



<p style="text-align: right;">5</p> <p>1 either party as if those entries in the CV were</p> <p>2 responsive to appropriate questions during the</p> <p>3 course of the deposition.</p> <p>4 MR. LINK: That's acceptable.</p> <p>5 MR. SCAROLA: Good. Thank you.</p> <p>6 MR. LINK: Shall we go ahead and mark that as</p> <p>7 Exhibit 1?</p> <p>8 MR. SCAROLA: That's a good idea.</p> <p>9 (Thereupon, the document referred to was</p> <p>10 marked Plaintiff's Exhibit Number 1 for identification.)</p> <p>11 THEREUPON:</p> <p>12 DOCTOR BERNARD J. JANSEN</p> <p>13 was called as a witness and, having been previously duly</p> <p>14 sworn and responded "I do," was examined and testified</p> <p>15 as follows:</p> <p>16 DIRECT EXAMINATION</p> <p>17 BY MR. LINK:</p> <p>18 Q. Mr. Jansen, would you please take a look at</p> <p>19 what we just marked as Exhibit 1 and tell us what that</p> <p>20 is, please.</p> <p>21 A. This is my CV, my curriculum vitae.</p> <p>22 Q. And is that current through today?</p> <p>23 A. I could check every page but it's a fairly</p> <p>24 recent CV.</p> <p>25 Q. Okay. Mr. Jansen, tell me what your opinions</p>	<p style="text-align: right;">7</p> <p>1 A. As I outlined in my report in one of the</p> <p>2 paragraphs that we can go through, I outlined explicitly</p> <p>3 what the statements were that I used.</p> <p>4 Q. I understand what a statement is. I don't</p> <p>5 have any problem with you doing research. The research</p> <p>6 that you did makes sense to me. If you plugged in a</p> <p>7 sentence and wanted to see how many times it was used,</p> <p>8 that makes sense to me.</p> <p>9 A. Uh-huh.</p> <p>10 Q. I'm trying to understand the language and the</p> <p>11 decision you made about a statement being defamatory,</p> <p>12 and I want to know how you made a decision that whatever</p> <p>13 statement you were researching was a defamatory</p> <p>14 statement.</p> <p>15 A. The defamatory statements was something that I</p> <p>16 was provided, as I state in my report, that it was these</p> <p>17 statements that linked Mr. Edwards to the Ponzi scheme</p> <p>18 of Mr. Rothstein. That's what was provided to me. That</p> <p>19 was my assignment.</p> <p>20 Q. Okay. So you were told by either Mr. Edwards</p> <p>21 or Mr. Scarola what statement they thought was</p> <p>22 defamatory.</p> <p>23 A. Those were the statements I was told to look</p> <p>24 for, yes.</p> <p>25 Q. Okay. So did you make any determination of</p>
<p style="text-align: right;">6</p> <p>1 are that you have reached in this case.</p> <p>2 A. The -- my opinion is that the defamatory</p> <p>3 statements against Mr. Edwards leaking into the Ponzi</p> <p>4 scheme of Mr. Rothstein were disseminated to 74</p> <p>5 different media sites, in 104 different articles, to</p> <p>6 9,665,542 daily media visitors.</p> <p>7 Q. You just used the words "defamatory</p> <p>8 statements." Did you make a determination that there</p> <p>9 was a statement in some publication that was defamatory?</p> <p>10 A. I was given the gist of the statements that --</p> <p>11 the statements that linked Mr. Edwards to the Ponzi</p> <p>12 scheme of Mr. Rothstein, and then I checked for the</p> <p>13 explicit statement, those particular statements in each</p> <p>14 of the 104 articles.</p> <p>15 Q. I understand that, but I'm talking about the</p> <p>16 word "defamatory."</p> <p>17 "Defamatory" is a legal word; is it not?</p> <p>18 A. I don't know whether it's a legal word or not.</p> <p>19 Q. Well, what does it mean? When you were doing</p> <p>20 your work you said you used "defamatory statements."</p> <p>21 And I want to know what you concluded was a defamatory</p> <p>22 statement and we'll talk about --</p> <p>23 A. Sure.</p> <p>24 Q. -- the credentials you have to make that</p> <p>25 determination for -- to say that to a jury.</p>	<p style="text-align: right;">8</p> <p>1 what's defamatory?</p> <p>2 A. No.</p> <p>3 Q. All right. Is there a way that you could</p> <p>4 describe the statement from your words what you were</p> <p>5 doing? Because the word "defamatory" is not your word,</p> <p>6 is it, in this report? That's one of the lawyer's</p> <p>7 words.</p> <p>8 A. Well, it was a description I used for those</p> <p>9 particular statements. It was provided to me, what</p> <p>10 those statements were.</p> <p>11 Q. Okay. So you chose the word "defamatory</p> <p>12 statements"?</p> <p>13 A. I didn't say that, no. I was provided that</p> <p>14 these are the defamatory statements to look for.</p> <p>15 Q. Right. So the person who made the decision to</p> <p>16 label whatever statements you researched defamatory was</p> <p>17 not you?</p> <p>18 A. Whether they were defamatory or not was not my</p> <p>19 decision.</p> <p>20 Q. Okay. Is there something about my question</p> <p>21 that's causing you pause?</p> <p>22 A. A little bit, yeah. I did an IT</p> <p>23 investigation. You're asking me kind of a legal</p> <p>24 question.</p> <p>25 Q. Uh-huh.</p>

<p style="text-align: right;">9</p> <p>1 A. And I'm just telling you that I was provided</p> <p>2 these statements.</p> <p>3 Q. And the reason I'm asking is you told me your</p> <p>4 opinion was about defamatory statements. And that has a</p> <p>5 lot of significance to it. And I want to understand who</p> <p>6 determined what statements were defamatory, whether you</p> <p>7 did that or the lawyers for Mr. Edwards did that.</p> <p>8 MR. SCAROLA: Objection, repetitious, asked</p> <p>9 and answered.</p> <p>10 A. Yeah, your question is asking kind of two</p> <p>11 questions.</p> <p>12 BY MR. LINK:</p> <p>13 Q. You may answer both. Go ahead.</p> <p>14 A. All right. The statements linking Mr. Edwards</p> <p>15 to this Ponzi scheme by Mr. Rothstein, I mean, those</p> <p>16 were statements I looked for. I looked for the explicit</p> <p>17 statement, you know, those particular expression of</p> <p>18 those statements. At -- the aspect of whether they were</p> <p>19 defamatory or not from a legal aspect is not within my</p> <p>20 purview.</p> <p>21 Q. Right. Okay. So that must mean that the</p> <p>22 language "defamatory statement" was provided to you by</p> <p>23 either Mr. Scarola or Mr. Edwards.</p> <p>24 A. Well, yeah -- yes, that particular subject</p> <p>25 matter was provided, yes.</p>	<p style="text-align: right;">11</p> <p>1 Q. Okay. So then what are the sub-categories of</p> <p>2 opinions that you have?</p> <p>3 A. Well, we can go over my report but -- and I'll</p> <p>4 provide those.</p> <p>5 Q. I have your report, but I want you to tell me</p> <p>6 what opinions you're planning to provide to the jury.</p> <p>7 MR. SCAROLA: And you should understand that</p> <p>8 to the extent that it assists you in providing an</p> <p>9 accurate response to any question that is asked</p> <p>10 during the course of this deposition, you're free</p> <p>11 to refer to anything that you'd like to.</p> <p>12 I have a copy of your report here. If you</p> <p>13 want to look at that, you are free to do that. As</p> <p>14 long as Mr. Link knows what it is you're looking</p> <p>15 at, if it helps you to give honest and accurate</p> <p>16 answers, you're free to look at that.</p> <p>17 MR. LINK: Jack, I don't agree to that. I</p> <p>18 don't want you to hand him exhibits --</p> <p>19 MR. SCAROLA: I'm sorry that --</p> <p>20 MR. LINK: -- and tell him what he can do.</p> <p>21 MR. SCAROLA: I'm sorry that you don't</p> <p>22 agree --</p> <p>23 MR. LINK: I don't.</p> <p>24 MR. SCAROLA: -- but that happens to be a</p> <p>25 matter of law. He has a right to refresh his</p>
<p style="text-align: right;">10</p> <p>1 Q. Okay. Do you have any other opinions in this</p> <p>2 case other than the one you just shared with me?</p> <p>3 A. Well, there's supporting opinions that I</p> <p>4 outline in my report but that's the major -- that's what</p> <p>5 I was asked to do, dissemination of these defamatory</p> <p>6 statements.</p> <p>7 Q. So -- okay, so you keep saying "defamatory</p> <p>8 statements." And when you say that, the reason it</p> <p>9 causes me concern is whether a statement is defamatory</p> <p>10 is for a judge or jury to decide.</p> <p>11 A. Okay. Then maybe I'm --</p> <p>12 Q. You're not the judge or jury in this case.</p> <p>13 A. I making that statement in a colloquial sense</p> <p>14 rather than the legal sense you're using it in.</p> <p>15 Q. So what we're really talking about, though, is</p> <p>16 a statement and how many times that statement was picked</p> <p>17 up by the press; is that right?</p> <p>18 A. The press -- yes, it was available on-line --</p> <p>19 Q. Do you --</p> <p>20 A. -- a particular type of subject matter for</p> <p>21 these particular statements, yes.</p> <p>22 Q. Right. Okay. And so whether or not that</p> <p>23 statement was defamatory or not is not an analysis you</p> <p>24 engaged in?</p> <p>25 A. The defamatory part, no.</p>	<p style="text-align: right;">12</p> <p>1 recollection to refer to anything that he wants to</p> <p>2 during the course of the deposition as long as you</p> <p>3 are aware of the fact that he's referring to</p> <p>4 something and have a chance to look at it yourself.</p> <p>5 MR. LINK: I don't want to argue with you.</p> <p>6 Please let me take my deposition the way I want to.</p> <p>7 MR. SCAROLA: You're free to do that.</p> <p>8 BY MR. LINK:</p> <p>9 Q. So what I'm asking is what your opinions are.</p> <p>10 A. Uh-huh.</p> <p>11 Q. And we'll get to your report. And if you</p> <p>12 don't remember something, just tell me you don't</p> <p>13 remember.</p> <p>14 But, I want to know as you sit here what</p> <p>15 you're going to tell the jury. And I understand opinion</p> <p>16 number one is that you took a statement given to you by</p> <p>17 Mr. Edwards and Mr. Scarola and you did your research to</p> <p>18 see how many times you could find it in the press;</p> <p>19 right?</p> <p>20 A. A statement, yes, or similar statements that</p> <p>21 related to it, yes.</p> <p>22 Q. Got it.</p> <p>23 What other conclusions or opinions did you</p> <p>24 reach other than that one?</p> <p>25 A. Well, the other sub-supporting -- sub-opinions</p>

