

FREEDOM COURT REPORTING

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<p>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 PHILLIP A. SANGUINETTI 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 19th day of April 2007, along with</p>	<p>1 AGREED that it shall not be necessary for 2 any objections to be made by counsel to 3 any questions except as to form or 4 leading questions, and that counsel for 5 the parties may make objections and 6 assign grounds at the time of the trial, 7 or at the time said deposition is offered 8 in evidence, or prior thereto. 9 IT IS FURTHER STIPULATED AND 10 AGREED that the notice of filing of the 11 deposition by the Commissioner is waived. 12 13 14 APPEARANCES 15 16 WIGGINS, CHILDS, QUINN & 17 PANTAZIS, LLC, by Ms. Candis A. McGowan 18 and Ms. Ann Robertson, The Kress 19 Building, 301 Nineteenth Street North, 20 Birmingham, Alabama 35203, (205) 21 314-0513, appearing on behalf of the 22 Plaintiff. 23 JAMES C. AYERS, JR., Attorney</p>
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<p>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 PHILLIP A. SANGUINETTI may be taken 11 before Beth C. Word, Commissioner, at the 12 office of James C. Ayers, Jr., 10 West 13 11th Street, Suite 1-A, Anniston, 14 Alabama, on the 19th day of April 2007. 15 IT IS FURTHER STIPULATED AND 16 AGREED that the signature to and the 17 reading of the deposition by the witness 18 is waived, the deposition to have the 19 same force and effect as if full 20 compliance had been had with all laws and 21 rules of Court relating to the taking of 22 depositions. 23 IT IS FURTHER STIPULATED AND</p>	<p>1 At Law, 10 West 11th Street, Suite 1-A, 2 Anniston, Alabama 36201, (256) 235-3903, 3 appearing on behalf of the Defendant. 4 5 ALSO PRESENT: 6 Sharon Rutherford 7 8 9 10 INDEX 11 12 EXAMINATION BY: PAGE NUMBER: 13 Ms. McGowan 6 14 15 EXHIBITS: 16 PX- 1 16 17 PX- 2 49 18 PX- 3 56 19 PX- 4 75 20 PX- 5 85 21 PX- 6 90 22 PX- 7 95 23 PX- 8 98</p>

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**367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-800-373-3660**

FREEDOM COURT REPORTING

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<p>1 PX- 9 102 2 PX-10 106 3 PX-11 113 4 PX-12 121 5 PX-13 121 6 PX-14 124 7 8 I, BETH C. WORD, a Court 9 Reporter of Gadsden, Alabama, acting as 10 Commissioner, certify that on this date, 11 as provided by the Alabama Rules of Civil 12 Procedure and the foregoing stipulation 13 of counsel, there came before me at the 14 office of James C. Ayers, Jr., Attorney 15 At Law, 10 West 11th Street, Suite 1-A, 16 Anniston, Alabama, beginning at 17 11:30 a.m., PHILLIP A. SANGUINETTI, 18 witness in the above cause, for oral 19 examination, whereupon the following 20 proceedings were had: 21 22 23</p>	<p>1 position with the Anniston Star? 2 A. I'm president of the 3 corporation. 4 Q. When you say the corporation, 5 what is the name of the corporation? 6 A. Consolidated Publishing 7 Company. 8 Q. Do you own other papers 9 besides the Anniston Star? 10 A. Consolidated Publishing 11 Company does, yes, a total of six papers. 12 Q. What are those papers? 13 A. The Star, The Daily Home, the 14 St. Clair Times, The Piedmont Journal, 15 The Jacksonville News, the Heflin paper. 16 Q. Can we have the understanding 17 that when I refer to The Star, I'm 18 talking about where Ms. Rutherford was 19 employed instead of calling it 20 Consolidated? Is that okay? 21 A. That's fine. 22 Q. And if at any time I 23 incorrectly refer to a business as The</p>
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<p>1 THE COURT REPORTER: Usual 2 stipulations? 3 MS. MCGOWAN: Yes. 4 MR. AYERS: Yes. 5 6 7 PHILLIP A. SANGUINETTI, 8 being first duly sworn, was examined and 9 testified as follows: 10 11 EXAMINATION BY MS. MCGOWAN: 12 Q. Would you please state your 13 name for the record? 14 A. Phillip A. Sanguinetti. 15 Q. Would you spell that for the 16 court reporter? 17 A. S-a-n-g-u-i-n-e-t-t-i. I 18 gave her my card. 19 Q. Okay. Great. Where do you 20 live? 21 A. 818 Glenwood Terrace, 22 Anniston, 36207. 23 Q. What is your job title and</p>	<p>1 Star that's not part of The Star 2 business, can you let me know? 3 A. Right. 4 Q. Also, have you ever given a 5 deposition before? 6 A. No. 7 Q. I'm sure your lawyer has 8 explained to you, but I'll be asking you 9 a series of questions in this deposition. 10 And you will need to give a verbal 11 response so that the court reporter can 12 make a record. 13 A. (Witness nods head 14 affirmatively.) 15 Q. If you shake your head yes or 16 no, the court reporter can't take that 17 down. So if the answer is yes or no, you 18 are going to need to say yes or no. 19 A. (Witness nods head 20 affirmatively.) 21 Q. Can we have an agreement that 22 if at any point you don't understand my 23 question that you will ask me to repeat</p>

