

Exhibit 9

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOWARD K. STERN, §
§
Plaintiff, §
§
VS. § Civ. Action No.
§ 07-CV-8536 (DC)
RITA COSBY and HACHETTE §
BOOK GROUP USA, INC., §
d/b/a Grand Central §
Publishing, and JOHN OR §
JANE DOE §
§
Defendants. §

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

HOWARD K. STERN, §
§
Plaintiff, §
§ Case No. 07-60534-CIV
VS. §
§
JOHN M. O'QUINN and JOHN §
M. O'QUINN & ASSOCIATES, §
PLLC d/b/a The O'Quinn §
Law Firm §
Defendants. §

CONFIDENTIAL ORAL AND VIDEOTAPED DEPOSITION OF
DON CLARK
OCTOBER 14, 2008

1 DON CLARK

2 **Q And when you were in the Houston division, did**

3 **you oversee any significant investigations?**

4 A Yes.

5 **Q And what were those?**

6 A Well, we had the dragging death of the

7 gentleman from Jasper, Texas, which was a heinous crime

8 and a murder that took place. And the -- the thing that

9 sticks out with that case is that it was in a sense a

10 complex murder investigation of which we had to really

11 handle evidence and dot all i's and cross all t's to be

12 able to show in court that this was a murder and not

13 just three boys drunk and things got carried away.

14 We ultimately prevailed in that after over

15 a year of intense investigation. And I almost lived

16 over there for about that time, working with the

17 district attorney over there and the sheriff. And we

18 prosecuted those three people.

19 **Q And they were convicted?**

20 A Two were convicted and sentenced to death and

21 one was convicted and sentenced to life.

22 **Q Okay. Now, you ended up not going back to**

23 **New York. Why did -- what happened there?**

24 A When I arrived in Houston, for whatever reason,

25 the law enforcement community and the community in

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 general really welcomed me with open arms. And I

3 realized that Houston, albeit I had called Houston home,

4 I really never lived in Houston over a long period of

5 time. So I had no intentions to really stay there, I

6 just wanted to get back to New York, the city that I

7 really love.

8 But being embraced so by the law

9 enforcement community, by the citizens there, across all

10 ethnic and racial lines, I just fell in love with the

11 place and became so committed to it, I said, you know, I

12 don't want to leave here. And I didn't.

13 **Q And did you ultimately retire from the FBI?**

14 A I did.

15 **Q And what year was that?**

16 A I retired in 19 -- February 3rd of 2000.

17 **Q And did you -- what position did you hold at**

18 **the time of your retirement?**

19 A I was special agent in charge of the Houston

20 division.

21 **Q And during your tenure with the FBI, did you**

22 **receive any commendations?**

23 A Yes, I did. I --

24 **Q What were those?**

25 A I received a number of commendations, but the

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 one in particular, after I retired from the FBI,

3 approximately a year after I retired, I was invited to

4 Washington, DC, to the Attorney General's ceremony for

5 award presentations and I was awarded the top award for

6 achievement from the Attorney General.

7 **Q Is there a title -- is there a name to that**

8 **award, do you know?**

9 A It is. I can't think of it at the moment.

10 **Q Okay. While you were with the armed forces,**

11 **did you receive any commendations?**

12 A Yes, I did.

13 **Q And what were those?**

14 A Several Bronze Stars, Vietnamese Silver Stars,

15 several air -- at least two air medals for bravery in

16 Vietnam, army commendation medals.

17 **Q So I take it from the awards you received after**

18 **your retirement from the FBI, that you left the FBI on**

19 **good terms?**

20 A Yes, I did, by all means.

21 **Q And while you were with the FBI, were you ever**

22 **reprimanded or disciplined in any way?**

23 A Yes.

24 **Q What was that?**

25 A Just a disciplinary action out in Long Beach,

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 California.

3 **Q What was that in connection with?**

4 A It was in connection with me deciding to take

5 on an investigation that I had not gotten all the proper

6 authorities for. We have a list of authorities to get,

7 so I took it on before completing that.

