do little advertising with The Star.

Melissa Chumbler's accounts were bigger accounts. Melissa has been gone more than a year. Her accounts were redistributed well before Sharon's current list of grievances began last year. To my knowledge this is the first time she has complained about this.

**Memo of September 17, 2004:**

Sharon has not been discriminated against in any way, as the EEOC officer found. Nor has she been retaliated against in any way.

She does not attend Trisha's sales meetings because she is not a member of Trisha's staff, a point she emphatically made last fall. I cannot swear to the amount of communication between Trisha and Ken, but the system was set up, again at Sharon's request, for Ken to inform Sharon when she needed to know information about sales.

Sharon was included in the software training exercises, as far as I know.

I believe she shares a computer with her sales assistant. I authorized Ken Warren to get a computer for every person on the sales staff. If he did not get two for Sharon and her assistant, that is a decision he made, not Trisha. If she had complained to Ken about sharing, and if he had told me about it, I would have authorized him to get another computer.

The Cooper Chevrolet incident was caused when Paul Starr resigned from The Cleburne News. In an effort to continue making sales calls for Cleburne, we asked Shirley Snider of The Daily Home, who covers Oxford for them, to make calls on behalf of The Cleburne News as well. When Shirley called on Cooper, she was eventually told that Cooper wanted only Sharon to handle their account. To my knowledge, Sharon now is the only salesperson who calls on Cooper. Trisha was not involved in any of that decision-making.

I don't know the details of the Valley Farm Tractor incident. I have not discussed any of Sharon's complaints with Trisha.

It is my opinion that we should simply tell Shaon that she works for Ken, as she insisted last fall. If she has a problem, or a perceived problem, she should take it to Ken, who will try to solve it for her. If he needs advice on solving the problem, I will be happy to get involved at that stage or step aside if you think that is needed.

I also believe we should remind Sharon that despite her "documented" charges, the EEOC officer found no discrimination and dismissed the complaint. She continues to be the highest-paid sales person we have. She has not been harmed, and has not been retaliated against. Filing the charge against our company does not give her the right to manage the advertising department. The company should, and will, provide management.

Finally, no one in top management covering over 40 years, can recall such a persistent campaign of largely unwarranted complaints against a middle management person.

Ed Fowler

**PLAINTIFF'S  
EXHIBIT**

8 - B Ayers

## Memo

From: Sharon Rutherford - (256) 235-9225

---

Date: September 17, 2004  
cc: Mr. H. Brandt Ayers  
Mr. Phil Sanguinetti  
Mr. Ed Fowler  
Subj: Retaliation for E.E.O.C. Charge  
To: Mr. Ken Warren

The purpose of this memo is to again request that immediate action to be taken to stop the discriminatory and retaliatory actions against me for my charge of a sexually hostile work environment and discrimination filed with the E.E.O.C.

I recognize that you are definitely in an awkward position since Patricia Fowler is the individual who is responsible for virtually all of the retaliation activities against me and you must report directly to her spouse. In fact, their personal relationship and the organizational alignment of The Anniston Star allowed her the freedom to create the sexually hostile work environment in the first place and, apparently, nothing has changed to stop the retaliation against me now. However, it is your responsibility as my immediate manager to have The Anniston Star take the necessary actions to stop the discriminatory and retaliatory conduct against me.

Some of the retaliation against me results in me not being allowed to perform my job duties and responsibilities. My job title is Senior Account Executive/New Business Development Manager and this position contains many responsibilities for me based upon my past performance and expertise. In fact, Mr. Pat Taylor wrote in the original memo announcing my position the following:

“I am also pleased to announce the appointment of Sharon Rutherford to the position of New Sales Development Manager. She will work with both retail and classified departments in the areas of new sales generation and development. Sharon was asked to take this position in recognition of her outstanding abilities in sales. It is my hope that by capturing her knowledge in revenue generating ideas and techniques, and putting them to work with other sales people, we will enhance the overall selling efforts at The Star. She is constantly a leader in the areas of new revenue generation. In fact, I’ve never seen anyone in the newspaper business any better at it. It is my belief that with Sharon working with the sales managers helping plan sales projects and training efforts, we will benefit greatly as a company by her knowledge and experience. Sharon will also take the lead position on revenue projects as they come into planning.”