<p style="text-align: right;">13</p> <p>1 that support that particular opinion.</p> <p>2 Q. I'm asking what are they, sir.</p> <p>3 A. Okay. Well, that the statements were</p> <p>4 distributed to 74 different on-line sites, that I</p> <p>5 calculated the traffic to those particular sites. The</p> <p>6 sites that I couldn't verify the traffic or didn't feel</p> <p>7 I had reliable traffic numbers I didn't include. The</p> <p>8 104 articles, I looked through each of those articles</p> <p>9 for defamatory statements, using that colloquially. I</p> <p>10 outlined 12 different steps of why that is a</p> <p>11 conservative estimate, that 9,635,542, and give several</p> <p>12 examples in my report.</p> <p>13 Q. Okay. So that just sounds like the numbers</p> <p>14 that you found when you did your singular opinion, which</p> <p>15 is to see where this statement provided to you by the</p> <p>16 lawyers was replicated in the press, and that's the</p> <p>17 number of times that you saw that; is that right?</p> <p>18 A. Well, that was one of my main opinion but you</p> <p>19 asked for the sub-opinions and I've outlined it, that</p> <p>20 9,665,542 --</p> <p>21 Q. Yeah.</p> <p>22 A. -- was a conservative estimate.</p> <p>23 Q. Okay. Any other opinions?</p> <p>24 A. We can go through paragraph by paragraph in</p> <p>25 the report but I gave you the --</p>	<p style="text-align: right;">15</p> <p>1 with in deciding whether you would be retained in this</p> <p>2 case was Mr. Scarola, not Mr. Edwards?</p> <p>3 A. That is correct.</p> <p>4 Q. Did you have contact with Mr. Edwards about</p> <p>5 the content of your report?</p> <p>6 A. Yes.</p> <p>7 Q. And did you have contact with Mr. Edwards</p> <p>8 about what -- the way your report is written?</p> <p>9 A. Well, yes, he -- Mr. Edwards reviewed a draft</p> <p>10 of the report.</p> <p>11 Q. And gave you comments on the writing of the</p> <p>12 report?</p> <p>13 A. Yes, basically.</p> <p>14 Q. Made some changes to it?</p> <p>15 A. Made some suggestions, yes.</p> <p>16 Q. Okay. And did you accept his suggestions?</p> <p>17 A. Most of them wording changes, yes, and there</p> <p>18 was one recommendation that he asked if I could include</p> <p>19 in my report.</p> <p>20 Q. And did you do that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So you took his wording changes and you</p> <p>23 made a material change to your report based on</p> <p>24 Mr. Edwards asking you to do so; is that right?</p> <p>25 A. He asked if I could include something and I</p>
<p style="text-align: right;">14</p> <p>1 Q. That's it?</p> <p>2 A. -- broadest opinion.</p> <p>3 Q. Okay. When were you retained in this case,</p> <p>4 sir?</p> <p>5 A. By October 2017, on or about.</p> <p>6 MR. LINK: Okay. Let's go ahead and mark the</p> <p>7 report as Exhibit 2.</p> <p>8 (Thereupon, a brief discussion was held off</p> <p>9 the record, after which the deposition continued as</p> <p>10 follows:)</p> <p>11 (Thereupon, the document referred to was</p> <p>12 marked Plaintiff's Exhibit Number 2 for identification.)</p> <p>13 BY MR. LINK:</p> <p>14 Q. Ready? Let's turn to page 3, sir. On page 3</p> <p>15 you outline what your assignment was.</p> <p>16 And who provided you with the assignment? Who</p> <p>17 gave you what's in paragraph 9?</p> <p>18 A. That would be Mr. Scarola.</p> <p>19 Q. Mr. Scarola gave you paragraph 9?</p> <p>20 A. Yeah. It's a -- and I added some words to the</p> <p>21 thing to make it more in line with what I had to do but</p> <p>22 that's basically just to looking for --</p> <p>23 Q. Okay.</p> <p>24 A. -- those types of words.</p> <p>25 Q. All right. So the person that you had contact</p>	<p style="text-align: right;">16</p> <p>1 felt it was in line, so yes.</p> <p>2 Q. Okay. So back to paragraph 9 for a second.</p> <p>3 The question that you were asked by Mr. Scarola and</p> <p>4 Mr. Edwards is: What is the level of dissemination of</p> <p>5 defaming statements?</p> <p>6 Did they give you any definition of what</p> <p>7 "defaming" means?</p> <p>8 A. The -- again, this "defaming" is kind of a</p> <p>9 legal thing you're harping on here. I use it in a</p> <p>10 colloquial expression. And they gave me what the</p> <p>11 statements I was to look for.</p> <p>12 Q. Right. So is the word "defaming" here really</p> <p>13 superfluous from your standpoint? What you really</p> <p>14 needed were the statements and not an adjective to</p> <p>15 describe them for you to do your work?</p> <p>16 A. For me to do my work?</p> <p>17 Q. Yes, sir.</p> <p>18 A. I needed the statements to look for.</p> <p>19 Q. So if the word "defaming" wasn't in here it</p> <p>20 wouldn't have changed the way you went about doing your</p> <p>21 work; would it?</p> <p>22 A. As long as I had the statements, no, it</p> <p>23 wouldn't change my work.</p> <p>24 Q. Okay. Turn to page 5, please. Look at</p> <p>25 paragraph 15, if you would.</p>

<p style="text-align: right;">17</p> <p>1 A. Yes.</p> <p>2 Q. It says: "The defaming statements associating</p> <p>3 Mr. Edwards with the illegal activities of</p> <p>4 Mr. Rothstein..."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. What is the statement that you searched for?</p> <p>8 A. Well, it was -- it varied slightly, you know,</p> <p>9 document to document, but it was an association with --</p> <p>10 that Mr. Edwards was somehow knowingly involved with the</p> <p>11 illegal activities of Mr. Rothstein.</p> <p>12 Q. What was the word search that you used?</p> <p>13 A. Well, again, to find the articles or the</p> <p>14 statements in the articles.</p> <p>15 Q. I want to know the word search that you were</p> <p>16 looking for. As I understand your assignment, it was to</p> <p>17 take the connection of Mr. Edwards with Mr. Rothstein</p> <p>18 and Mr. Rothstein's illegal activities and prepare a</p> <p>19 report and identify every place that there was a</p> <p>20 reference to Mr. Edwards and Mr. Rothstein and the</p> <p>21 illegal activities. Is that right?</p> <p>22 A. You're going to have to say that one more</p> <p>23 time.</p> <p>24 Q. Okay.</p> <p>25 A. Sorry.</p>	<p style="text-align: right;">19</p> <p>1 involved with Rothstein's illegal activities? Is</p> <p>2 that -- is that right?</p> <p>3 A. That Mr. Edwards was involved with these</p> <p>4 illegal activities and that so -- you're writing it down</p> <p>5 like that was the only statement I searched for. But,</p> <p>6 as I said, in each of these 104 articles that verbiage</p> <p>7 changed likely article to article.</p> <p>8 Q. Okay. Well, Mr. Scarola corrected me and</p> <p>9 added the word "knowing." That's why I added the word</p> <p>10 to my sentence.</p> <p>11 Was that not a word that was important to you</p> <p>12 in determining whether the statement you were supposed</p> <p>13 to find was included in an article?</p> <p>14 A. I don't understand the question.</p> <p>15 Q. Well, I just asked you if the statement that</p> <p>16 you were asked to locate to see how many times it was</p> <p>17 disseminated was the one that reads like this: That</p> <p>18 Edwards was knowingly involved with Rothstein's illegal</p> <p>19 activity.</p> <p>20 A. And I'm going to refer you to paragraph 15</p> <p>21 that clearly states: Defaming statements associating</p> <p>22 Mr. Bradley with illegal activities of Mr. Rothstein...</p> <p>23 Q. Okay. So whether it was Mr. Edwards knew</p> <p>24 about it or not was not germane to your research?</p> <p>25 A. That's not what I said.</p>
<p style="text-align: right;">18</p> <p>1 Q. I thought I understood that the assignment</p> <p>2 that you had was to simply take Mr. Rothstein,</p> <p>3 Mr. Edwards, and the concept of illegal activities, and</p> <p>4 then search and see where in the Internet, the</p> <p>5 newspapers, that combination of words exists.</p> <p>6 MR. SCAROLA: I'm going to object to the</p> <p>7 mischaracterization of the answer that was</p> <p>8 previously given, which included a reference to the</p> <p>9 fact that Bradley Edwards was a knowing participant</p> <p>10 in the illegal activities.</p> <p>11 MR. LINK: Thank you for that clarification.</p> <p>12 MR. SCAROLA: You're welcome.</p> <p>13 A. Well, I can take your question two different</p> <p>14 ways, okay. One, what I used to look at these</p> <p>15 documents, and those I outline in my report.</p> <p>16 BY MR. LINK:</p> <p>17 Q. Uh-huh.</p> <p>18 A. And then the actual statements in each of</p> <p>19 these documents. And those statements vary slightly,</p> <p>20 you know, article to article. But it was somehow there</p> <p>21 I as a reader of these articles would -- that the</p> <p>22 article expressed that Mr. Edwards was somehow knowingly</p> <p>23 involved in these illegal activities of Mr. Rothstein.</p> <p>24 Q. Okay. So is that the key to this? The</p> <p>25 article needed to show that Mr. Edwards was knowingly</p>	<p style="text-align: right;">20</p> <p>1 Q. Well, I just read what you wrote here and it</p> <p>2 just says associating him. It doesn't say whether he</p> <p>3 knew or didn't know.</p> <p>4 And I'm trying to really understand if you</p> <p>5 were looking for articles that simply say: Edwards and</p> <p>6 Rothstein. And Rothstein has illegal activity. Or you</p> <p>7 were looking for articles that said: Mr. Edwards was a</p> <p>8 known participant in the Ponzi scheme.</p> <p>9 MR. SCAROLA: Object to the form of the</p> <p>10 question as it excludes the possibility that both</p> <p>11 were included.</p> <p>12 A. The --</p> <p>13 MR. LINK: Good coaching.</p> <p>14 BY MR. LINK:</p> <p>15 Q. Go right ahead.</p> <p>16 A. I don't understand the comment about the</p> <p>17 coaching.</p> <p>18 Q. No, it was just for Mr. Scarola's purposes.</p> <p>19 A. Okay. Could you repeat the question?</p> <p>20 Q. I probably can't. I don't remember what I</p> <p>21 asked now, but I'll come up with another question.</p> <p>22 MR. SCAROLA: I'd be happy to help, if you'd</p> <p>23 like --</p> <p>24 MR. LINK: No, no --</p> <p>25 MR. SCAROLA: -- cause I remember it.</p>

<p style="text-align: right;">21</p> <p>1 MR. LINK: -- I'll figure it out.</p> <p>2 MR. SCAROLA: Okay.</p> <p>3 MR. LINK: I'll figure it out.</p> <p>4 BY MR. LINK:</p> <p>5 Q. I'm trying to understand what was important to</p> <p>6 you in doing your search --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- because I understand the numbers. That</p> <p>9 makes sense to me. That's sort of the easy part of</p> <p>10 this. What I'm trying to understand is what you were</p> <p>11 searching to find, so that I can then talk to you about</p> <p>12 whether the articles you located satisfy the search</p> <p>13 request you were seeking.</p> <p>14 Does that make sense?</p> <p>15 And when I read your sentence in paragraph 15,</p> <p>16 if that's what you were looking for, then whether</p> <p>17 Mr. Edwards knew or didn't know would not be important</p> <p>18 to you in your search.</p> <p>19 A. Nah, I -- you know, well, you can argue and</p> <p>20 interpreter it how you would like. But as I explain in</p> <p>21 my report, you know, I looked in these -- in the</p> <p>22 articles where that Mr. Edwards was involved, knew</p> <p>23 about, contributed to, that somehow had to get across in</p> <p>24 these articles to me.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">23</p> <p>1 A. With the illegal activities.</p> <p>2 Q. Got it. Okay.</p> <p>3 All right. Will you turn to page 13, please.</p> <p>4 When you were identifying articles in which there was</p> <p>5 reference made to Mr. Rothstein's illegal activities and</p> <p>6 Mr. Edwards' involvement or contribution to or knowledge</p> <p>7 about those activities, did it matter to you where that</p> <p>8 information came from?</p> <p>9 And here is what I mean. Did you exclude, for</p> <p>10 example, press statements by Mr. Scarola?</p> <p>11 A. Well, there's two questions there. Let me</p> <p>12 deal with the last one. I mean, I don't recall any</p> <p>13 press -- looking at any press releases from Mr. Scarola,</p> <p>14 so I don't think I included those.</p> <p>15 Q. How about statements to the press by</p> <p>16 Mr. Scarola?</p> <p>17 A. The -- well, let me answer your other</p> <p>18 question, which was -- which right now I forgot.</p> <p>19 Q. Okay. So let's deal with the question of when</p> <p>20 you were --</p> <p>21 A. Well, I want to make sure I answer your</p> <p>22 question. It was a -- it actually was a very good</p> <p>23 question and now I --</p> <p>24 Q. We're going to get back to it.</p> <p>25 MR. SCAROLA: Do you want the earlier compound</p>
<p style="text-align: right;">22</p> <p>1 A. So the exact -- yeah.</p> <p>2 Q. Involved, knew about -- and I missed the third</p> <p>3 one.</p> <p>4 A. Involved, knew about --</p> <p>5 Q. Somehow involved, is that what it was?</p> <p>6 MR. LINK: Jack, do you remember?</p> <p>7 MS. ROCKENBACH: Contributed to.</p> <p>8 MR. LINK: Contributed to.</p> <p>9 MR. SCAROLA: Knew about.</p> <p>10 MR. LINK: Involved, knew about, contributed</p> <p>11 to.</p> <p>12 MR. SCAROLA: Contributed to.</p> <p>13 MR. LINK: Got it. Thank you.</p> <p>14 BY MR. LINK:</p> <p>15 Q. Okay. So -- so then you were focused on not</p> <p>16 just that Mr. Edwards was employed at the Rothstein firm</p> <p>17 and that the Rothstein firm was involved in illegal</p> <p>18 activities. You were looking for articles that</p> <p>19 connected Mr. Edwards to that illegal activity.</p> <p>20 A. That is a very good example. Yes, there were</p> <p>21 articles that, for example, said that Mr. Edwards was</p> <p>22 employed in Mr. Rothstein's firm, and those articles I</p> <p>23 didn't include. It had to be somehow that he was</p> <p>24 somehow associated with this.</p> <p>25 Q. With the illegal activities?</p>	<p style="text-align: right;">24</p> <p>1 question read back to you?</p> <p>2 THE WITNESS: Yes, the earlier compound</p> <p>3 question read back.</p> <p>4 MR. LINK: Read it back. How about it?</p> <p>5 Objection sustained.</p> <p>6 (Thereupon, the following was read by the</p> <p>7 Court Reporter:</p> <p>8 "Question: All right. Will you turn to page</p> <p>9 13, please. When you were identifying articles in</p> <p>10 which there was reference made to Mr. Rothstein's</p> <p>11 illegal activities and Mr. Edwards' involvement or</p> <p>12 contribution to or knowledge about those</p> <p>13 activities, did it matter to you where that</p> <p>14 information came from?</p> <p>15 "And here is what I mean. Did you exclude,</p> <p>16 for example, press statements by Mr. Scarola?"</p> <p>17 A. Yes to the first question. Yes, it did matter</p> <p>18 where it came from.</p> <p>19 BY MR. LINK:</p> <p>20 Q. Okay. Explain to me why and what you did to</p> <p>21 narrow the field.</p> <p>22 A. For example, I ignored several -- there's a</p> <p>23 lot of documents -- court documents about this case that</p> <p>24 are available on-line. I didn't link those bells. You</p> <p>25 know, I just hit -- I --</p>