8 **Q Was there any kind of -- were you docked any**

9 **pay or was there any kind of reprimand --**

10 A No.

11 **Q -- given as a result of that?**

12 A No, I was not docked any pay.

13 **Q Okay. Now, after you retired --**

14 A And I will correct and say an oral reprimand.

15 **Q I see. So it was just an oral reprimand?**

16 A Yeah.

17 **Q Okay. Now, after you retired from the FBI, did**

18 **you continue to be employed?**

19 A Yes.

20 **Q And where did you -- where were you employed at**

21 **that point?**

22 A I actually left the FBI and I was employed

23 full-time employment at The O'Quinn Law Firm. And I was

24 allowed to have a contractual employment with our local

25 NBC affiliate here in Houston.

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **Q And what is your contractual employment with**
 3 **the NBC?**
 4 A To do periodic news segment for them regarding
 5 areas of -- in my sphere of expertise.
 6 **Q Okay. And what is your position with The**
 7 **O'Quinn Law Firm?**
 8 A My title is Investigative Strategist and Jury
 9 Consultant.
 10 **Q Okay. And how long have you been with The**
 11 **O'Quinn Law Firm?**
 12 A Eight and a half years, a little more.
 13 **Q And when you started with The O'Quinn Law Firm,**
 14 **did you understand that Mr. O'Quinn was under any kind**
 15 **of investigation with the FBI?**
 16 A No.
 17 **Q Are you familiar with a website called Rose**
 18 **Speaks?**
 19 A Yes.
 20 **Q Can you describe that for me, please?**
 21 A I've -- I've pulled it up a couple of times.
 22 And it's people talking on there, usually -- I believe
 23 that it usually starts with Rose Speaks or whomever is
 24 the moderator of that website making a big statement
 25 about some type of an issue. And then from there, there
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 are comments.
 3 **Q Do you have any knowledge of whether there's**
 4 **any affiliation between the Rose Speaks website and**
 5 **Mr. Stern's attorneys?**
 6 A I think there is.
 7 **Q What do you base that on?**
 8 MR. WOOD: Are you talking about me? Are
 9 you talking -- wait, are you talking about Powell
 10 Goldstein and Lin Wood?
 11 MS. MCNAMARA: I am talking --
 12 MR. WOOD: -- that I have an affiliation
 13 with Rose Speaks?
 14 MS. MCNAMARA: I --
 15 MR. WOOD: You better be careful here,
 16 because I don't have any affiliation with that
 17 individual or that website. Just because you're in a
 18 deposition, be careful what you say about my law firm
 19 and me.
 20 **Q (BY MS. MCNAMARA) Mr. Clark, do you --**
 21 **MR. WOOD: You, too, Mr. Clark.**
 22 **Q (BY MS. MCNAMARA) What knowledge do you**
 23 **have as to any affiliation --**
 24 A I'm sorry, he was talking. I didn't hear you.
 25 MR. WOOD: I said you, too, because --
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 THE WITNESS: No, I heard --
 3 MR. WOOD: Don't make any accusations
 4 against me or my lawyer firm --
 5 MS. MCNAMARA: Mr. Wood --
 6 MR. WOOD: -- unless you're prepared to
 7 back it up.
 8 MS. MCNAMARA: -- do not interrupt my
 9 questioning.
 10 MR. WOOD: You heard what I had to say.
 11 I'm not here to be slandered by you or this gentleman.
 12 **Q (BY MS. MCNAMARA) Mr. Clark, what knowledge do**
 13 **you have about any affiliation between attorneys for**
 14 **Mr. Stern and Rose Speaks?**
 15 A I have information that there are people
 16 that -- relatives of Howard Stern's, his sister, as a
 17 matter of fact, who has constant contact with Rose Speak
 18 and that Rose Speak is basically a, not -- perhaps not
 19 all, I don't know what all the website does, but that
 20 she is there to put information out on her web about
 21 Howard Stern and about people who may be opposed to what
 22 Howard Stern has done.
 23 **Q Do you know whether --**
 24 MR. WOOD: Excuse me, I move to strike the
 25 answer as unresponsive.
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **Q (BY MS. MCNAMARA) Do you know whether there's**
 3 **any affiliation between Krista Barth and Rose Speaks?**
 4 A Yes.
 5 **Q And what do you know about that?**
 6 A I have seen communications where Krista Barth
 7 have sent to Rose and thanking her for her work that
 8 she's doing.
 9 **Q Okay. And were you aware of any communications**
 10 **on Rose Speaks about the allegation that you had left**
 11 **the FBI at the same time that there was an investigation**
 12 **of Mr. O'Quinn, to join The O'Quinn Law Firm?**
 13 A Yes, I was aware of that.
 14 **Q And was there any truth to that allegation?**
 15 A Absolutely not.
 16 **Q Now, at some point in time in your employment**
 17 **with --**
 18 A In fact, excuse me.
 19 **Q Sure.**
 20 A In fact, I feel like Lin Wood just said a
 21 couple moments ago that that mess that was on her
 22 website about that was absolutely slander. So I
 23 understand how Lin Wood feels, because that's the way I
 24 feel about this.
 25 MR. WOOD: Well, I know you didn't say
 TSG Reporting - Worldwide 877-702-9580

Page 30

1 DON CLARK
2 anything about Lin Wood and Rose Speaks, either, Powell
3 Goldstein.

4 MS. MCNAMARA: Well, yeah, I believe it
5 was correctly then sent to Powell Goldstein.

6 MR. WOOD: Well, that doesn't have
7 anything to do when you start asking about an
8 affiliation with my law firm and a website. Be careful.

9 **Q (BY MS. MCNAMARA) Now, at your -- the time**
10 **that you've been working with The O'Quinn Law Firm, did**
11 **there come a point in time when you began to do**
12 **investigative work concerning the Anna Nicole Smith**
13 **case?**

14 A Yes.

15 **Q And when did that start?**

16 A Actually, on February 15th of 2007.

17 **Q Okay. And you were aware at that point that**
18 **the firm was representing Virgie Arthur?**

19 A At that time, yes.

20 **Q And did you understand in what capacity they**
21 **were representing Ms. Arthur, with regard to what?**

22 A Yes, with regards to Ms. Arthur attempting to
23 take possession of her daughter's body, who had been
24 killed, and brought her -- and bringing -- moving her
25 body to Texas to give her a burial.

TSG Reporting - Worldwide 877-702-9580

Page 31

1 DON CLARK

2 **Q Okay. And in connection with that**
3 **investigation, did you ask Wilma Vicedomine to help you**
4 **with that investigation?**

5 A Yes, I did.

6 **Q And had you used Ms. Vicedomine before in other**
7 **investigations?**

8 A I had.

9 **Q How often?**

10 A There had -- often? Probably -- I don't know,
11 probably in about -- before this case, probably about
12 six or eight months that I had first asked her to give
13 me some assistance in some research work.

14 **Q And what kind of work did she do for you in**
15 **that capacity?**

16 A Ms. Vicedomine is a tremendous researcher and
17 very analytical person. And I needed someone to assist
18 me in obtaining certain information.

19 **Q And based on your experience with**
20 **Ms. Vicedomine, did you form an opinion as to her skills**
21 **as an investigator?**

22 A Yes. She's outstanding.

23 **Q And -- and what did you base that on?**

24 A I base that on the thoroughness in which she
25 went about giving anybody, myself, information that I

TSG Reporting - Worldwide 877-702-9580

Page 32

1 DON CLARK
2 had asked her to do, the detail in which she completed
3 her work. I mean, she's one of those people who just
4 left no stone unturned.

5 **Q Did you find her to be honest?**

6 A Very much so.

7 **Q Did you find her to want to be accurate?**

8 A Yes, extremely.

9 **Q Did you ever pay her for her work?**

10 A No, I did not.

11 **Q Do you know if the O'Quinn firm paid her for**
12 **her work?**

13 A Not to my knowledge.

14 **Q Can you describe generally from the time you**
15 **commenced the investigation in the Anna Nicole Smith**
16 **matter, I believe you said it was February 15th or 16th;**
17 **is that correct?**

18 A February 15th.

19 **Q February 15th.**

20 A Yes.

21 **Q From February 15th until the end of March, I**
22 **think specifically March 28th, 2007 --**

23 A Yes, 27th.

24 **Q -- 27th, can you tell me what work you did in**
25 **connection with that investigation?**

TSG Reporting - Worldwide 877-702-9580

Page 33

1 DON CLARK

2 A I joined Mr. O'Quinn and the rest of the
3 lawyers on February 15th, and I started to research and
4 find out what actually took place here and what was
5 going on and why were we even in this particular
6 situation in Florida. That didn't take very long to do.