After I made my documented complaint to Mr. Sanguinetti on October 2, 2003, I have not been allowed to participate in sales meetings. When one of the sales people went to Patricia Fowler and asked her to allow me to attend the sales meetings, she bluntly replied, “That’s not going to happen.” The continued exclusion of me from the sales meetings is resulting in me not being able to fully execute my job, as well as, not receiving important information concerning my compensation and job performance.



The continued retaliation is also manifested by Patricia Fowler deliberately not affording me the tools and information that are required to do my job. The sales meetings that she will not allow me to attend are planning sessions that were used to prepare the other sales people for the software change. Their participation in the sales meetings allowed the other sales people to become familiar with the change and have their questions answered and issues addressed in advance of the changeover. The sales meetings usually last from thirty minutes up to one hour. During the meetings, planning for special section occurs and important information such as deadlines, goals, progress, and results are communicated. I have no input even though I am responsible for approximately 30 to 45 percent in almost every special section. The occasional two paragraph memos that was provided to me from Patricia through you with information from the meetings was in no way sufficient to provide me with all of the information covered in the meetings. In fact, I was often unable to secure copies of the special sections from the previous year that were passed out in the meetings to the other sales people to use as a guide for the current year sales. My current title is Senior Account Executive/New Business Development Manager. Even though my official title designates me as a manager, I am the only sales person in the Advertising Department that must share a computer. This is another example of the deliberate effort by Fowler to create roadblocks in an attempt to make me less successful by withholding the tools that I need to do my job.

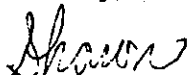
Fowler has also retaliated against me by taking accounts away from me without my knowledge. These actions have resulted in lost income for me and for The Anniston Star. Since Fowler is going behind my back and interfering with my relationship with my customers, she is creating a negative image for The Anniston Star and she is reducing my sales commissions. Her actions could also result in these customers doing less business with us. Examples of her actions include, but are not limited to, the following:

1. During a sales contact at Cooper Chevrolet, Terry Lambert, General Sales Manager, asked me why was Shirley from The Daily Home calling on him to sell not only her papers, but also trying to sell ads in the other Consolidated Publishing Company papers. I told him that she was a very nice person and was just doing her job. Mr. Lambert made it very clear to me that he wanted me to handle his account. I returned to the office and asked two other sales people if they were aware of any changes that had been implemented associated with sales people from our sister papers selling for all of the papers. Both of the individuals quietly told me that they were being allowed to sell ads for all Consolidated Publishing Company newspapers, but they were explicitly told by Patricia to not discuss this with any other sales people. I was devastated and embarrassed. The decision to exclude me from selling and placing Cooper Chevrolet ads in other Consolidated Publishing Company papers was supported by Ed Fowler. This is absolutely retaliation against me for making my charge of a sexually hostile work environment and discrimination with the E.E.O.C.

2. Valley Farm Tractor has been one of my best accounts in past years. I was working with Rick Marsh, the owner, in an effort to optimize his advertising budget. Rick and the other John Deere dealerships in the area decided to drop their previous agency and use a new advertising agency, Newspaper Marketing Service. Rick wanted me to coordinate the ads with the new advertising agency with me being able to handle his account as his sales representative. When the new advertising agency for the current year called you requesting information, you turned over the request to me and told them to call me as I would be their sales representative. I pulled together the information including rates that the advertising agency requested and sent it to them. Two days later, the advertising agency placed the first half-page advertisement. I checked with accounting and found that the account had been set up to be handled by Patricia Flint. She took the account from me after you told them that I would be their account representative. To date, this account has advertised over nine thousand four hundred dollars this year. Not only is this a huge loss in compensation for me, but my customer could not understand why I was not allowed to handle his account.