1 Q. You did not?

2 A. Specifically court documents, no, I did not

3 include those.

4 Q. They're identified in your report, the court

5 documents.

6 A. Where are they identified?

7 Q. Okay. We will look at that.

8 So you excluded court documents?

9 A. Yes. Now, if -- the only disclose -- just to

10 clarify that, if an article referenced a court document

11 or had a snippet from a court document, you know, like

12 from a news article, then I included it. But if it was

13 just, you know, about some Florida Court Association

14 repository, no, I didn't include those.

15 Q. All right. Any other limitations?

16 A. They -- if, for example, there were articles

17 that just mentioned the case --

18 Q. Uh-huh.

19 A. -- but didn't mention that -- had the

20 statements about Mr. Edwards being involved in these

21 illegal activities, I didn't include those.

22 There may have been some other examples. But

23 my real -- my real aspect was to focus on some type of

24 explicit publishing of these statements.

25 Q. All right. And so I take it then that you

1 were not eliminating articles that, for example, if

2 Mr. Scarola or Mr. Edwards spoke to a reporter which led

3 to an article being written or they invited a reporter

4 to a hearing or had lunch with a reporter to talk about

5 the case, which created an article, you didn't exclude

6 those from your analysis?

7 MR. SCAROLA: Excuse me.

8 Objection, no proper predicate, and compound.

9 BY MR. LINK:

10 Q. You can answer it.

11 A. In each of the 104 documents I looked for the

12 expression of the statement that linked Mr. Edwards to

13 these illegal activities.

14 Q. So that if -- so that if some of the

15 statements or articles or interviews were created by

16 Mr. Edwards or Mr. Scarola, those are still included in

17 the number of items you identified with statements?

18 MR. SCAROLA: Objection, no proper predicate,

19 assumes facts not in evidence, no good faith basis

20 to suggest such things ever happened.

21 A. Can I have the question back?

22 MR. LINK: Please.

23 (Thereupon, the following was read by the

24 Court Reporter:

25 \*Question: So that if some of the

1 statements or articles or interviews were created

2 by Mr. Edwards or Mr. Scarola, those are still

3 included in the number of items you identified with

4 statements?\*)

5 BY MR. LINK:

6 Q. Okay. Let me ask the question again. I think

7 we missed a couple of words. Let me see if I can break

8 it down.

9 So let's take it then -- for example, the

10 first article listed on page 13. Do you see that that's

11 an October 4th, 2017 article?

12 A. Well, I just want to -- that's a -- this is a

13 search result, a snippet linked to an article.

14 Q. Right. And I assume that that article that's

15 referenced here is one that you included as a hit in

16 looking for a statement, that's why you're showing it.

17 A. Well, no, because in Figure 1 I just give --

18 trying to explain what I did in terms of search queries.

19 I would have to check that particular link, if I

20 included that first link in my report.

21 Q. Well, this -- okay, so all you're doing in

22 this example, and maybe I read it wrong, is it says:

23 Figure 1.

24 This is Figure 1, I think; right?

25 A. That is correct.

1 Q. Google search results for search: edwards

2 epstein Ponzi scheme.

3 Right?

4 A. Yes.

5 Q. So these are the items that popped on that

6 search, and then you would read the article to see what

7 it said?

8 A. Yes, these are the first -- well, these are

9 the first five articles from that particular query. And

10 then I'd open into the article and then read what the

11 article said.

12 Q. Okay. And were you provided any parameters

13 from Mr. Scarola or Mr. Edwards for the time frame that

14 you should search for?

15 A. From then specifically I was not provided with

16 a time frame.

17 Q. Okay. Did they ask you to limit your search

18 to the time period that Mr. Epstein's Complaint against

19 Mr. Rothstein and Mr. Edwards was pending?

20 A. Not explicitly, no.

21 Q. Okay. Did you limit your search to that time

22 period?

23 A. Yes.

24 Q. All right. So that your search should not

25 contain any articles that go past 2012?

1 A. That is incorrect.

2 Q. All right. So then you did search for

3 articles that came into existence after Mr. Epstein's

4 Complaint against Mr. Rothstein and Mr. Edwards was

5 dismissed?

6 A. Let me -- let me go back. I misunderstood

7 your question.

8 Q. Uh-huh.

9 A. All right. I -- the lawyer talk of "claims,"

10 "counterclaims," is throwing me a little bit. I did it

11 from the original lawsuit from Mr. Epstein against

12 Mr. Rothstein and Mr. Edwards and one other person.

13 Q. Uh-huh.

14 A. So, yeah, that's what -- when you said the

15 "lawsuit" that's what I was --

16 Q. So you started your search December 7th, 2009.

17 That's when the lawsuit --

18 A. Correct.

19 Q. -- was filed. And when did you end your

20 search to look for articles that would have been related

21 to that lawsuit?

22 A. The -- well, I stopped searching in around 17,

23 18, October. So I included every article that I ran

24 into.

25 Q. And were you aware when you did your search

1 that the December 7th, 2009 lawsuit was dismissed in

2 2012?

3 A. I don't know exactly what you mean by

4 "dismissed." But in articles I've read, I read the

5 lawsuit was no longer pending.

6 Q. And that -- was that information that the

7 lawsuit was no longer pending in 2012 important to the

8 gathering of the articles that contained information

9 about Mr. Edwards and Mr. Rothstein?

10 A. Mr. -- for what I had to do, no.

11 Q. Okay. Do you know the time period that

12 Mr. Edwards filed his counterclaim against Mr. Epstein,

13 when that happened?

14 A. Except for here, no, I do not.

15 Q. Did it influence any of the research that you

16 did that Mr. Edwards filed a public counterclaim lawsuit

17 against Mr. Epstein within 30 days of December 9th,

18 2009?

19 A. I -- again, all the lawsuit stuff I don't

20 know.

21 Q. All right. Did you find any articles between

22 December 7th and when Mr. Edwards and his lawyer,

23 Mr. Scarola, filed their counterclaim lawsuit against

24 Mr. Epstein?

25 A. I have no idea what that means.

1 Q. Okay. You have an appendix to Exhibit 2,

2 which is your written report in this case, that

3 identifies --

4 MR. SCAROLA: Did you mean to give me this

5 copy?

6 MR. LINK: I meant to.

7 MR. SCAROLA: Oh, okay.

8 MR. LINK: I meant to. And the reason I did

9 is all of these articles are going to correspond to

10 the actual article itself, Jack, so we can tie them

11 in together.

12 MR. SCAROLA: Got it. Thank you.

13 MR. LINK: Let's go ahead and mark this

14 Exhibit 3.

15 (Thereupon, the document referred to was

16 marked Plaintiff's Exhibit Number 3 for identification.)

17 BY MR. LINK:

18 Q. All right. We're looking at Exhibit 3, which

19 is the appendix to the written report you prepared in

20 this case; is that right?

21 A. Yes.

22 Q. And under Reports and Articles Referenced,

23 those are the reports and articles that you found

24 contained the statement about Mr. Edwards and

25 Mr. Rothstein and illegal activities; is that right?

1 A. Well, no, not exactly.

2 Q. How do I have it wrong?

3 A. These reports and articles are articles that I

4 referenced in my report as footnotes and things like

5 that to support the textual things I'm writing.

6 Q. Well, were there additional articles that you

7 did not list in your report that you reviewed that

8 contain the statement that you were searching for?

9 A. Yes, there were.

10 Q. Okay. So I thought I heard you say that there

11 were approximately 108 articles you reviewed. On here

12 it lists 121. Which of the 108 articles that you

13 reviewed that contain the statement have you not

14 identified in your appendix, sir?

15 A. Well, one correction. It's 104.

16 Q. 104. Thank you.

17 A. And I do include the 104 articles.

18 Q. So then when I asked if every article that

19 included the statement about Mr. Rothstein and

20 Mr. Edwards and illegal activity that is part of your

21 calculation, if it was included in the appendix, the

22 answer is yes?

23 A. Well, that's not the question you asked me.

24 If you're asking me if all of those articles are listed

25 here in Appendix C, then the answer is yes.