7 And then I realized that this was a more
8 complex matter than I thought it was just a matter of
9 Virgie Arthur going to Florida and taking possession, as
10 she so well deserved, of her body and taking it home and
11 why were we doing the rest of the stuff, to find out,
12 though, that there were other challenges that was being
13 put forth. And so during the course of that and working
14 with John, Mr. O'Quinn, and the rest of the people, I
15 began to investigate into the background of what
16 actually took place.

17 **Q And --**

18 MR. WOOD: I move to strike that portion
19 of the answer as -- excuse me.

20 **Q (BY MS. MCNAMARA) And when you --**

21 MR. WOOD: Excuse me.

22 MS. MCNAMARA: I'm sorry.

23 MR. WOOD: I move to strike that portion
24 of the answer as nonresponsive, where he makes the
25 self-serving and inaccurate statements with respect to

TSG Reporting - Worldwide 877-702-9580

Page 46

Page 47

1 DON CLARK
 2 A In early April.
 3 **Q And do you know how that interview came about?**
 4 A Yes. I established contact with a gentleman by
 5 the name of Paul Porter and told him that I wanted to
 6 get in touch with Moe and Tas to talk with them. And
 7 Paul Porter was instrumental in setting up the meeting
 8 time and place. And Wilma and I flew over there and
 9 talked to him.
 10 **Q And where did this meeting take place?**
 11 A It took place in Ft. Lauderdale.
 12 **Q And was it at their home or what was the**
 13 **location?**
 14 A No, it was at a hotel. I rented a conference
 15 room at a hotel.
 16 **Q Okay. So you paid for that conference room?**
 17 A Yes.
 18 **Q And approximately how long did the meeting**
 19 **occur?**
 20 A Two or three hours.
 21 **Q Okay. Tell me what you recall about that**
 22 **meeting, what transpired.**
 23 A During the course of that meeting, there
 24 weren't many pleasantries at the beginning, because Moe
 25 was extremely hostile. It was very difficult to get
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 there. In fact, his wife had come in advance of him and
 3 he was very late to get there. He wasn't very much
 4 interested in talking to me or Wilma. His wife was.
 5 But once the two of them were there, the
 6 five of us sat in a conference room and began to talk
 7 about what we were there to talk about, which was we
 8 wanted to know from them what they knew about Anna's
 9 death and about Anna's life, because it took a lot of
 10 that to figure out how she died, you know.
 11 **Q And in your answer when you said "the five of**
 12 **us," just so we're clear, who -- who were the five**
 13 **people in that meeting?**
 14 A Wilma, Tas, Moe, Paul Porter and myself.
 15 **Q And did the five of you remain in the -- in the**
 16 **room together for the entire meeting?**
 17 A No, we didn't. During the course of that
 18 meeting in the early -- in the beginning of that
 19 meeting, Tas was always a very friendly, cordial lady.
 20 Moe was very hostile. And Moe took an extreme dislike
 21 for Wilma, and to a point that I felt it was necessary
 22 for me to separate this group.
 23 On the other hand, Tas took just the
 24 opposite view of Wilma and they developed a bond right
 25 immediately. And I then said, "Look, Wilma, you and Tas
 TSG Reporting - Worldwide 877-702-9580

Page 48

Page 49

1 DON CLARK
 2 stay in here and Moe and I will go outside and talk,"
 3 you know. Probably one of the scariest things I ever
 4 did was to go outside with Moe.
 5 **Q Why was that?**
 6 A Well, we were in a screaming match outside.
 7 And I was telling him -- at an early point, he was
 8 defending Howard, you know. And I just point blankly
 9 told him that he needed to wake up and see the forest,
 10 because he's not seeing it for the trees, you know, and
 11 that this was the guy that was supposed to be taking
 12 care of her. By his own admission, he did everything
 13 for her, but yet she dies a dismal death there and he's
 14 nowhere around and did nothing to try to save her, and
 15 that he knew -- he, Moe, knew about the drugs, because
 16 drugs had been sent to his house, you know. He knew
 17 about that.
 18 **Q Well, had he already told you about the drugs**
 19 **being sent to the house or had you known about that**
 20 **before you interviewed Moe?**
 21 MR. WOOD: Objection to the form of the
 22 question.
 23 A I didn't know that drugs had been sent to Moe
 24 's house before that interview.
 25 **Q (BY MS. MCNAMARA) So you learned that from Moe**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 in that --
 3 A From Moe.
 4 **Q -- interview?**
 5 A Yes.
 6 **Q And what did he tell you about the drugs being**
 7 **sent to his house?**
 8 A That they were sent to his house in care of his
 9 address, but they were for Howard.
 10 **Q And did he tell you what -- who he gave the**
 11 **drugs to?**
 12 A Yes. He told me clearly that he gave the drugs
 13 to Howard. He said he didn't even open the package that
 14 he gave the drugs to Howard. And that -- at that point,
 15 you know, that's when I became very combative, if you
 16 will, with Moe, telling him that why did he think that
 17 this was the right thing, you know, and why did he think
 18 that the actions at the Seminole that day were the right
 19 things for somebody who was a caretaker to be doing?
 20 **Q So at the time you were interviewing Moe, you**
 21 **perceived him as being aligned with Howard?**
 22 A Yes.
 23 **Q Where he was -- and he was, I believe you said,**
 24 **defending Howard?**
 25 A Very much.
 TSG Reporting - Worldwide 877-702-9580

Page 54

DON CLARK

1

2 **Q Correct.**

3 A Yes. After I finally was able to have some
4 conversation with Moe, he actually cried and talked
5 about the drugs that Anna was using and the fact that
6 Howard continually furnished those drugs that she was
7 using and that he knew that she was taking an excess of
8 drugs, because he could see the change in her
9 personality and so forth as she took the drugs. So he
10 became very teary-eyed about the drugs.