It is very obvious that I am being retaliated against for exercising my federally protected rights and filing a charge of a sexually hostile work environment and discrimination with the E.E.O.C. Please respond to me in writing what actions you plan to take to rectify this obvious retaliation against me. In addition, please advise the status of my requests dated August 6, 2004, and September 7, 2004. More importantly, I would also request that immediate action be taken to stop this discriminatory and retaliatory conduct against me. I am simply asking that I be allowed to perform my job duties and be provided with all of the necessary information that I need to do so. Thank you for your immediate attention to this matter.

Sincerely,



Sharon Rutherford

Memo091704

## Memo

From: Sharon Rutherford - (256) 235-9225

---

Date: September 7, 2004  
cc: Mr. H. Brandt Ayers  
Mr. Phil Sanguinetti  
Mr. Ed Fowler  
Subj: Distribution of Accounts  
To: Mr. Ken Warren

It is my understanding that Margaret Coley was not replaced and her account list of over 200 businesses was divided among the remaining account executives. I was extremely disappointed to learn that I received only six of her accounts, an unusually small percentage. In fact, one of the six was a duplicate account that was already mine.

In situations like this, the distribution of accounts should be fair and equitable using a documented procedure. The current process is made at a personal, emotional level with entirely too much bias. It appears to me that Patricia Fowler is using these accounts to retaliate against me for exercising my federally protected rights. When Melissa Chumbler left, she had accounts that generated in excess of 51 thousand dollars per month or over 600 thousand dollars per year. Patricia only gave me two accounts that advertised less than 400 dollars per year. I was punished then because I did not approve of her personal relationships and extracurricular activities. It is very obvious that once again I am now being retaliated against for my charge of a sexually hostile work environment and discrimination filed with the E.E.O.C.

Please advise in writing what actions you plan to take to rectify this obvious retaliation against me. In addition, please advise the status of my request dated August 6, 2004, and given to you on August 9, 2004. More importantly, I would also request that immediate action be taken to stop this discriminatory and retaliatory conduct against me. Thank you for your immediate attention to this matter.

Sincerely,



Sharon Rutherford

Memo090704

## Memo

From: Sharon Rutherford - (256) 235-9225

---

Date: August 6, 2004

cc: Mr. Phil Sanguinetti  
Mr. Ed Fowler

Subj: No Late Ads Compensation

To: Mr. Ken Warren

It has been brought to my attention that there is a current program to reward salespeople that do not turn in any late ads each week. I also understand that this is at least the second time that the other salespeople have had an opportunity to participate in this program and earn an additional \$20 each week if all of their advertisements are turned in on time. It is my understanding that these programs have been in place since as early as February of this year. As a salesperson, I have not been allowed to participate in either program even though I have consistently turned in my advertisements on time according to established deadlines.

Since I am the only salesperson that has not been allowed to participate in these reward programs, it appears that my exclusion is in retaliation for my complaints of a sexually hostile work environment and my charge of discrimination filed with the E.E.O.C. Please provide me with a written explanation as to why I have been excluded from these reward programs that have been offered to all of the other salespeople. I would also request that immediate action be taken to stop this discriminatory and retaliatory conduct against me. Thank you for your immediate attention to this matter.

Sincerely,



Sharon Rutherford

Memo080604

# The Anniston Star

*"Alabama's Largest Home-Owned Newspaper"*

Office of the Chairman and Publisher

February 22, 2006

Sharon Rutherford  
1114 Heritage Lane NE  
Jacksonville, AL 36265

Dear Sharon:

Our attorney informs me that you wish to resign, and I regret that. We go back a long way together. I remember you in the old building so smartly dressed, so energetic and eager to make a sale.

Lately, I've noticed you seem to have lost your enthusiasm for the job, and I'm afraid some of your accounts as well. I guess that happens to all of us eventually.

I'm just writing this to say that it was a good ride, and I have happy memories of you. If you should change your mind, you've already received a letter outlining the necessary process – sorry about the legal language, but you understand the business world as well as anyone who has worked at The Star.

Phil and I wish you all the best.