<p style="text-align: right;">33</p> <p>1 Q. Okay. Great. So let's start with item number</p> <p>2 2, which is --</p> <p>3 MR. SCAROLA: Could I make a suggestion?</p> <p>4 MR. LINK: Yes, sir.</p> <p>5 MR. SCAROLA: Because I think maybe you're a</p> <p>6 little bit confused and it might be helpful if we</p> <p>7 clarify something.</p> <p>8 MR. LINK: Please.</p> <p>9 MR. SCAROLA: There's a separate appendix that</p> <p>10 appears at page 87. You are referencing an</p> <p>11 appendix at page 79.</p> <p>12 MR. LINK: Yeah.</p> <p>13 MR. SCAROLA: It's the list that begins at</p> <p>14 page 87, which is specifically labeled Links to</p> <p>15 Articles Containing the Defaming Statements.</p> <p>16 Do you see that?</p> <p>17 MR. LINK: Yeah, but those are not the</p> <p>18 articles.</p> <p>19 MR. SCAROLA: If you're going --</p> <p>20 MR. LINK: Those are just links to them. You</p> <p>21 can't actually get the article from doing that. We</p> <p>22 tried.</p> <p>23 MR. SCAROLA: Well, okay, I'm just suggesting</p> <p>24 to you that maybe --</p> <p>25 MR. LINK: I understand.</p>	<p style="text-align: right;">35</p> <p>1 MR. SCAROLA: No.</p> <p>2 MR. LINK: Let's go ahead and mark this as</p> <p>3 Exhibit 4, please.</p> <p>4 [Thereupon, the document referred to was</p> <p>5 marked Plaintiff's Exhibit Number 4 for identification.]</p> <p>6 THE WITNESS: Can I stand up and get my water?</p> <p>7 MR. LINK: Absolutely.</p> <p>8 MR. SCAROLA: Want to take a short break?</p> <p>9 We've been going for about an hour.</p> <p>10 THE WITNESS: Yeah, that would be good.</p> <p>11 THE VIDEOGRAPHER: The time is 9:59. Going</p> <p>12 off the record.</p> <p>13 [Thereupon, at 9:59 a.m. a recess was taken</p> <p>14 until 10:04 a.m., after which the deposition continued</p> <p>15 as follows:]</p> <p>16 THE VIDEOGRAPHER: The time is 10:04. We are</p> <p>17 back on the record.</p> <p>18 BY MR. LINK:</p> <p>19 Q. All right. So Jansen Exhibit 4, which</p> <p>20 correlates to number 2, is this an article that contains</p> <p>21 a statement in it that you then looked to see how many</p> <p>22 touches or how many people logged on to read it?</p> <p>23 A. I don't know. I can check it, if you want.</p> <p>24 Q. Would you please?</p> <p>25 A. I don't see a statement.</p>
<p style="text-align: right;">34</p> <p>1 MR. SCAROLA: -- maybe you want to clarify the</p> <p>2 relationship between Appendix C and Appendix D.</p> <p>3 You might be -- you might be better able to focus</p> <p>4 on where you want to go if you do that.</p> <p>5 MR. LINK: I think I'm okay.</p> <p>6 MR. SCAROLA: Okay.</p> <p>7 MR. LINK: This is the only way we can get the</p> <p>8 articles up because they were not attached.</p> <p>9 THE WITNESS: I provided all the articles.</p> <p>10 MR. LINK: Right. Some of them -- actually,</p> <p>11 some I got, some were not there.</p> <p>12 THE WITNESS: No, I provided hard copies --</p> <p>13 electronic copies of every single one.</p> <p>14 MR. LINK: To?</p> <p>15 THE WITNESS: Someone from your law firm who</p> <p>16 contacted me.</p> <p>17 MR. LINK: Okay. Well, we printed them. It</p> <p>18 doesn't really matter. I think we have them. So</p> <p>19 we will go through them.</p> <p>20 And we're looking at number --</p> <p>21 What are we on, 4?</p> <p>22 THE COURT REPORTER: Uh-huh.</p> <p>23 MR. LINK: Which should have a number</p> <p>24 corresponding to number 2 on here.</p> <p>25 Jack, did I give you an article?</p>	<p style="text-align: right;">36</p> <p>1 Q. Okay. So this would not be an article then</p> <p>2 that would be included in your numbers?</p> <p>3 A. If it doesn't contain the statement no, it</p> <p>4 would not be included in the number.</p> <p>5 Q. Could you explain to me why it's commented</p> <p>6 upon in your written report if it doesn't contain the</p> <p>7 statement?</p> <p>8 A. Again, back to this section here. These are</p> <p>9 reports and articles that were actually referenced in my</p> <p>10 report as citations for some statements. This is not</p> <p>11 the list of articles that contain the defaming</p> <p>12 statements.</p> <p>13 Q. I understand that, but you told me all 104 of</p> <p>14 them are listed in this section of the appendix.</p> <p>15 A. No, I did not. It's in Web Page Printouts</p> <p>16 section of this appendix.</p> <p>17 Q. So if I turn in your report to page --</p> <p>18 MR. LINK: Mr. Scarola is going to help me.</p> <p>19 MR. SCAROLA: 87.</p> <p>20 BY MR. LINK:</p> <p>21 Q. -- 87, that's the list of articles; is that</p> <p>22 right?</p> <p>23 A. It's actually in two places. I have it in</p> <p>24 that appendix with a nice list of each of the articles</p> <p>25 and the domains. And then I also have it in Appendix C</p>

1 here in Web Page Printouts, which is a different section  
2 of this appendix.

3 Q. Web Page Printouts.

4 Okay. So if I go to Web Page Printouts those  
5 are the articles?

6 A. Yes, sir.

7 Q. Okay. Good. That helped. All right. So I'm  
8 on the right appendix, wrong place.

9 So it starts with what I have numbered as 18.

10 A. Okay.

11 Q. Very helpful. Thank you.

12 A. Yes, sir.

13 Q. I don't have 18 here but I have 19. So let's  
14 take a look at that.

15 MR. LINK: Let's go ahead and mark this as  
16 Exhibit 5.

17 (Thereupon, the document referred to was  
18 marked Plaintiff's Exhibit Number 5 for identification.)

19 BY MR. LINK:

20 Q. Okay. So Exhibit 5 correlates on page 80 to  
21 the handwritten number 19.

22 MR. SCAROLA: Are you testifying?

23 MR. LINK: No. I'm making sure that -- I'm  
24 not. I'm making sure that you understand what  
25 we're looking at.

1 MR. SCAROLA: Because that didn't sound like a  
2 question.

3 MR. SCAROLA: It's not. It's to make sure  
4 that the record is --

5 A. I don't think I've seen this before, this  
6 particular printout.

7 BY MR. LINK:

8 Q. You haven't seen this article?

9 A. No.

10 Q. All right.

11 A. I don't recall seeing it.

12 Q. Okay. So then if you haven't seen it, then it  
13 would not have been referenced in the data that you  
14 collected?

15 A. Well, this article. I mean --

16 Q. Okay.

17 A. -- this link is 19 so --

18 Q. Okay. And then you don't believe that this  
19 article that is marked as Exhibit 5 is the article to  
20 that link?

21 A. I can almost tell you it's not.

22 Q. All right.

23 A. I can explain that, if you'd like.

24 Q. Sure. Go ahead.

25 A. Yeah, this PressReader is -- I included all --

1 I grabbed the screenshots for each of these articles and  
2 provide the link in the report and an actual screenshot  
3 of the article in the collection of documents in my  
4 report that was provided to, I guess, both attorneys.

5 MR. LINK: All right. Okay. Let's mark this  
6 as the next exhibit, Exhibit 6.

7 (Thereupon, the document referred to was  
8 marked Plaintiff's Exhibit Number 6 for identification.)

9 BY MR. LINK:

10 Q. This Exhibit 6 -- I'll do it a different way  
11 now. This Exhibit 6, does that correlate to the  
12 handwritten number 18 on page 80 of Exhibit 3?

13 A. Well, the URL is not here but the title is the  
14 same. So, I mean -- yeah, the title is the same. The  
15 URL is not here, so I can't say for sure it's the exact  
16 same article but the title is the same.

17 Q. Okay. And is this the article that you would  
18 have reviewed?

19 A. I can't remember all 104 articles. But, like  
20 I said, the URL is not here, so I can't really say for  
21 sure, but the title is the same.

22 Q. Do you see this --

23 MR. SCAROLA: Let me also point out that what  
24 you have marked as Exhibit Number 6 clearly is only  
25 a portion of this article.

1 MR. LINK: Oh, I understand that. I'm just  
2 trying to make sure we've got the right articles.

3 MR. SCAROLA: Okay. Well, you don't have the  
4 right article if all you've marked is a piece of  
5 the article. We know that that's the case.  
6 Correct?

7 MR. LINK: I'm not asking him to comment on  
8 the article. Just if I've got the right --

9 BY MR. LINK:

10 Q. Is this the -- forget what all of the  
11 information contained in the article. Is this the  
12 article, title and author that is -- ties into  
13 handwritten number 18, if you can tell?

14 A. Yeah, to be really honest with you, I can't  
15 tell because the URL is not here. You know, the title  
16 is the same.

17 MR. LINK: All right.

18 Let's mark this as Exhibit 7.

19 (Thereupon, the document referred to was  
20 marked Plaintiff's Exhibit Number 7 for identification.)

21 BY MR. LINK:

22 Q. Exhibit 7 is an article from the New York  
23 Post, October 5th, 2017. Does that tie -- is this the  
24 article, if you look at the top, pressreader.com, that  
25 ties into handwritten number 19?

1 A. Yes, the URL is the same. This looks like one  
2 of my screenshots. So I believe this ties into number  
3 19 that you've annotated on this appendix.

4 Q. Okay. So is this one of the articles that you  
5 located that contained the statement you were searching  
6 for?

7 A. I recall -- I recall this particular article,  
8 so yes.

9 Q. All right. And what is the statement in here  
10 that you found to fit the description of what you were  
11 looking for?

12 A. If I recall this correctly, I believe it was  
13 paragraph 6 that -- 1, 2, 3 -- excuse me, paragraph 5 is  
14 why I included this.

15 Q. Okay. Anything else in here?

16 A. The article included at least one statement.  
17 I mean, I can read the entire article but looks like  
18 paragraph 5 there met my criteria.

19 Q. Okay. And you say that this article came out  
20 in October of this year, just a couple of months ago?

21 A. Yes, I see that.

22 Q. All right. And do you know where the  
23 information for this article came from?

24 A. The New York Post.

25 Q. No, I understand that. I mean for Lia

1 information they were quoted on included one of the  
2 statements you were looking for?

3 A. I can't -- I wasn't specifically looking for  
4 that. I can't recall.

5 Q. Okay. So who made the statement was not  
6 important to you, simply that the statement existed?

7 A. That it occurred within the article; correct?

8 Q. And since this one was in 2017, that's about  
9 five years after Mr. Epstein's lawsuit against  
10 Mr. Rothstein -- against Mr. Edward was dismissed;  
11 right?

12 A. I don't know.

13 Q. Well, you know that 2017 is five years more  
14 than 2012?

15 A. Yes. I can do the math.

16 Q. Okay. When was the first article that you  
17 found from -- I'm talking about from a timing  
18 standpoint. What is the date of the first article that  
19 you found that contained one of the statements you were  
20 looking for?

21 A. I can't recall.

22 Q. Is there something you can look at that will  
23 tell us the date of the first article that came out that  
24 contained the statement that Mr. Scarola and Mr. Edwards  
25 asked you to find?

1 Eustachewich, the author of the article.

2 A. I didn't investigate where the reporter or --

3 Q. Or the source or where the information came  
4 from or who she spoke with?

5 A. No, I did not.

6 Q. Do you know whether there are any quotes in  
7 any of the articles you reviewed that were made by  
8 Mr. Epstein?

9 MR. SCAROLA: Separate and apart from  
10 Mr. Epstein's statements in the Complaint?

11 MR. LINK: Yes. I'm asking about the article.

12 MR. SCAROLA: I'm just asking to clarify the  
13 question.

14 BY MR. LINK:

15 Q. Did Mr. Epstein give any quotes in any of the  
16 articles that you researched?

17 A. Well, I wasn't looking for that, so I  
18 really -- I don't know.

19 Q. Did Mr. Epstein's lawyers give any quotes in  
20 any of the articles that you researched?

21 A. I can't say for sure but there seem to be  
22 plenty of lawyer quotes so --

23 Q. I agree there are lots of lawyer quotes. I'm  
24 asking if Mr. Epstein's lawyers, not Mr. Edwards'  
25 lawyers, Mr. Epstein's lawyers were ever quoted and the

1 A. Well, if we had all the electronic copies of  
2 the articles we could look at the dates that they were  
3 published.

4 Q. Do you have something with you that you can  
5 look at?

6 A. I don't have -- I provided -- I provided those  
7 particular documents, so I don't have them with me.

8 Q. You didn't keep a copy or on your computer or  
9 anything?

10 A. Oh, yes, I have it.

11 Q. You have it?

12 A. I have the documents.

13 Q. Okay. So is there a way of looking at this  
14 appendix or the report to determine the very first time  
15 and which article you were able to locate one of the  
16 statements you were searching for?

17 A. Not by looking at the report, no.

18 Q. When you go through -- when I'm looking at  
19 this report I see dates on here, a lot of 2017s, 2015.  
20 Can you identify one of these that has a 2009  
21 publication date?

22 A. I mean, I can look through each of these 104  
23 URLs, if you want me to.

24 Q. Just --

25 A. I don't know.

1 Q. By taking a look at your appendix can you make  
2 that determination?

3 A. Well, let me look at the URLs.

4 Q. Okay.

5 A. Now, just -- you know, a lot of these URLs  
6 don't have dates.

7 Q. I understand. In looking at what's available  
8 to you today can you find one of these that existed in  
9 2009?

10 A. Well, let me look.

11 MR. SCAROLA: Have you done the search of  
12 dates? Because if you've done it and you tell us  
13 that it's not there for 2009, I'm willing to  
14 stipulate to that.

15 BY MR. LINK:

16 Q. Go ahead. You can keep going.

17 A. No. Based on the URLs -- looking at the URLs  
18 I cannot come to an article from 2009, if I recall the  
19 question correctly.