11 **Q And do you recall whether he told you any
12 information about the events of the day, what happened,
13 where they went, their meetings with Mr. Stern, anything
14 about that?**

15 A Yes.

16 MR. WOOD: Objection to the form of the
17 question as compound.

18 A Yes. He -- he also told me that as they were
19 coming up to get on the elevator into the Hard Rock,
20 that Howard was getting off the elevator. And he was
21 somewhat startled when he saw them.

22 And they asked him where was he going.
23 And he said he just came down to make a phone call, you
24 know, with his cell phone. He didn't have a good
25 reception up there.

TSG Reporting - Worldwide 877-702-9580

Page 55

DON CLARK

1

2 He said in hindsight, he looked back and,
3 "We used the cell phones well up there." He couldn't
4 figure out what that was about.

5 But Howard didn't continue on to make the
6 cell phone call, he turned around and went back into the
7 hotel room with them. And that's when they -- Bridgette
8 was in the hotel room and that's when they had a little
9 conversation, as I said earlier, when Howard was
10 standing at the door and they were in the adjoining room
11 having conversation there.

12 **Q In your -- strike that. After that initial
13 meeting that you had with Moe, did you have any further
14 meetings with Moe?**

15 A No.

16 **Q Did you have any further telephone
17 conversations with Moe?**

18 A No.

19 **Q After that initial meeting, did you have any
20 further meetings with Tas?**

21 A Did not.

22 **Q Did you have any further telephone
23 conversations with Tas?**

24 A Yes, I did have another telephone conversation
25 with her at -- on another occasion that I was in the

TSG Reporting - Worldwide 877-702-9580

Page 56

DON CLARK

1

2 Miami area. I called Tas and she returned my call.
3 She's always a lady. She returned my call. And we made
4 an effort to try to arrange schedules, not interfering
5 with her job, so that she could meet with me. And she
6 agreed to meet with me. As it turned out, time and
7 other issues, and we were unable to get together.

8 **Q In that second conversation with Tas, did you
9 discuss, you know, any substantive issues or was it --
10 was it just scheduling?**

11 A No, I didn't discuss any substantive figures.
12 I told her that I wanted to talk to her and to continue
13 with the conversation that we had had, you know, months
14 back.

15 **Q Did you understand that after that initial
16 meeting in April with Moe and Tas, that Wilma continued
17 to talk to Tas?**

18 A Yes.

19 **Q And would she communicate with you or relay to
20 you the information she learned from Tas?**

21 A Yes, she would.

22 **Q The -- during your meeting with Moe, did you
23 find him -- did you reach any conclusion as to whether
24 he was credible?**

25 A Yes. You know, I think Moe is very credible.

TSG Reporting - Worldwide 877-702-9580

Page 57

DON CLARK

1

2 You know, he's -- he's a big man with a big heart, you
3 know. And so I felt he had no reason to fabricate
4 anything. He may not speak, but he had no reason to
5 fabricate anything.

6 **Q So you found the information that he gave you
7 that day to be honest and accurate?**

8 MR. WOOD: Objection to the form --

9 A Yes.

10 MR. WOOD: -- of the question as leading
11 and suggestive of an answer.

12 **Q (BY MS. MCNAMARA) At the time you were
13 speaking with Moe, did you understand him to be in any
14 kind of dispute with Mr. Stern?**

15 A At the -- at the initial time that I was
16 speaking with him, he was not -- I didn't gather that he
17 was in any kind of dispute with Howard Stern. As I said
18 earlier, he attempted to defend Mr. Stern initially and
19 then finally broke down and, you know, told me that he
20 was aware of the drugs and so forth.

21 So -- but I did find out later that there
22 was something to do with a book deal, that Howard had
23 either threatened to sue him if he went through with his
24 book deal. And that seemingly turned -- really turned
25 the tide between Moe and Howard.