Cordially,



HBA/amm

**PLAINTIFF'S  
EXHIBIT**

13-B. Ayers



***Sharon Rutherford  
1114 Heritage Lane N.E.  
Jacksonville, Alabama 36265  
Home Phone (256) 435-1504***

March 2, 2006

Mr. Phillip A. Sanguinetti  
P. O. Box 189  
Anniston, Alabama 36202

Re: Forced Resignation of Employment

Dear Mr. Sanguinetti,

It is with a sad heart that I have to inform you of my forced notice of resignation. I have always respected you and loved working for you. However, the retaliation that I have been subjected to since I exercised my federally protected rights and filed EEOC charges has become unbearable. In the last month, I have been threatened with termination and discipline, but I have not been provided with any direct information to understand and correct any alleged performance issues. Due to current problems with my back injury previously sustained on the job and the tremendous stress caused from the retaliation, my doctor has placed me on a short medical leave. Since I have enough accumulated PTO time, I elected to use this time while I attended to my health issues. Since I have been using my PTO time, I have been subjected to further retaliation and I was informed that my job position has been eliminated and that my accounts given to other employees. Due to the elimination of my job and my accounts, I have no other alternative but to resign and seek other employment.

On January 30, 2006, I sent a letter to Robert Jackson requesting directions on what performance issues he wanted me to correct, and I have received no response to my request. In addition, I have also requested to be allowed to work from home while my doctor has me on medical leave so that I could continue to provide quality service to the customers of The Anniston Star. Patricia Fowler denied that request in a voice message, that I have recorded, which specifically states, "I just wanted to call and let you know that your request to work at home has been denied. If you refer to your handbook on number page 14, if you're going to be out for more than three days you have the option to take the Family Medical Leave Act. You can use your PTO time at first or you can use that and get up to 12 weeks of unpaid job protected leave." Since that time, I have received a letter from Patricia Fowler reprimanding me for attending a twenty minute meeting of the Women's Council of the Calhoun County Homebuilders Association where I voluntarily serve as the immediate past President and a member of the Parade of Homes Committee.

On February 23, 2006, I received a letter from Elaine Estes stating that The Anniston Star had decided, without my request and without any discussion with me, to place me on Family Medical Leave, which would run concurrent to the PTO leave beginning on February 20, 2006, rather than at the end of my PTO hours as Patricia Fowler had stated in her recorded telephone message to me. In addition, Ms. Estes stated that my account list would be permanently reassigned to other personnel. Since over 65% of my 2005 compensation was based upon my relationships with the customers on my account list, the permanent reassignment to another representative significantly reduces my compensation. It is important to keep in mind that I am on medical leave due to a back injury that I originally sustained on the job while delivering Star Homes and Parade of Homes magazines and re-injured on January 24, 2006, while discarding obsolete advertising files. These back injuries are compounded by the additional mental stress created by the retaliation against me by The Anniston Star for filing my EEOC charges. Prior to receiving Estes' letter, I was never notified by The Anniston Star that I was considered a salaried employee who is among the highest paid 10 percent of employees and I was not informed of my rights and options pursuant to the Family and Medical Leave Act. The Anniston Star just decided to retroactively make decision on my leave, which appears to have violated the intent of the Family and Medical Leave Act. It should be mentioned again that I am willing to work from home, just as I was allowed to do last July when I originally injured my back, but the request was denied this time. While I was allowed to work from home last July, I was able to service my customer accounts and The Anniston Star did not suffer any loss in income from sales.