20 Q. Okay. And in looking at the URLs can you tell  
21 me how many of these articles were in existence before  
22 2012 when the lawsuit against Mr. Edwards was dismissed?

23 A. Well, I could go through and look at them  
24 again but it's probably just very similar. And to kind  
25 of outline, in my reports, you know, there are certainly

1 documents that are no longer available.

2 Yeah, looking at these URLs, no.

3 Q. All right. Thank you.

4 (Thereupon, a document was marked Plaintiff's  
5 Exhibit Number 8 for identification.)

6 BY MR. LINK:

7 Q. Exhibit 8 I believe ties into handwritten  
8 number 20.

9 Could you take a look and see if I have that  
10 right?

11 So far I think I'm about 1 for 10. Maybe 2  
12 for 10. But I'm definitely not making the Hall of Fame.

13 A. The URL is cut off but this looks like what  
14 you have annotated here as number 20.

15 Q. All right. And this is an article that you  
16 have included as one of the articles that contains the  
17 statement about Mr. Edwards you were searching for;  
18 correct?

19 A. Yes.

20 Q. Can you show me where the statement is that  
21 caused you to select this document?

22 A. Paragraphs 7 and 8.

23 Q. Paragraph 7 that starts with the words:  
24 "Edwards worked at..."

25 A. No. "Epstein filed its original lawsuit..."

1 And then: "Edwards worked at..."

2 Q. Okay. So what is it in paragraph -- I'm going  
3 to put a bracket -- would you put a bracket around the  
4 two paragraphs for me, please? Or just identify them  
5 with a star, however you want to, so we know which ones  
6 we're looking at.

7 A. (Witness complied.)

8 Q. Okay. The first paragraph, what is it in that  
9 statement or in that paragraph contains the statement  
10 that you were searching for?

11 A. Well, "...alleging the attorney was involved  
12 in false claims made by Ponzi schemer Scott Rothstein."  
13 And then explains the illegal activities.  
14 And then on the next paragraph it addresses  
15 Edwards as being the attorney --

16 Q. Okay.

17 A. -- that the previous paragraph referenced.

18 Q. And this was a 2011 article, April 22nd, 2011?

19 A. That is the date.

20 Q. And in what paper was this article written?

21 A. Based on the URL, the Palm Beach Daily News.

22 Q. Are you familiar with that newspaper?

23 A. No, I'm not.

24 Q. Do you know what its subscription is, the  
25 number?

1 A. I can look at my report.

2 Q. Okay. Where in your report does it say that?

3 A. Yes. On page 17, number 62, Palm Beach Daily  
4 News, daily traffic 8,320.

5 Q. Okay. I'm sorry. I was distracted. Can you  
6 do that one more time for me? I apologize.

7 A. Yes, sir. Page 17.

8 Q. Page 17?

9 A. And there's a table at the top.

10 Q. Uh-huh.

11 A. And item number 62.

12 Q. Yeah.

13 A. The Palm Beach Daily News. Is that the  
14 correct? And then 8,320.

15 Q. All right. So is that the number of hits that  
16 were on this article on June -- on April 22nd, 2011?

17 A. That's the daily traffic that that particular  
18 site received.

19 Q. On that day?

20 A. Well, it's -- as I said in my report, they  
21 typically have some -- you know, it's average over a  
22 week or month or something like that. It's typically --  
23 there's not -- you can't look at a particular date.

24 Q. Over what period of time did you consider? So  
25 this is an April 22nd, 2011 article.

<p style="text-align: right;">49</p> <p>1 A. Uh-huh.</p> <p>2 Q. What time frame did you consider in</p> <p>3 determining 8,320 people reviewed this article?</p> <p>4 A. The -- I went to SimilarWeb, went to the</p> <p>5 appropriate time period and then got the daily unique</p> <p>6 traffic.</p> <p>7 Q. And so for that time period there was an</p> <p>8 average daily traffic for the paper or for this article?</p> <p>9 A. As I explained in the report, for the paper.</p> <p>10 Q. For the paper?</p> <p>11 A. The website.</p> <p>12 Q. So how many people on April 22nd, 2011 read</p> <p>13 this article?</p> <p>14 A. That's what this number provides. The exact</p> <p>15 readership numbers are not typically available for the</p> <p>16 individual articles.</p> <p>17 Q. Okay. Can you tell me of the 8,320 people</p> <p>18 that looked at The Shiny Sheet during some period of</p> <p>19 time in April 2011 how many actually read this article?</p> <p>20 A. The -- let me kind of go back. I thought you</p> <p>21 were referring to the palmbeachdailynews.com, not this</p> <p>22 Shiny Sheet.</p> <p>23 But this particular -- these numbers are used</p> <p>24 for the particular readership. So it would be -- a way</p> <p>25 of looking at it would be this would be a max but a</p>	<p style="text-align: right;">51</p> <p>1 calculation, so I did the average.</p> <p>2 Q. All right. So you came up with doing the math</p> <p>3 8,320?</p> <p>4 A. Correct.</p> <p>5 Q. And that's the approximate number of people</p> <p>6 that logged into the on-line site?</p> <p>7 A. Or visited that particular site.</p> <p>8 Q. Or visited that particular site.</p> <p>9 But it's hitting the site, not this article?</p> <p>10 A. That is correct.</p> <p>11 Q. All right. So you can't tell me how many of</p> <p>12 the folks that logged on to the Palm Beach Daily News on</p> <p>13 April 22nd, 2011 actually even read the article about</p> <p>14 Mr. Epstein and Mr. Edwards?</p> <p>15 A. I did find out exact readership is difficult</p> <p>16 to nearly impossible, especially when it comes to</p> <p>17 on-line newspapers and things like that, because the way</p> <p>18 people read.</p> <p>19 Q. I understand that. So isn't my statement</p> <p>20 true, you can't tell me how many people on that day</p> <p>21 actually read this article?</p> <p>22 A. No, that's not exactly true. What -- I think</p> <p>23 the way to look at this number is this is an</p> <p>24 approximation -- a good approximation of the readership,</p> <p>25 and it specifically addresses my particular assignment,</p>
<p style="text-align: right;">50</p> <p>1 conservative number on the number of readerships.</p> <p>2 Q. Okay. Let's try this again. As I understand,</p> <p>3 there were 8,320 people approximately because you did an</p> <p>4 average based on some period of time; right?</p> <p>5 A. Well, it's not I did an average. That's</p> <p>6 typically how it's done if you're looking for a</p> <p>7 particular period, you know, there. Because, especially</p> <p>8 going back this far, you know, it's typically available</p> <p>9 for a month or a given period. So these traffic</p> <p>10 services, they do the averaging many times.</p> <p>11 Q. Oh, so the 8,320 was provided to you by a</p> <p>12 service?</p> <p>13 A. Well, yes, I use -- it's one of the traffic</p> <p>14 services I use.</p> <p>15 Q. And so the date -- the question I'm asking is:</p> <p>16 Did you take a month of information, and then -- let's</p> <p>17 assume there were 30 days in it, and total that up and</p> <p>18 then divide it by 30 --</p> <p>19 A. Yeah.</p> <p>20 Q. -- to get an average?</p> <p>21 A. That would be a way daily traffic is</p> <p>22 calculated.</p> <p>23 Q. But did you do that or did you pull it from a</p> <p>24 service is what I'm asking you?</p> <p>25 A. I believe SimilarWeb gives a monthly</p>	<p style="text-align: right;">52</p> <p>1 which was to major a dissemination of these particular</p> <p>2 statements.</p> <p>3 Q. Well, as a part of your assignment, as I</p> <p>4 understand it, the number you came up with would be the</p> <p>5 number of individuals who this information was</p> <p>6 disseminated to.</p> <p>7 A. That is correct.</p> <p>8 Q. Which means they had to read it; right?</p> <p>9 If it's going to impact me and I'm going to</p> <p>10 form an opinion about Mr. Edwards based on that read, if</p> <p>11 I don't read it, then it hasn't impact my view of him.</p> <p>12 Do you agree with that?</p> <p>13 A. It depends what you mean by "read."</p> <p>14 Q. Well, if I don't read this article, I don't</p> <p>15 see the statement; do I?</p> <p>16 A. Well, if you -- you know, I get many e-mails</p> <p>17 from different newspapers and I go to different</p> <p>18 newspaper sites and a lot of times there will be mini</p> <p>19 stories on the pages and I'll read the headline and the</p> <p>20 snippet from the particular paragraph and then read some</p> <p>21 stories.</p> <p>22 And so -- but you're asking a question that I</p> <p>23 was not asked to actually investigate, the exact</p> <p>24 readership of these particular articles. I was asked</p> <p>25 the dissemination of these particular statements. And</p>

1 that was my 9,669,542.

2 Q. But you're not telling us that number of  
3 people actually read any one of these statements; are  
4 you?

5 A. The exact readership, no.

6 Q. Okay. And you can't tell me as you sit here  
7 today how many people actually read this article,  
8 Exhibit 8, dated April 22nd, 2011; can you?

9 A. I could say it's -- you know, the number that  
10 were disseminated to was 8,320. But, no, I can't say  
11 the exact readership of that particular article.

12 Q. Okay. And you can't tell me the exact  
13 readership of any of the articles that you located; can  
14 you?

15 A. I'm going to go back to my role as an expert.  
16 I mean, this is not like counting loose change in your  
17 pocket. I mean, it's -- there's multiple -- there's  
18 traffic numbers. And so these -- these particular  
19 traffic numbers are what's used in the industry for  
20 readership in audits.

21 Q. So let me try my question one more time.

22 Sir, you can't tell me the actual number of  
23 people that read any one of these articles that you have  
24 identified, can you, sir?

25 A. Although, as I tried to explain, but on the

1 articles were from the same website, I just included one  
2 traffic number.

3 Q. Okay. So was it your assumption that the  
4 exact same number of people that looked at the April  
5 22nd, 2011 article looked at the October 20th, 2013  
6 article?

7 A. It could have been more. It could have been  
8 less. It could vary day by day a little bit.

9 Q. Only a little bit over a two-year period of  
10 time?

11 A. I did not look -- we could look at a  
12 particular site but if you look at -- if we can look at  
13 the table, I mean, this particular newspaper published  
14 seven different articles on this that contained the  
15 defaming statements. I only counted one and so used one  
16 unique physical period.

17 Q. Okay. So you just used the term "defaming  
18 statements" again. Is that because that's what you were  
19 told by Mr. Scarola and Mr. Edwards?

20 A. I'm using that as a way to look at it as maybe  
21 some shorthand for the statements that were set forth in  
22 the articles.

23 Q. Okay. So really what you were looking for  
24 were statements, without giving them any color, is that  
25 right, or characterization?

1 technical aspects of it but, no, the exact readership,  
2 no.

3 Q. Take a look at this next one.

4 MR. SCAROLA: Exhibit number 9?

5 THE COURT REPORTER: Yes.

6 MR. LINK: Yes, sir.

7 (Thereupon, the document referred to was  
8 marked Plaintiff's Exhibit Number 9 for identification.)  
9 BY MR. LINK:

10 Q. All right. If I have done this right, Exhibit  
11 9 I believe correlates to item handwritten number 21.

12 A. Okay. Let me check.

13 Yes, it looks like this is that particular  
14 article.

15 Q. All right. Can you please tell me the number  
16 of hits on October 20, 2013 to the Palm Beach Daily News  
17 on-line paper for that day?

18 A. Well, there was -- we just looked at that. It  
19 was 8,320.

20 Q. And you told me that was for a month period of  
21 time in 2011. This is two years later. So I'm  
22 asking -- you're not telling us that two years later the  
23 exact same number of people were touching the website;  
24 are you?

25 A. The -- in my report if an article -- multiple

1 A. The statements that associated Mr. Edwards  
2 with illegal activities. That's what I'm looking for.

3 Q. So I'm just trying to figure out the  
4 thoroughness of what you did.

5 A. Sure.

6 Q. So I understand that in 2011 you looked at a  
7 month of log-on activity and then divided that number by  
8 30 to come up with 8,000-some-odd number that we looked  
9 at; right?

10 A. Well, I calculated the unique daily visitors.  
11 Again, this particular website that you're pointing out  
12 published seven different articles.