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **Q What did you learn about the threats in**
 3 **connection with the book deal?**
 4 A Well, it was simply that if they went through
 5 with the book deal, that Howard was going to sue Moe.
 6 **Q And who did you learn that from?**
 7 A I learned that from Tas through -- through
 8 Wilma.
 9 **Q And did you hear that directly from Moe or from**
 10 **anybody else?**
 11 A No.
 12 **Q Did you pay Moe and Tas for that interview?**
 13 A No.
 14 **Q Did the O'Quinn firm pay any money to Moe and**
 15 **Tas for that interview?**
 16 A No.
 17 **Q So the only payment that was made in**
 18 **association with that interview was the payment for the**
 19 **hotel conference room?**
 20 A Hotel conference room and food.
 21 **Q Okay. Now, during that interview, did you**
 22 **reach any conclusion as to whether you believed Tas was**
 23 **credible?**
 24 A Oh, very much so, yes.
 25 **Q So you found her to be an accurate and honest**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **individual?**
 3 A Right, yes.
 4 **Q And you believed the information that she told**
 5 **you to be truthful information?**
 6 A Yes.
 7 **Q Did there come a point in time when you came to**
 8 **interview the two nannies that had worked for Anna**
 9 **Nicole in the Bahamas?**
 10 A Yes.
 11 MR. WOOD: Before we go to the nannies,
 12 why don't we take a break, since we've left Tas and Moe,
 13 if y'all don't mind.
 14 THE VIDEOGRAPHER: We're going off the
 15 record. The time is 10:13.
 16 (A recess was taken.)
 17 THE VIDEOGRAPHER: We're back on the
 18 record. The time is 10:26.
 19 **Q (BY MS. MCNAMARA) Mr. Clark, did there come a**
 20 **point in time when in connection with your investigation**
 21 **that you interviewed the two nannies who had worked for**
 22 **Anna Nicole in the Bahamas?**
 23 A I attempted to interview them.
 24 **Q Okay. And when did that occur?**
 25 A I believe in April of 2007.
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **Q And how was that meeting set up?**
 3 A That meeting was set up between a Bahamian
 4 attorney, Liz Thompson. And I come to find that she was
 5 working in concert with a gentleman by the name of
 6 Lincoln Bain.
 7 **Q Okay. Had she contacted the O'Quinn firm or**
 8 **how did that occur?**
 9 A That did occur with her contacting Wilma.
 10 **Q Liz Thompson contacted Wilma initially?**
 11 A Yes, yes.
 12 **Q Do you know --**
 13 A To the best of my knowledge, yes.
 14 **Q Do you know how she would have known to contact**
 15 **Wilma?**
 16 A I don't know. I don't know.
 17 **Q Okay. What information, if any, did you obtain**
 18 **concerning that initial contact with Wilma?**
 19 A Is that the -- the nannies would be made
 20 available -- if we came over, they would be made
 21 available to sit down and talk with us.
 22 **Q And after that initial contact, did you have**
 23 **further --**
 24 A Yes.
 25 **Q -- communication with Ms. Thompson?**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A After that initial contact, then I had
 3 communications with her.
 4 **Q And did you -- what was the substance of those**
 5 **communications?**
 6 A The substance of those communications were to
 7 try to arrange the logistical arrangement of the nannies
 8 as to what time would be available to them that we could
 9 come over and sit down and talk with them.
 10 **Q Was any representation made in the course of**
 11 **those discussions concerning what information the**
 12 **nannies had?**
 13 A I don't make a habit of going into what exactly
 14 I want to talk to them about, but I certainly wanted to
 15 let her know that I wanted -- they were the nannies in
 16 the house of where Anna Nicole lived and that I wanted
 17 to find out, you know, what information I could of
 18 activities that took place there.
 19 **Q Okay. And during the course -- how many**
 20 **conversations did you have with Ms. Thompson before you**
 21 **went to the Bahamas?**
 22 A I don't recall exactly, but it probably was no
 23 more than two or three.
 24 **Q In the course of those two or three**
 25 **conversations, was there any discussion regarding money?**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A No. No, not at all.
 3 Q She didn't in any way indicate that you would
 4 have to compensate the nannies for the interview?
 5 MR. WOOD: Objection to the form of the
 6 question as leading.
 7 A Absolutely not. Nothing about money.
 8 Q (BY MS. MCNAMARA) So you got to the Bahamas
 9 and where did the interview occur?
 10 A The interview occurred in one of the conference
 11 rooms in the Hilton Hotel.
 12 Q And had you paid for this conference room?
 13 A Yes, I did.
 14 Q And by "you," I mean the O'Quinn Law Firm.
 15 A Right, yes.
 16 Q And approximately how long were you with the
 17 nannies in that meeting?
 18 A The -- the entire ordeal -- I hasten to call it
 19 a meeting now, but the entire ordeal probably was about
 20 three hours. And that included a rather lengthy lunch
 21 break in there for the nannies and their spouses and Liz
 22 Thompson. And I don't believe Lincoln Bain ate, I think
 23 he stepped out for a while.
 24 Q Who -- who all was present? I believe you've
 25 named a number of people, but I want to make sure I know
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 exactly who was there.
 3 A Initially it was Liz Thompson, Lincoln Bain,
 4 the two nannies, Wilma and myself. And they told us
 5 that they really didn't want to get into any
 6 conversation because the spouses or significant others
 7 were on their way over there. So we didn't get into any
 8 discussion about any of the issues that we were looking
 9 to do, we just kind of sat there and had casual comments
 10 to each other that had nothing to do with anything that
 11 I was there for.
 12 Q Okay. And did there come a time when the
 13 spouses or significant others of the nannies arrived?
 14 A They did.
 15 Q Did you get their names?
 16 A I don't recall. I really don't.
 17 Q Okay. And what, if any, discussion ensued once
 18 they arrived?
 19 A Well, once they arrived, I sort of opened up
 20 the conversation, because I was under the impression
 21 that we would be able to talk directly with the nannies
 22 and start to ask them some questions about things that
 23 we wanted to know that took place surrounding Anna
 24 Nicole and her death, you know.
 25 And then at that point, Liz Thompson took
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 over the stage and made it clear that they were
 3 expecting to be paid. You know, they were looking for a
 4 sum of money before they would talk, you know. And I
 5 was shocked by that, because in my two or three
 6 conversations with Liz Thompson before, that topic had
 7 never surfaced, you know.
 8 So we talked a bit about the money. And I
 9 made it clear to Liz Thompson that I was not going to
 10 pay money, but I certainly did not want to impose upon
 11 the nannies' time and I had no problem with paying some
 12 expenses for their time and, you know, travel
 13 arrangements -- expenses for their travel and those type
 14 of expenses, but, you know, I wasn't inclined to pay for
 15 the information that we might get.
 16 Q And did Ms. Thompson ever put a price or a
 17 figure on how much she expected that the nannies should
 18 be compensated for the interviews?
 19 A Not quite at that time. And she never really
 20 put a price, but later on into the conversation, as we
 21 were realizing at the point that we probably are not
 22 going to be able to get -- to have an involved
 23 conversation with the nannies, there was an expense
 24 price that was mentioned by Liz Thompson.
 25 Q And what was that price?
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A \$5,000 an hour for their time. And at that
 3 point, you know, I made it very clear that, you know,
 4 that certainly was out of the range, but we would look
 5 and see and consider and make an offer as to what we
 6 felt their time was worth.
 7 Q And after that conversation regarding the
 8 \$5,000 an hour, did you or Wilma obtain any information
 9 from the nannies?
 10 A Yes. Yes.
 11 Q What do you recall?
 12 A I recall saying to them that, you know, we kind
 13 of needed to get something. And then Wilma sort of took
 14 the lead from that point and said, you know, "Is there
 15 anything that they can tell us and talk to us about
 16 to -- so we'll have something to make our decision on
 17 what we want to do about it?"
 18 Wilma, quite frankly, became very
 19 aggravated, very disgusted with the whole situation.
 20 And but for me trying to keep her under control, she
 21 would have stormed out and I would have been left there
 22 to deal with it by myself.
 23 Q And as a result of that event, what, if any,
 24 information did you obtain from the nannies?
 25 A I recall Wilma standing up and walking around
 TSG Reporting - Worldwide 877-702-9580