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**367 VALLEY AVENUE
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Memo:
To: Mr. Sanguinetti
From: Sharon Rutherford
Re: PTO time not taken

We have several special projects, Chamber Directory, Business Card Directory and Star Homes that are all coming up on deadline at the end of January. I am involved in all these projects and responsible for Star Homes and I feel I need to be working. My anniversary date is January 22. I have approximately Twenty-four hours of PTO that I will loose if I do not take them by my anniversary date. I would appreciate if you would let me carry them over and I will use the hours by March 31.

OK PIAS
1/16/2004

PLAINTIFF'S
EXHIBIT

Sanguinetti
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Memo to: Mrs. Sharon Rutherford

Date: 10-27-03

From: Phillip A. Sanguinetti, President, Consolidated Publishing Co., Inc.

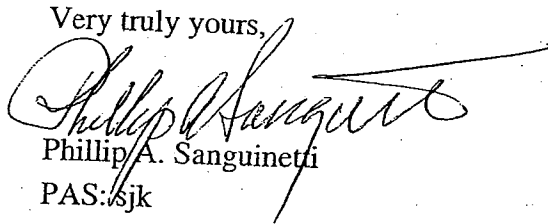
The purpose of this memo is to respond to your memo of Oct. 2, 2003 to answer your claims of sexual harassment and discrimination.

In your memo you specifically requested to resume your old (former) position as Senior Account Executive for New Business Development reporting to advertising director, Ken Warren. We'll be happy to grant this request since we located an evaluation by Pat Taylor where this was formulated.

As to any possible retaliation or discrimination we not only intend to continue our policies of conforming to the law and treating all employees the same but also in trying to do what is fair for all.

Sharon, I hope we can put these things behind us and get on with our work. During the 22 years, you have been with Consolidated, you have been an outstanding employee and a real asset to the company. We have fought other battles together, and I hope we can continue to have along and happy association.

Very truly yours,



Phillip A. Sanguinetti
PAS:sjk

Cc: H. Brandt Ayers
Ed Fowler

PLAINTIFF'S
EXHIBIT

Sanguinetti

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CONSOLIDATED PUBLISHING CO., INC.

PUBLISHERS OF

The Anniston Star

ROBERT JACKSON II
ASSISTANT VICE PRESIDENT
OPERATIONS

MEMORANDUM

TO: Sharon Rutherford, Senior Account Executive
FROM: Robert Jackson, II, Assistant Vice President of Operations
DATE: January 26, 2006
RE: Consolidated Publishing Co., Inc. Position Re Harassment Claim

1. Neither the Advertising Director nor anyone else has ever harassed you, retaliated against you, or created a hostile and intimidating work environment. Every allegation of retaliation against you has been investigated and no evidence supporting those allegations has been found.
2. Working conditions in the advertising department are the same for everyone. There is stress and pressure as we try to meet our sales goals. Those conditions are a fact of life in every sales organization.
3. The Advertising Director did not deny your vacation carryover request. She simply communicated the decision to you made by corporation President, Phil Sanguinetti.
4. Each of the three accounts cited in the January 25th memo called the Advertising Director and asked to meet without you present. Each account had complaints about customer service and your approach to their business.
5. Effective immediately, normal management practices will be followed: i.e., you will report to the Advertising Director as does every person in the department.
6. You have not been attending your accounts at the level of Senior Account Executive. Thereby, you have damaged our relationships with our Advertisers.
7. If you continue to ignore the duties of your position and continue to fail to adhere to the policies and procedures of the Advertising Department, your employment will be terminated.

RJ/amm
cc: H. Brandt Ayers, Chairman and Publisher
Phillip A. Sanguinetti, President

P.O. Box 189 • Anniston, Alabama 36202-0189
Telephone (256) 235-9206 • Mobile Phone (256) 310-8048 • rjackson@annistonstar.com

**PLAINTIFF'S
EXHIBIT**

Sanguinetti
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Rutherford-00152

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

PLAINTIFF'S
EXHIBIT
Sanguinetti

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