13 Q. Yes, sir, but not -- I apologize. I must be  
14 doing a lousy job of asking questions and communicating  
15 today. I thought we had really hammered this home,  
16 which was that in 2011 you personally went to a service  
17 and got 30 days of hits on the Palm Beach Shiny Sheet  
18 website --

19 A. Yeah.

20 Q. -- and then did the math?

21 A. That's correct.

22 Q. You didn't do that in 2013?

23 A. Let me -- let me -- I see where you're getting  
24 at now.

25 So, yes. Yeah, for the particular sites that

<p style="text-align: right;">57</p> <p>1 published multiple articles, yeah, I can't remember the</p> <p>2 exact particular date I used in this one. They had</p> <p>3 seven different articles published on these statements,</p> <p>4 so I ignored six of them and just used one occurrence.</p> <p>5 Q. Okay. So you ignored them. I got it.</p> <p>6 Let's take a look at Exhibit 9.</p> <p>7 A. Can you clarify that statement? I don't</p> <p>8 understand by "I ignored them."</p> <p>9 Q. You don't understand what?</p> <p>10 A. Your statement.</p> <p>11 Q. Which statement, sir?</p> <p>12 A. The statement that said I ignored them. And I</p> <p>13 want to make sure that you understood my response</p> <p>14 correctly.</p> <p>15 Q. I think you used the word "ignored." That's</p> <p>16 what you said, you ignored -- you looked at one and</p> <p>17 ignored six. That's what you said.</p> <p>18 A. Okay.</p> <p>19 MR. SCAROLA: The record will reflect what the</p> <p>20 testimony was.</p> <p>21 THE WITNESS: Yeah.</p> <p>22 BY MR. LINK:</p> <p>23 Q. That's what you said.</p> <p>24 A. So let me --</p> <p>25 Q. You don't like that choice of words by</p>	<p style="text-align: right;">59</p> <p>1 But I can look --</p> <p>2 Q. So in doing your search if you found a</p> <p>3 statement then you would stop reading the article; is</p> <p>4 that correct?</p> <p>5 A. I didn't say that. I just said I would</p> <p>6 include it if it contained the statement.</p> <p>7 Q. Did you read the entire article once you</p> <p>8 identified a statement?</p> <p>9 A. Sometimes I did. Sometimes I did not.</p> <p>10 Q. Okay. There you go, sir.</p> <p>11 (Thereupon, the document referred to was</p> <p>12 marked Plaintiff's Exhibit Number 10 for</p> <p>13 identification.)</p> <p>14 BY MR. LINK:</p> <p>15 Q. Let's look at Exhibit 10, please, and I</p> <p>16 believe this ties in with handwritten item 23.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So you see this as an August 2012</p> <p>19 article --</p> <p>20 A. Yes.</p> <p>21 Q. -- that was in the Palm Beach Post?</p> <p>22 A. Yes.</p> <p>23 Q. And this article announces that Mr. Epstein</p> <p>24 has dropped his suit against Mr. Edwards; correct?</p> <p>25 A. Says: "Billionaire sex offender drops..."</p>
<p style="text-align: right;">58</p> <p>1 yourself?</p> <p>2 A. If you're focusing on that particular word --</p> <p>3 well, you know what, you're right, I guess I did</p> <p>4 ignore -- I did ignore six articles.</p> <p>5 Q. That's what you said.</p> <p>6 A. Yeah.</p> <p>7 Q. Okay. So now let's look at this article.</p> <p>8 A. Sure.</p> <p>9 Q. What statement in Exhibit 9 did you identify</p> <p>10 that met the parameters of your search?</p> <p>11 A. I believe it would be paragraph 9.</p> <p>12 Q. Okay. Will you put a star by the paragraph?</p> <p>13 A. (Witness complied.)</p> <p>14 Q. One, two, three, four, five -- the one that</p> <p>15 starts with "Among..."</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Any other statements in here?</p> <p>18 MR. SCAROLA: Could we read that into the</p> <p>19 record? Sorry.</p> <p>20 MR. LINK: That's an exhibit in the record</p> <p>21 already. I don't think we need to read it.</p> <p>22 BY MR. SCAROLA:</p> <p>23 Q. Were there any other statements in here?</p> <p>24 A. Well, I can read the rest of the article but</p> <p>25 if the article contained one statement I included it.</p>	<p style="text-align: right;">60</p> <p>1 "Billionaire sex offender drops suit against</p> <p>2 Scott Rothstein and one of his partners." Yes.</p> <p>3 Q. Okay. Can you tell me in this article that</p> <p>4 announces that Mr. Edwards is no longer a defendant in</p> <p>5 the lawsuit brought by Mr. Epstein what is the phrase</p> <p>6 that you isolated or located to fit your search?</p> <p>7 A. Let me read the article.</p> <p>8 Q. Uh-huh.</p> <p>9 A. Yes. That would be the combination of the</p> <p>10 first three paragraphs.</p> <p>11 Q. Okay. And turn to page 2, if you will, of the</p> <p>12 article. This is in October -- I'm sorry, August 2012;</p> <p>13 correct?</p> <p>14 A. Yes, August 2012.</p> <p>15 Q. All right. And do you see Mr. Scarola quoted</p> <p>16 in this article?</p> <p>17 A. Yes.</p> <p>18 Q. And do you see where Mr. Scarola says:</p> <p>19 "Despite three years of trying, Epstein never produced</p> <p>20 any evidence to shore up his allegations, said attorney</p> <p>21 Jack Scarola."</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Okay. And you see Mr. Scarola in the next</p> <p>24 paragraph is quoted as well that: "He..." meaning</p> <p>25 Epstein, "...filed these baseless, scurrilous..." -- and</p>

1 that's a word only Mr. Scarola could get out of his  
 2 mouth in an articulate way -- "...claims for the purpose  
 3 of trying to extort Mr. Edwards into abandoning the  
 4 lawsuits on behalf of Mr. Epstein's young attorney  
 5 (sic)?" Do you see that?  
 6 A. Oh, Mr. Epstein's young victims.  
 7 Q. Young victims. Thank you.  
 8 A. Yes, I see that.  
 9 MR. SCAROLA: So that the record is clear, the  
 10 first paragraph attributes a statement to me but  
 11 it's not a quote. Agreed?  
 12 MR. LINK: Yes, sir.  
 13 MR. SCAROLA: But the second paragraph is a  
 14 quote.  
 15 MR. LINK: I agree. The second one is a  
 16 quote.  
 17 MR. SCAROLA: Although I would acknowledge the  
 18 statement attributed to me is at least an accurate  
 19 summary of what I said.  
 20 MR. LINK: Sounds like something you would  
 21 say.  
 22 MR. SCAROLA: It does.  
 23 MR. LINK: I agree.  
 24 BY MR. LINK:  
 25 Q. Did you take into consideration when you were

1 MR. LINK: I'll take that.  
 2 MR. SCAROLA: I knew you would.  
 3 MR. LINK: That was really good.  
 4 Did you write down the next question? That  
 5 was excellent. That was excellent.  
 6 THE WITNESS: You two have a relationship  
 7 here.  
 8 MR. LINK: For 30 years. Some days good; some  
 9 days bad. Depends on how we're doing.  
 10 THE WITNESS: Yeah, that's a long  
 11 relationship.  
 12 MR. SCAROLA: It's more a moment by moment.  
 13 MR. LINK: I think it is a moment by moment,  
 14 but always very much in respect of this gentleman.  
 15 THE WITNESS: That's right. That's the way it  
 16 should be.  
 17 BY MR. LINK:  
 18 Q. So let me try that again.  
 19 MR. LINK: Did you write that down?  
 20 MR. SCAROLA: No, I didn't, but it's on the  
 21 record.  
 22 A. I think I follow that.  
 23 BY MR. LINK:  
 24 Q. Okay.  
 25 A. I just looked if the article contained the

1 looking at articles after August 2012 the fact that  
 2 Mr. Scarola had publicly denounced what Mr. Epstein had  
 3 done and said to the world that Mr. Edwards was free and  
 4 clear of any taint or allegations essentially that  
 5 Mr. Epstein brought?  
 6 MR. SCAROLA: I'm going to object to the  
 7 question as compound.  
 8 A. I was going to say, you kind of lost me on the  
 9 main point there.  
 10 BY MR. LINK:  
 11 Q. Let me try it again.  
 12 So there are two statements in here that are  
 13 attributed to Mr. Scarola and one direct quote. Do you  
 14 agree with that?  
 15 A. Yes, I agree.  
 16 Q. And Mr. Scarola is making it clear that what  
 17 Mr. Epstein filed against Mr. Edwards had absolutely no  
 18 basis; true?  
 19 A. Yes, that seems to be the point taken.  
 20 Q. And did you take into consideration when doing  
 21 your Internet research that on August 17th, 2012 there  
 22 was a public statement by Mr. Edwards' lawyer that he  
 23 had essentially been --  
 24 MR. SCAROLA: Successful in discrediting  
 25 Mr. Epstein's charges.

1 statements that I was looking for and whether whatever  
 2 else was in the article.  
 3 Q. Okay. Did you do any research to see what  
 4 impact the statements had on any of the readership?  
 5 A. No.  
 6 Q. Did you do any research into whether -- what  
 7 opinions were formed about Mr. Edwards by anyone who  
 8 read any of the articles?  
 9 A. No.  
 10 Q. Did you do any research into whether the  
 11 impact on the readership in forming an opinion about  
 12 Mr. Edwards was different after Mr. Scarola made his  
 13 statements in 2012 to the press?  
 14 A. No.  
 15 Q. When you did your research did you interview  
 16 any readers that actually read one of the articles that  
 17 you cite to in your report?  
 18 A. No.  
 19 Q. Can you quantify the total number of people  
 20 that have read any one singular article about  
 21 Mr. Edwards, just one article out of all of the ones  
 22 that you have identified?  
 23 A. I don't understand quantify.  
 24 Q. Yeah, you found 104 articles --  
 25 A. Correct.



1 Q. -- right? Can you identify one person that  
2 actually read one of the 104 articles?  
3 A. I didn't look for a person, so no.  
4 Q. Okay.  
5 A. Well, beyond me.  
6 Q. Well, you read them as part of your  
7 assignment.  
8 A. That's correct.  
9 Q. How many hours did it take you to locate all  
10 of the articles?  
11 A. I can ballpark it.  
12 Q. That's fair.  
13 A. 17.25.  
14 Q. That's a ballpark?  
15 A. Yes. Because there's also some other stuff  
16 going on there.  
17 Q. He's better than you.  
18 MR. SCAROLA: He's a scientist at ballparking.  
19 BY MR. LINK:  
20 Q. 17.25? You can't get it a little tighter than  
21 that? That's as good as it gets?  
22 A. I had to eliminate some times that I wasn't  
23 actually looking for articles.  
24 Q. 17.25. And how many hours in total have you  
25 spent in developing your opinion that you're providing

1 today?  
2 A. In developing the opinion? For today?  
3 Q. Up through today. I assume --  
4 A. Oh --  
5 Q. -- you can't talk about the future.  
6 A. Yeah. I said I billed 17.25. And then, you  
7 know, I did -- read some -- re-read my report and stuff  
8 for deposition, so it would be three or four more hours.  
9 Q. 20 --  
10 A. 20, something like that.  
11 Q. 20-something, okay.  
12 And you charge how much an hour?  
13 A. \$400.  
14 Q. All right. Do you have any other opinions  
15 that you're working on in this case?  
16 A. In this case, no.  
17 Q. And you have worked as an expert for  
18 Mr. Edwards before; correct?  
19 A. Yes.  
20 Q. In what case was that, sir?  
21 A. That was the [REDACTED] case.  
22 Again, it was a little -- I don't know. Yeah,  
23 the whole lawyering, how you lawyers handle this, I  
24 don't understand.  
25 But, yes, as a lay person I would say I worked

1 with him on another -- on that case.  
2 Q. Well, it's a case that you list with  
3 Mr. Edwards' name on in your resume; isn't it?  
4 A. Yes. That's what I mean. He kind of  
5 originally retained me but then went to another law  
6 firm, so I just didn't understand.  
7 Q. Explain to me what you mean by that, please.  
8 So Mr. Edwards originally retained you and then what  
9 happened?  
10 A. Then a different law firm -- I kind of dealt  
11 with a lawyer almost exclusively from a different firm.  
12 So, you know, I don't know -- I listed them both.  
13 Q. All right. And what work were you asked to do  
14 in that case?  
15 A. In that particular case I was asked to --  
16 [REDACTED], and so I had to  
17 look up the dissemination of those particular statements  
18 on-line.  
19 Q. So you were essentially doing the same work in  
20 that case for Mr. Edwards that you're doing in this case  
21 for Mr. Edwards?  
22 A. Other than the statements being different,  
23 it's very similar. And there were some other things in  
24 this particular case.  
25 Q. I'm sorry, I didn't understand you.