Page 66

1 DON CLARK
 2 the end of the table and asking -- you know, and Liz
 3 Thompson said, yes, that they could talk about
 4 something.
 5 And they said a couple of things that I
 6 actually didn't hear, because they were speaking very
 7 softly. And -- but I did hear them say, when they
 8 started to talk about that -- Wilma asked them about
 9 movies, did they see movies or anything of that nature.
 10 What did Anna like to do? What type of activities did
 11 she like? Did she like to see movies? I think she
 12 mentioned Blockbuster and videos, or something of that
 13 nature.
 14 And the nannies didn't quite get that
 15 particular term -- terminology. But at some point Wilma
 16 did make it clear that, you know, movies. She explained
 17 what movies were. And they didn't remember movies, but
 18 she liked to watch the CD's, like computer movies, you
 19 know.
 20 And so -- and Wilma said -- you know,
 21 asked them what did they watch, you know, what did they
 22 observe, you know. And kind of off the bat, they
 23 started to giggle and said she liked to watch the movie
 24 of Howard and Larry -- with Howard and Larry, you know.
 25 And -- and little bit shocked, "What movie
 TSG Reporting - Worldwide 877-702-9580

Page 67

1 DON CLARK
 2 with Howard and Larry," you know? "And what were" --
 3 "What were they doing?"
 4 And so they -- they made some comment that
 5 they were -- you know, she liked to watch Howard and
 6 Larry in the movie do that thing, you know, and kind of
 7 giggled about it, you know. And that's kind of --
 8 **Q Did Wilma ask what "that thing" was?**
 9 A Yeah, she did ask what "that" -- yes, she did
 10 ask what "that thing" was. And they said -- I remember
 11 this comment. They said, "Yes, they would" -- "were
 12 doing it," you know, and got very bashful and shy about
 13 that statement.
 14 And I recall Wilma saying again, "What do
 15 you mean 'doing it,' you know?"
 16 And they said, "You know, that thing,
 17 doing it." And that's kind of how I recall the meeting.
 18 **Q And did -- when you say "they," were both**
 19 **nannies talking about this or -- and by -- and so that**
 20 **we're clear on the record, let me make clear, because I**
 21 **don't think I ever identified their names.**
 22 MR. WOOD: Let me -- you asked him what
 23 information he obtained from the nannies. And I don't
 24 think he -- is he finished with telling us everything?
 25 MS. MCNAMARA: Lin, I don't -- I
 TSG Reporting - Worldwide 877-702-9580

Page 68

1 DON CLARK
 2 haven't -- I'm in the middle of my questions. You will
 3 have your question to ask -- your chance to ask him
 4 questions.
 5 MR. WOOD: But I want to make sure that
 6 he's answered everything about the question, "What, if
 7 any, information did you obtain from the nannies?" And
 8 I assume he's answered that and you're moving to another
 9 question.
 10 MS. MCNAMARA: I --
 11 MR. MAYNARD: You will have your own
 12 chance.
 13 MS. MCNAMARA: You will have your own
 14 chance --
 15 MR. WOOD: Don't worry, Doug, I know I'll
 16 have my own chance, however long I need.
 17 MR. MAYNARD: We've got seven hours.
 18 MR. WOOD: No, sir, I've got this
 19 deposition noticed in another lawsuit. That's seven
 20 more hours, if I need it.
 21 MR. MAYNARD: Well, we'll see about that.
 22 MR. WOOD: That will be my problem with
 23 Rob. You're not in that lawsuit. But we'll see about
 24 that.
 25 MR. MAYNARD: Okay. Let's ask questions
 TSG Reporting - Worldwide 877-702-9580

Page 69

1 DON CLARK
 2 and move on. You will have your time.
 3 **Q (BY MS. MCNAMARA) Mr. Clark, when you -- and I**
 4 **don't think, for the record, that I've made it clear.**
 5 **So that when we're talking about the nannies, are we**
 6 **talking about two women by the name of Quethlie Alexis**
 7 **and Nadine Alexie?**
 8 A Yes, we are.
 9 **Q And when you -- in your answer, when you were**
 10 **describing what the nannies said concerning this**
 11 **videotape, I believe you used the term "they." Do you**
 12 **recall were both nannies talking about this videotape or**
 13 **was Nadine or Quethlie, which one was --**
 14 MR. WOOD: Objection to the form of the
 15 question as compound and leading.
 16 A It was only one nanny that always spoke, you
 17 know. And the other -- both seemed very shy, but the
 18 one nanny spoke. I can't really recall -- I think it
 19 might have been Quethlie that was the speaker in the
 20 group. And the other one just would sort of smile and
 21 she was silent most of the time.
 22 **Q (BY MS. MCNAMARA) Did she -- did -- and so if**
 23 **the other one was Nadine, did Nadine confirm the**
 24 **information as well? Was that your impression, or not?**
 25 A By nodding and smiling and nodding in what I
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 would perceive to be a yes.
 3 **Q Do you recall anything else the nannies said**
 4 **regarding this videotape, other than what you've just**
 5 **told us?**
 6 A I recall them saying that she would watch this
 7 videotape periodically, more than just seeing it one
 8 time and that was it, that she -- that she enjoyed
 9 watching this videotape and she would watch it over and
 10 over again.
 11 **Q In that meeting, did you or Wilma ask to obtain**
 12 **a copy of the videotape?**
 13 A No.
 14 **Q To your knowledge, did you ever obtain a copy**
 15 **of this videotape?**
 16 A No.
 17 **Q In the course of that meeting and in connection**
 18 **with this particular information concerning the**
 19 **videotape, did you form any conclusions as to whether**
 20 **the nannies were credible?**
 21 A They certainly appeared credible. You know, I
 22 didn't at all have any indication that whatever the
 23 little bit that they said about "this thing" and the
 24 video and so forth was anything that was fabricated. I
 25 had no reason to believe that at all.

1 DON CLARK
 2 **Q So you believed they were being honest and**
 3 **accurate in communicating this information?**
 4 MR. WOOD: Object to the form of the
 5 question --
 6 A Yes, I do.
 7 MR. WOOD: Excuse me, Mr. Clark. You know
 8 the rules. You've been deposed before.
 9 Objection to the form of the question as
 10 leading and suggestive of an answer.
 11 Now you may answer, sir.
 12 **Q (BY MS. MCNAMARA) Did you believe the nannies**
 13 **to be honest and truthful in communicating this**
 14 **information?**
 15 MR. WOOD: Objection to the form of the
 16 question as leading and suggestive of an answer.
 17 **Q (BY MS. MCNAMARA) You can answer.**
 18 A Is it okay to answer now?
 19 **Q Yes.**
 20 A Yes, I did.
 21 **Q Do you recall any discussion in that meeting**
 22 **with the nannies concerning their affidavits that they**
 23 **had filed?**
 24 A No.
 25 **Q You don't recall that?**