Along with Ms. Estes' letter, I also received a February 22, 2006, letter from Mr. H. Brandt Ayers stating that "Our attorney informs me that you wish to resign, and I regret that." Let me make this perfectly clear, your attorney does not speak for me. Any statement about resigning made by my attorney to your attorney was done in confidential settlement negotiation as a possible option in an attempt to resolve this matter without having to file a lawsuit. Furthermore, this statement made my Mr. Ayers about me resigning makes it clear that it is The Anniston Star's intent to end my employment as soon as I return to work. Mr. Ayers attempts to justify ending my employment in his letter when he says, "Lately, I've noticed you seem to have lost your enthusiasm for the job, and I'm afraid some of your accounts as well. I guess that happens to all of us eventually." The facts absolutely, positively do not support this vague allegation. In 2004, I exceeded the sales revenue target by \$213,886 by achieving \$1,303,579 in sales revenue versus a target of \$1,089,693. In 2005, I exceeded the sales revenue target by almost \$200,000 or 118% of goal by achieving \$1,263,355 versus a target of \$1,066,960. These results were achieved under some extremely stressful working conditions, including a period of time when I worked from home with my injured back, and certainly prove that my enthusiasm and drive have not slowed down as Mr. Ayers asserts. Anyone reading the last sentence of Mr. Ayers' quote would most likely assume that Mr. Ayers was referring to my age and I can only assume the same. That comment was inappropriate and hurtful. I may be aging in years, but my abilities and experience are far superior as evidenced by my unsurpassed sales performance. It's unfortunate that Mr. Ayers doesn't recognize and address the real personnel problems that have created the unfortunate situation at The Anniston Star. These same individuals are most likely the ones providing him with the false impression that I am the problem. Instead, he chose to believe whatever they tell him without factual basis. I'm surprised that a true journalist would not at least investigate, or even talk to me for my side of the story, to evaluate both sides of the problem before drawing any conclusions.

Based upon all of these threats to my employment, it is apparent that I am going to be terminated when I return to work from my PTO leave or, or at a minimum when I return I will lose two-thirds of my compensation due to the elimination of my job and my accounts being taken away and given to other employees. Therefore, I am being forced to resign my employment and seek employment with another business. Any person placed in my position would also feel forced to resign and to seek other employment.

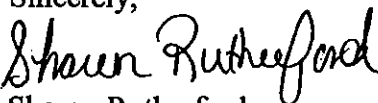
On October 9, 2003, I met with you and Mr. H. Brandt Ayers, Chairman and Publisher. At the conclusion of the meeting, we agreed with a handshake to a "gentlemen's agreement" that my job and I would be protected from any retaliation. Clearly, I have upheld my end of that agreement but you have not. I had lunch with you as recently as January 6, 2006, where we discussed openly the situation in an attempt to "bury the hatchet" and put this situation behind us. Instead, the retaliation has intensified to the point that I am now forced to resign to escape the continuing retaliation that you and Mr. Ayers have allowed to happen. Each day in The Anniston Star the following quote from Colonel Harry M. Ayers appears: "It is the duty of a newspaper to become the attorney for the most defenseless among its subscribers." It is difficult for me to believe that the current leadership can consistently meet this commitment when they are not willing to do the same for the employees of The Anniston Star. As an employee with 25 years of dedicated service to The Anniston Star, I am disappointed and hurt that as principle owners of Consolidated Publishing Company, both you and Mr. Ayers, did not put a stop to these unlawful actions against me, and did not uphold your side of the "gentlemen's agreement".

Please accept this letter as my forced resignation of employment effective immediately. Based upon the policies and procedures of The Anniston Star, I have enough PTO time plus two additional days from a vacation package that I won in a sales contest so that my last day of paid employment will be March 14, 2006. In addition, I am requesting that I be treated as all other employees and be paid for the commissions owed to me on my accounts, especially the accounts that have signed contracts.

To ensure that the customers of The Anniston Star continue to receive the service that they expect and deserve, I am willing to assist in the transition of my responsibilities to another individual if it is needed.

Thank you for your attention to this matter. Please let me know whether I will be paid until March 14, 2006, and whether I will be paid the commissions due to me on my accounts.

Sincerely,

  
Sharon Rutherford

cc: H Brandt Ayers  
Robert Jackson II  
Patricia G. Fowler

Company : 1 THE ANNISTON STAR  
Employee: 706 SHARON L RUTHERFORD .....

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1=Display Tax Details      2=Display Earnings Details      3=Display Check History

| Opt | Year | Gross Wages |
|-----|------|-------------|
| —   | 2006 | 27,118.11   |
| —   | 2005 | 101,792.60  |
| —   | 2004 | 82,917.16   |
| —   | 2003 | 74,415.95   |
| —   | 2002 | 68,312.68   |
| —   | 2001 | 61,783.58   |
| —   | 2000 | 58,143.21   |
| —   | 1999 | 57,192.79   |

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**PLAINTIFF'S  
EXHIBIT**

15 - B. Ayers