1 A. What I'm saying there were a few other things  
2 but the basic process and procedures were the same.  
3 Q. Okay. And the statement that you were provide  
4 in the [REDACTED] case, was that -- that you were supposed  
5 to research, was that provided to you by Mr. Edwards?  
6 A. Not by Mr. Edwards, no.  
7 Q. By his co-counsel?  
8 A. Another lawyer involved in the case, yes.  
9 MR. LINK: All right. I don't have any other  
10 questions.  
11 Jack.  
12 CROSS EXAMINATION  
13 BY MR. SCAROLA:  
14 Q. You were asked questions about articles that  
15 quoted me and whether you had seen any articles that  
16 quoted defense counsel. Do you recall that?  
17 A. Yes, I recall that.  
18 Q. Go back to Exhibit Number 9, if you would,  
19 please.  
20 A. Yes, sir.  
21 Q. In this exhibit there is in paragraph 4 a  
22 direct quote attributed to me --  
23 A. Yes.  
24 Q. -- correct?  
25 A. I see that.

<p style="text-align: right;">69</p> <p>1 Q. It says, quote: "This has been a long time</p> <p>2 coming, and we're extremely anxious to have the</p> <p>3 opportunity, for the first time, to lay out in detail</p> <p>4 the terrible nature of Jeffrey Epstein's serial abuse of</p> <p>5 dozens and dozens of children," unquote; correct?</p> <p>6 A. Correct.</p> <p>7 Q. It's not possible to make a determination from</p> <p>8 what's included in this article whether that quote was</p> <p>9 from a statement made in court or out of court; is it?</p> <p>10 A. Not to me, no.</p> <p>11 Q. Okay.</p> <p>12 Going down two more paragraphs it reads: "At</p> <p>13 a calendar call on Friday, Crow told lawyers for both</p> <p>14 sides that he would have to specially set the trial</p> <p>15 because of several factors: its estimated length, 'Mr.</p> <p>16 Epstein's criminal issues,' Ponzi-scheme allegations</p> <p>17 surrounding Edwards' former boss, and the expected</p> <p>18 length of the time it will take to select jurors."</p> <p>19 I want you to assume that the "Crow" that is</p> <p>20 referenced as is described in 1, 2, 3, 4 -- the fifth</p> <p>21 paragraph is Circuit Judge David Crow. Okay?</p> <p>22 A. Okay.</p> <p>23 Q. The next quote that appears is a quote from</p> <p>24 the Judge himself, quote: "'With Mr. Scarola doing the</p> <p>25 voir dire, it's going to take a long time to get through</p>	<p style="text-align: right;">71</p> <p>1 A. That would be a taken, yes.</p> <p>2 Q. Or at least after the scheduling session?</p> <p>3 A. Yeah.</p> <p>4 Q. Whether the conversation took place in the</p> <p>5 courtroom after the court proceeding or outside the</p> <p>6 courtroom, this report --</p> <p>7 A. Yeah.</p> <p>8 Q. -- suggests that the lawyer was speaking to</p> <p>9 the press after the court proceeding.</p> <p>10 And it goes on to say, quote: "'So it's going</p> <p>11 to take a lot of prospective jurors to find somebody</p> <p>12 that doesn't already have an opinion in regard to some</p> <p>13 of the people involved.'" Correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Then we have the specific paragraph</p> <p>16 that you identified as a paragraph that qualified this</p> <p>17 article for inclusion in your count; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And if we go down to the bottom of the page,</p> <p>20 we then have the following statement, one paragraph up:</p> <p>21 "Fred Haddad, Epstein's attorney, declined to say</p> <p>22 whether his client will be in the courtroom and/or</p> <p>23 whether he will testify."</p> <p>24 Then we have a direct quote attributed to</p> <p>25 another one of Mr. Epstein's lawyers, according to this</p>
<p style="text-align: right;">70</p> <p>1 the process,' Scarola said."</p> <p>2 So we know that the Judge is being quoted as</p> <p>3 well; correct?</p> <p>4 A. Uh-huh, correct.</p> <p>5 Q. And it is probably a reasonable --</p> <p>6 MR. LINK: And I second the statement by Judge</p> <p>7 Crow.</p> <p>8 MR. SCAROLA: Both you and Judge Crow are</p> <p>9 likely accurate in that regard.</p> <p>10 BY MR. SCAROLA:</p> <p>11 Q. But, apparently there's some court proceeding</p> <p>12 that was going on at which the Judge made this</p> <p>13 statement, reasonable assumption?</p> <p>14 A. Reasonable assumption based on those two</p> <p>15 paragraphs, yeah.</p> <p>16 Q. Then the next paragraph reads, quote: "'The</p> <p>17 people involved are pretty well-known,' said Chester</p> <p>18 Brewer, one of the Epstein's attorneys, after the</p> <p>19 scheduling session."</p> <p>20 Do you see that?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. So, we know, assuming the accuracy of this</p> <p>23 report, that Mr. Epstein's lawyers were speaking or one</p> <p>24 of Mr. Epstein's lawyers was speaking to the press</p> <p>25 outside the courtroom; correct?</p>	<p style="text-align: right;">72</p> <p>1 article, Fred Haddad, quote: "'We're defending this and</p> <p>2 we'll make decisions based upon what the plaintiffs do,'</p> <p>3 Haddad said. 'When you're on the defense, you have to</p> <p>4 see what the offense does first. The trial will be very</p> <p>5 interesting. There are a lot of legal issues as well as</p> <p>6 factual issues.'"</p> <p>7 Did I read that accurately?</p> <p>8 A. It seemed accurate to me, yes.</p> <p>9 Q. Okay. So going back to a question that was</p> <p>10 asked of you by Mr. Link earlier, he asked to whether</p> <p>11 there were quotes from Mr. Epstein's lawyers in any of</p> <p>12 the press articles, we have now confirmed that in at</p> <p>13 least this one article, two of Mr. Epstein's lawyers</p> <p>14 were both speaking to the press outside the courtroom;</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Did you actually read each of the 104</p> <p>18 articles that you were able to identify to be sure that</p> <p>19 there was a statement included in each of those 104</p> <p>20 articles that linked Bradley Edwards to participation in</p> <p>21 Scott Rothstein's massive Ponzi scheme?</p> <p>22 A. Yes. I read either the entire article or up</p> <p>23 to the point where I found this statement.</p> <p>24 Q. All right. So Mr. Link has gone through a few</p> <p>25 of those, and I'm not sure how he selected the ones that</p>

1 he selected, but he's gone through a few. But if we  
2 were to go through each of these 104 articles you would  
3 be able to identify a specific statement that associated  
4 Bradley Edwards as a participant in this massive Ponzi  
5 scheme; is that correct?

6 A. That's correct, I did it.

7 Q. You have reached the conclusion that that  
8 information was disseminated to an audience of over 9.6  
9 million people; correct?

10 A. Correct.

11 Q. Did you come to a conclusion as to the  
12 likelihood of whether the actual number of individuals  
13 to whom that statement was disseminated exceeded 9.6  
14 million people?

15 MR. LINK: Object to the form.

16 A. Well, yes, as I --

17 MR. SCAROLA: I'm sorry. Before you answer  
18 the question, what's the problem with the form?

19 MR. LINK: It assumes that -- the way you  
20 asked that readers actually saw the statement  
21 versus it being disseminated in the web page that  
22 people touched. He testified he could not identify  
23 who in fact or the number that saw the statement.

24 MR. SCAROLA: Okay. Well, I think you've  
25 mischaracterized my question, but just to be sure

1 9,665,542. The first is that obviously I couldn't  
2 locate all the articles by the time I filed my report.  
3 So there's certainly articles out there that I haven't  
4 located by the time I submitted the report. I only  
5 looked at on-line sources. I didn't deal with prints or  
6 broadcasts or anything like that. I didn't --

7 Q. So, for example -- and I apologize for  
8 interrupting you. But one of the websites that we've  
9 particularly focused on is the Palm Beach Daily News,  
10 also phone as The Shiny Sheet. But what you looked at  
11 were electronic accesses to their website; correct?

12 A. That is correct.

13 Q. You did not include the number of individuals  
14 who subscribe to that newspaper and have it delivered to  
15 their home; correct?

16 A. That's correct, I did not include those.

17 Q. You didn't look at the number of times that  
18 people went to their local retail store and bought a  
19 copy of The Shiny Sheet? That's not included in your  
20 calculations; correct?

21 A. Correct.

22 Q. And the same would be true with regard to each  
23 of those websites which also has a corresponding hard  
24 copy publication, the Palm Beach Daily News, the --  
25 excuse me, the Palm Beach Post, the Sun-Sentinel, the

1 let me make sure that I ask the question in the way  
2 I intended it to be answered.

3 BY MR. SCAROLA:

4 Q. Can you tell us whether the conclusion you  
5 reached that these statements were disseminated to an  
6 audience of 9.6 million people is a conservative --

7 MR. LINK: Same objection.

8 BY MR. SCAROLA:

9 Q. -- conclusion?

10 A. Yes, it's a conservative -- very conservative  
11 number as I outlined in my report.

12 Q. And describe for the benefit of the jurors, if  
13 you would, please, why it is your opinion that the more  
14 than 9.6 million number to which you have testified is a  
15 conservative assessment of the number of people to whom  
16 these statements were disseminated?

17 A. Okay.

18 MR. LINK: Object to the form.

19 A. I think to address this properly if I can just  
20 refer to my report --

21 Q. By all means.

22 A. -- as the best way to address it.

23 Well, I had like 12 reasons why I took a very  
24 conservative approach to the dissemination number  
25 calculation. So likely much -- much more than

1 Miami Herald, The New York Times, or any of the other  
2 periodicals that have both hard copies and website  
3 access; correct?

4 A. Correct.

5 Q. Okay. So you were describing the reasons why  
6 your number of distributions is conservative and I  
7 interrupted you. So pick up, if you would, please.

8 A. Yes. I also didn't include statements in the  
9 book Filthy Rich that was distributed, written by  
10 Mr. James Patterson.

11 Q. Okay. There was an exhibit marked that made  
12 reference to that book. That was Exhibit Number 4. And  
13 while this exhibit makes reference to the book, it is  
14 not one of those articles that contained -- Exhibit  
15 Number 4 is not an article that contained an express  
16 reference to the relationship between Bradley Edwards  
17 and the Rothstein Ponzi scheme; correct?

18 A. That's correct.

19 Q. But do you know whether the book itself  
20 contains express references to allegations that Bradley  
21 Edwards was a knowing participant in the Ponzi scheme?

22 A. Yes, I know it does.

23 Q. Okay. But you didn't include any of those  
24 James Patterson books that were sold in hard copy, that  
25 got distributed through electronic means or wound up as

1 audio books? None of that's included; correct?

2 A. Correct.

3 Q. And obviously you don't know how many times  
4 people who bought that book loaned it out to their  
5 spouses, their friends, and neighbors, so that they  
6 could read it; correct?

7 A. Correct.

8 Q. Okay. I have been given a notice that we are  
9 almost about to run out of tape, so we'll break right  
10 there. We'll take a short break; let them change the  
11 tape.

12 THE VIDEOGRAPHER: The time is 11:04. We're  
13 now going off the record.

14 (Thereupon, at 11:04 p.m. a recess was taken  
15 until 11:11 a.m., after which the deposition continued  
16 as follows:)

17 THE VIDEOGRAPHER: The time is 11:11. We're  
18 back on the record. This is the beginning of Tape  
19 2.

20 BY MR. SCAROLA:

21 Q. At the point at which we took our break you  
22 were describing for the benefit of the jury why the more  
23 than 9.6 million number is a conservative estimate of  
24 the number of people to whom the statements that you  
25 have identified were distributed, acknowledging that

1 A. As I mentioned -- talked about this in my  
2 report. They were typically sites that were very, very  
3 large or very small.