1 DON CLARK
 2 A No, I don't recall.
 3 **Q Okay. Now, had you -- at the time of this**
 4 **meeting with the nannies, had you previously seen**
 5 **affidavits filed by them?**
 6 A Yes.
 7 **Q And those would have been the affidavits**
 8 **filed -- I mean, not filed, but rather -- strike that.**
 9 **Let me show you what's been previously**
 10 **marked as Exhibits 15, 16, 17 and 18. And I'll ask you**
 11 **if you recognize these documents?**
 12 MR. WOOD: Why don't I give him the --
 13 these are the actual originals that were marked
 14 yesterday and they were identified as 15, 16, 17 and 18
 15 in the deposition of Wilma Vicedomine yesterday.
 16 A Yes, I have seen these before.
 17 **Q (BY MS. MCNAMARA) And were you aware of these**
 18 **affidavits -- and these affidavits are Exhibits 15**
 19 **through 18 from the deposition of Wilma Vicedomine**
 20 **yesterday. Were you aware of these affidavits before**
 21 **March 27th?**
 22 A Yes.
 23 **Q And did they help inform the conclusions you**
 24 **reached regarding Mr. Stern's responsibility for the**
 25 **death of Anna Nicole?**

1 DON CLARK
 2 MR. WOOD: Object to the form of the
 3 question as leading and suggestive of an answer.
 4 A Yes.
 5 **Q (BY MS. MCNAMARA) In particular, what do you**
 6 **recall about these affidavits that's helping you to form**
 7 **any such -- that conclusion?**
 8 MR. WOOD: About the death of Anna Nicole
 9 Smith?
 10 MS. MCNAMARA: About the death of Anna
 11 Nicole Smith, Mr. Stern's responsibility therefore.
 12 MR. WOOD: What did you say?
 13 MS. MCNAMARA: I said about the death of
 14 Anna Nicole Smith and Mr. Stern's responsibility
 15 therefore.
 16 A I'm trying to look for it here, but I remember
 17 them talking about in the -- and I'd have to paraphrase,
 18 because I don't recall it exactly, but I -- to the best
 19 of my recollection, I remember some parts of the
 20 affidavit talking about the excessive use of drugs by
 21 Anna Nicole and the fact that Howard was giving her
 22 these drugs even while she was pregnant.
 23 **Q (BY MS. MCNAMARA) Okay. Let me direct your**
 24 **attention to paragraph eight --**
 25 MR. WOOD: Excuse me.

1 DON CLARK
 2 MR. WOOD: -- so the question has been
 3 asked and answered.
 4 MS. MCNAMARA: I'm asking him whether he,
 5 upon looking at it, he can -- whether that's -- remains
 6 his answer.
 7 A I -- I think so.
 8 **Q (BY MS. MCNAMARA) Okay. So, Mr. Clark, did**
 9 **there come a point in time when you spoke to Rita Cosby?**
 10 A Yes.
 11 **Q And had you been familiar with Rita Cosby prior**
 12 **to the time you spoke with her?**
 13 A I never met her personally, but I knew who she
 14 was.
 15 **Q And by knowing who she was, what does -- what**
 16 **does that mean?**
 17 A I knew that she worked for the media. And I
 18 have heard her name when she was with MSNBC.
 19 **Q When you first spoke with her, was that by**
 20 **phone or was it in person?**
 21 A By phone.
 22 **Q And who called whom?**
 23 A Rita called me.
 24 **Q And do you recall the substance of that initial**
 25 **conversation?**

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A Generally speaking, we were just -- she, you
 3 know, reintroduced herself and told me who she was. And
 4 we just kind of chatted a little bit. She said she was
 5 very much interested in the Anna Nicole Smith case and
 6 that, you know, she'd like to talk to me about some of
 7 the things that was going on or that we had maybe
 8 discovered in our investigation, you know.
 9 And knowing that she was a media person,
 10 that wasn't an unreasonable thing for her to ask me, so
 11 I told her at that time that I think she should give
 12 Wilma a call and talk to her, because Wilma would
 13 probably be the best person and I trusted her judgment
 14 to talk with her and assist her.
 15 **Q But in the course of that conversation before**
 16 **you referred her to Wilma, did you also give her some**
 17 **information concerning the investigation -- or your**
 18 **investigation?**
 19 A I don't know if it was on that first call or
 20 not that I gave her some -- some information.
 21 **Q How many phone calls did you have with**
 22 **Ms. Cosby?**
 23 A I don't know exactly, but it was -- it was
 24 several. That may be five or six.
 25 **Q And in the course of those five or six phone**

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **conversations, you did relay information to Ms. Cosby**
 3 **about your investigation?**
 4 A Yes.
 5 MR. WOOD: Objection -- excuse me.
 6 Objection to the form of the question as leading and
 7 suggestive of an answer.
 8 A Yes, I did.
 9 **Q (BY MS. MCNAMARA) What do you recall in terms**
 10 **of substance that you discussed with Ms. Cosby?**
 11 A I certainly recall us discussing Anna's death
 12 and how she might have died and who might be responsible
 13 for her dying. Somewhere in that conversation -- in a
 14 conversation, I mentioned to her about the comments that
 15 we had heard from the nannies in our attempts to try and
 16 interview the nannies.
 17 **Q Did you give her any information concerning**
 18 **your interviews of Moe and Tas?**
 19 A Yes. Yes, I did.
 20 **Q What do you recall about what you communicated**
 21 **from what you had learned from Moe and Tas?**
 22 A I pretty much relayed to her the things that we
 23 had encountered with Moe's disposition, Tas' comments
 24 about the drugs, about the computer transfer. Talked
 25 about the drugs that Moe had mentioned that came to his

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 residence in care of his name and that he gave to
 3 Howard. I did talk to her about that information.
 4 **Q Okay. When you were speaking with Ms. Cosby,**
 5 **did you understand she was a journalist?**
 6 A Yes.
 7 **Q Did you know she was writing a book?**
 8 A No.
 9 **Q Did you ask her what she was doing**
 10 **journalistically?**
 11 A No, I didn't.
 12 **Q Did you have any understanding as to what you**
 13 **believed she was doing journalistically?**
 14 A I knew she was a journalist. I would assume
 15 that she was doing something in her journalistic -- you
 16 know, for journalistic issues and responsibilities, that
 17 she was doing something. But -- and specifically what
 18 she was doing, I didn't ask her that, because that
 19 wouldn't be my nature to ask her, "What are you going to
 20 do with this information?"
 21 **Q Did you place any conditions on the information**
 22 **you were -- you were communicating to her?**
 23 A No, I didn't -- I didn't place any conditions
 24 on the communication -- on the information that I was
 25 communicating to her.