4 So like, you know, some the larger sites, it's  
5 that -- maybe I'll give you a good example here. Like  
6 the PressReader, for example, that is a site that  
7 presents a lot of articles from a lot of different  
8 newspapers. And so the traffic numbers that I was  
9 getting were, you know, very inflated I felt, so I did  
10 not include those numbers.

11 On the other sites, there are a lot of blog  
12 sites and stuff like that from individuals that didn't  
13 get a lot of traffic. Again, I felt that those traffic  
14 numbers were not reliable or I couldn't get them, so I  
15 did not include those.

16 Q. Okay. Continue, if you would, describing --

17 A. Yes.

18 Q. -- the basis for your assertion that the 9.6  
19 million dollar numbers -- excuse me, the 9.6 million  
20 number is a conservative number.

21 A. Yes. I didn't include sites that had articles  
22 where they didn't have the statements but a link to an  
23 article that had the statements. So unless it actually  
24 appeared exactly in the article, I didn't include it.  
25 So someone could be at a different site, follow the link

1 whether they read them or not is not something that  
2 you've looked at, but these were people to whom they  
3 were distributed.

4 So why -- why else do you consider the number  
5 to be a conservative number?

6 A. Yes. I didn't include any face-to-face  
7 dissemination of people talking about the statements. I  
8 didn't include any private on-line correspondence, like  
9 e-mail, and stuff like that.

10 There are more than likely sites that had the  
11 statements that I can no longer access. And, actually,  
12 I ran into a few of those. I just couldn't get the  
13 article, the activities, a few things like that. So I  
14 didn't include those.

15 Of these 74 sites that contained the article,  
16 I only included traffic for 58 percent of them because  
17 the traffic number for the other sites -- the other 43  
18 sites I just didn't feel comfortable that the numbers  
19 were valid. So of the 74 sites -- of that 9.6 million  
20 plus, even though the article -- I know the article was  
21 posted on the 74 sites, I only included the traffic for  
22 58 percent of those sites.

23 Q. And why did you consider the other traffic  
24 numbers not to be reliable? What distinguished those  
25 from those that you felt were sufficiently reliable?

1 and could actually see it, but I didn't include those.

2 Many of these sites publish multiple articles  
3 on multiple different days that contains the statements.  
4 And there is an aspect of return readership. So I  
5 didn't want to double-count traffic, so just to make it  
6 very conservative even if they published seven articles  
7 or five, I only counted it one time. So I didn't count  
8 the multiple days.

9 And then also search results. Some of the  
10 queries that I was using, you could submit the query and  
11 you could see the actual statements in the search  
12 results. You didn't need to go to the site.

13 So, like on my report on page 21 I give some  
14 examples there that just enter a query and you see the  
15 actual statements in the search results. You don't even  
16 need to go to the site to -- I mean, you don't even need  
17 to technically read the article. You just like search  
18 and type in the query.

19 Q. Did you take into account in any way that  
20 multiple individuals may be accessing the sites  
21 simultaneously? Come on over here and take a look at my  
22 monitor and see what's being reported about Brad  
23 Edwards.

24 A. No, I did not include those.

25 Q. And what about the private forwarding of

<p style="text-align: right;">81</p> <p>1 website information, did you take that into account at</p> <p>2 all?</p> <p>3 A. As I mentioned, no, I didn't do any e-mail or</p> <p>4 private forwarding, or anything like that.</p> <p>5 Q. In conducting this work, did you rely upon</p> <p>6 sources that are generally relied upon and considered to</p> <p>7 be credible and authoritative within your area of</p> <p>8 expertise?</p> <p>9 A. Yes.</p> <p>10 Q. Did you utilize methodologies that are</p> <p>11 generally accepted within your area of expertise as</p> <p>12 accurate means by which to reach the conclusions that</p> <p>13 you've reached?</p> <p>14 A. Yes.</p> <p>15 Q. And are the opinions that you have expressed,</p> <p>16 both in your written report and in your sworn testimony</p> <p>17 today, opinions that you hold to a reasonable degree of</p> <p>18 scientific certainty within your area of expertise?</p> <p>19 A. Yes.</p> <p>20 MR. SCAROLA: Thank you. I have no further</p> <p>21 questions.</p> <p>22 MR. LINK: Just a couple.</p> <p>23 REDIRECT EXAMINATION</p> <p>24 BY MR. LINK:</p> <p>25 Q. Take a look at Exhibit 9 that Mr. Scarola was</p>	<p style="text-align: right;">83</p> <p>1 Q. No, the statements from the lawyers.</p> <p>2 Mr. Scarola went through in a painstaking way to show</p> <p>3 you the three references in this article to</p> <p>4 Mr. Epstein's lawyers. And I'm asking you if</p> <p>5 Mr. Epstein's lawyers made any statement about</p> <p>6 Mr. Edwards that would have triggered a hit in your</p> <p>7 search results?</p> <p>8 A. Not that I see, no.</p> <p>9 Q. Can you point to any article that you reviewed</p> <p>10 that contains a statement -- a quote by Mr. Epstein's</p> <p>11 lawyer that would have triggered a hit on your search</p> <p>12 request?</p> <p>13 A. Okay. Again, I was just looking for the</p> <p>14 particular statements. I didn't analyze if it was a</p> <p>15 quote from a lawyer, but I don't recall any.</p> <p>16 Q. And do you recall any quotes from Mr. Epstein</p> <p>17 himself in any of the news articles that you reviewed,</p> <p>18 all 104 that you told Mr. Scarola that you read the</p> <p>19 entire article, that had a quote from Mr. Epstein that</p> <p>20 would have hit your search request?</p> <p>21 A. Before I answer this, I just want to clarify.</p> <p>22 You said that I -- I said that I either read the entire</p> <p>23 article or read it up to the point where I found the</p> <p>24 statement, but I don't recall a statement from</p> <p>25 Mr. Epstein.</p>
<p style="text-align: right;">82</p> <p>1 asking you about, please.</p> <p>2 A. Yes, sir.</p> <p>3 Q. It's The Shiny Sheet article, October 20th,</p> <p>4 2013. Do you have that in front of you?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Mr. Scarola pointed out a couple of places</p> <p>7 where Mr. Epstein's lawyers were either quoted or had a</p> <p>8 statement attributed to them; correct?</p> <p>9 A. Correct.</p> <p>10 Q. Would you please point to anywhere in this</p> <p>11 article where Mr. Epstein's attorneys said anything</p> <p>12 about Mr. Edwards?</p> <p>13 A. Well, let me just look in the article. I</p> <p>14 don't see a quote.</p> <p>15 Q. All right. And Mr. Scarola pointed out three</p> <p>16 different statements. One by Mr. Brewer and two by</p> <p>17 Mr. Haddad.</p> <p>18 And is there anything in what Mr. Brewer or</p> <p>19 Mr. Haddad said to the press that fits one of the search</p> <p>20 parameters you were looking for?</p> <p>21 A. From those statements?</p> <p>22 Q. Yes, sir, that you were searching for.</p> <p>23 A. No. I thought that my question was -- you</p> <p>24 mean in terms of the article or in terms of the</p> <p>25 statements from those lawyers?</p>	<p style="text-align: right;">84</p> <p>1 Q. Do you remember seeing a press release by</p> <p>2 Mr. Epstein related to Mr. Edwards in any way?</p> <p>3 A. A press release from Mr. Epstein?</p> <p>4 Q. Yes, sir.</p> <p>5 A. I don't recall a press release from</p> <p>6 Mr. Epstein.</p> <p>7 MR. LINK: Okay. I have no other questions.</p> <p>8 MR. SCAROLA: And I have no further questions.</p> <p>9 MR. LINK: Thank you.</p> <p>10 MR. SCAROLA: We will read.</p> <p>11 THE VIDEOGRAPHER: The time is 11:21. We are</p> <p>12 off the record. This concludes today's deposition.</p> <p>13 (Thereupon, the taking of the deposition was</p> <p>14 concluded at 11:21 a.m.)</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> <p>24</p> <p>25</p>

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1 EXCEPT FOR THE CORRECTIONS MADE  
2 HEREIN ON THE ERRATA SHEET BY ME,  
3 I CERTIFY THIS IS A TRUE AND  
4 ACCURATE TRANSCRIPT. FURTHER  
5 DEPONENT SAYETH NOT.

6 \_\_\_\_\_  
7 DR. BERNARD J. JANSEN

8 STATE OF FLORIDA)  
9 ) SS:  
10 COUNTY OF MIAMI-DADE)

11 Sworn and subscribed to before me  
12 this \_\_\_\_\_ day of \_\_\_\_\_, 2017.  
13 PERSONALLY KNOWN \_\_\_\_\_ OR I.D. \_\_\_\_\_

14 \_\_\_\_\_  
15 Notary Public in and for the  
16 State of Florida at Large  
17 My Commission Expires:  
18  
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87

1 CERTIFICATE OF OATH  
2  
3 STATE OF FLORIDA)  
4 ) SS  
5 COUNTY OF MIAMI-DADE)

6 I, the undersigned authority, certify that  
7 DR. BERNARD J. JANSEN personally appeared before me and  
8 was duly sworn.  
9 WITNESS my hand and official seal this 4th day  
10 of December, 2017.  
11

12 \_\_\_\_\_  
13 ILIANA LUGO  
14 Notary Public - State of Florida  
15 Commission No. DD733630  
16 Commission Expires: 11/08/2019  
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1 ERRATA SHEET  
2 IN RE: Jeffrey Epstein v. Scott Rothstein, et al.  
3 Case No. 50-2009CA040800XXXXMBAG  
4 DEPO OF: DR. BERNARD J. JANSEN 12/1/17  
5 DO NOT WRITE ON TRANSCRIPT - ENTER ANY CHANGES HERE

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18 STATE OF FLORIDA)  
19 ) SS  
20 COUNTY OF MIAMI-DADE)

21 Under penalties of perjury, I declare that I  
22 have read my deposition transcript, and it is true and  
23 correct subject to any changes in form or substance  
24 entered here.  
25

26 \_\_\_\_\_  
27 Date Signature

88

1 REPORTER'S DEPOSITION CERTIFICATE  
2  
3 STATE OF FLORIDA)  
4 ) SS  
5 COUNTY OF MIAMI-DADE)

6 I, Iliana Lugo, Court Reporter, certify that I  
7 was authorized to and did stenographically report the  
8 deposition of DR. BERNARD J. JANSEN; that a review of  
9 the transcript was requested; and that the transcript is  
10 a true and correct record of my stenographic notes.  
11 I further certify that I am not a relative,  
12 employee, attorney or counsel of any of the parties,  
13 parties' attorney, or counsel connected with the action,  
14 nor am I financially interested in the action.  
15 DATED this 4th day of December, 2017.

16 \_\_\_\_\_  
17 ILIANA LUGO, Court Reporter  
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1 December 5, 2017  
2  
3 DR. BERNARD J. JANSEN  
4 c/o Searcy, Denny, Scarola, Barnhart  
5 & Shipley, P.A.  
6 Attn: Jack Scarola, Esq.  
7  
8 In Re: Jeffrey Epstein v. Scott Rothstein, et al.  
9 Case No.: 50-2009CA040800XXXXMBAG  
10 Depo of: Dr. Bernard J. Jansen  
11 Taken on: December 1, 2017  
12 # of pages: 88 Held Until: January 6, 2018  
13 Dear Dr. Jansen:  
14 This letter is to advise you that the transcript  
15 of your deposition taken in the above-referenced  
16 cause has been completed and is awaiting your  
17 reading and signing.  
18  
19 Please contact our office to make arrangements to read  
20 and sign your deposition transcript.  
21 Our information is as follows:  
22 Palm Beach Reporting  
23 [REDACTED]  
24 Telephone [REDACTED]  
25  
26 If the reading and signing has not been completed  
27 prior to January 6, 2018, we shall conclude  
28 that you have waived the reading and signing of the  
29 transcript.  
30 Your prompt attention to this matter is appreciated.  
31 Sincerely,  
32  
33 Iliana Lugo, Court Reporter  
34  
35 cc Scott J. Link, Esq., Esq.  
36 Jack Scarola, Esq.  
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