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 Q Whatever you gave them, they didn't act on it,
 3 right?
 4 A That's right, they didn't investigate.
 5 Q The FBI didn't act on any information you
 6 provided them?
 7 A They, to my knowledge, did not investigate.
 8 Q Right. Who was in charge of the investigation
 9 in Florida at the Seminole Police Department?
 10 A As I said earlier, a female captain was a lady
 11 that I spoke to.
 12 Q Are you telling me it was a female captain that
 13 was in charge of the investigation? I didn't ask you
 14 who you spoke to. I'm asking you who was the individual
 15 in charge of the investigation at the Seminole Police
 16 Department?
 17 A The female captain.
 18 Q Do you -- and you don't know her name?
 19 A No.
 20 Q And who is the individual in charge of the
 21 Bahamian investigation into Daniel Smith's death?
 22 A I don't recall those names, you know.
 23 Q Did you ever speak with that individual?
 24 A I did.
 25 Q And did you provide that individual with

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 information?
 3 A No.
 4 Q Documents?
 5 A No.
 6 Q What was that conversation about?
 7 A I went to them seeking information as to if
 8 they were continuing to investigate their case, yeah.
 9 Q Before the -- I'm sorry.
 10 A And they assured me that they were continuing
 11 to look into this investigation of Anna's death.
 12 Q When did you have that meeting?
 13 A I don't recall the date.
 14 Q Was that before the coroner's inquest result --
 15 finding?
 16 A You know, Mr. Wood, I just don't remember. I
 17 can check and find for you, but I just don't remember.
 18 Q What will you check?
 19 A I don't know. I'll go back and see if I've got
 20 a calendar or something for 2007.
 21 Q You know as you sit here today that the inquest
 22 and investigation into the death of Daniel Smith in
 23 September of 2006, that the Bahamian finding was that
 24 Daniel died of an accidental non-dependent drug
 25 overdose, true?

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A The inquest?
 3 Q Yes, sir. You know that, don't you?
 4 A How sad. Yes, I do.
 5 Q Yes, sir. And a -- and a finding that there
 6 was no criminal involvement with respect to his death.
 7 You know that to be true, don't you?
 8 A I know what the finding was of his death.
 9 Q The finding was that there was no criminal
 10 involvement with respect to Daniel Smith's death.
 11 That's what the Bahamian authorities concluded, and you
 12 know it, true?
 13 A I was at the inquest.
 14 Q I'm asking you the question, then. You ought
 15 to be able to give me the answer.
 16 A I was at the inquest.
 17 Q So you ought to know --
 18 A I know there's --
 19 MR. MAYNARD: Lin. Lin. Let him answer
 20 the question. Inadvertently.
 21 MR. KLEIN: Go ahead and finish, please.
 22 A I was at the inquest. I know what their
 23 decision was at the end by the inquest.
 24 Q (BY MR. WOOD) And their decision was that
 25 there was no criminal involvement found with respect to

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 Daniel Smith's death, true?
 3 A That's what their -- that's what their decision
 4 was.
 5 Q Right.
 6 A That's what their decision was.
 7 Q So the authorities that have investigated Anna
 8 Nicole Smith's death you know have concluded that it was
 9 accidental with no criminal involvement on the part of
 10 anyone, and that the findings of the authorities in the
 11 Bahamas was that there was no criminal involvement in
 12 connection with Daniel Smith's death, right?
 13 A That's what the finding was. You also know,
 14 Mr. Wood, that the authorities that investigated the
 15 case in the Hard Rock Cafe in Florida did not do a great
 16 job of investigating.
 17 Q At least they know who they interviewed.
 18 A They did not do a great job of investigating.
 19 They allowed evidence to be taken away --
 20 Q We'll go through that.
 21 A -- they didn't protect the scene, you know.
 22 And likewise, you had a very similar circumstance with
 23 the -- with the authorities in the Bahamas when Danny
 24 was killed.
 25 Q Now, who has told you that the hotel room at

TSG Reporting - Worldwide 877-702-9580

1 **DON CLARK**

2 MR. MAYNARD: Object to the form.

3 A Maybe I am.

4 **Q (BY MR. WOOD) Mr. Clark, you don't really know**

5 **much about your investigation, do you?**

6 MR. MAYNARD: Object to the form.

7 MR. KLEIN: Object to the form.

8 Argumentative. Move to strike.

9 **Q (BY MR. WOOD) Do you?**

10 MR. MAYNARD: Objection to form.

11 A I know this investigation. Do I know

12 everything about it? No. But I know this investigation

13 and I know what we have done to try to seek justice in

14 this case.

15 **Q Oh, I'm aware of some of that. Mr. Clark, you**

16 **would be --**

17 MR. MAYNARD: Objection, form.

18 **Q (BY MR. WOOD) Mr. Clark, you would be the most**

19 **knowledgeable person at the O'Quinn Law Firm with**

20 **respect to the O'Quinn Law Firm's investigation into the**

21 **death of Anna Nicole Smith and the death of Daniel**

22 **Smith, true? Isn't that true, sir?**

23 A I am aware of the investigation into --

24 **Q I didn't ask you that.**

25 A I can't say that I'm the most knowledgeable --

TSG Reporting - Worldwide 877-702-9580

1 **DON CLARK**

2 **Q Who would be more knowledgeable --**

3 A --because I haven't --

4 **Q Who would be more --**

5 A -- compared myself to anybody else.

6 **Q Who else was involved in the investigation?**

7 A There have been people like Neil who has become

8 involved in the investigation and litigation there and

9 has become very knowledgeable of it.

10 **Q As of March 27, 2007, you were --**

11 A I was --

12 **Q -- the most --**

13 A That's right.

14 **Q -- knowledgeable person at the O'Quinn Law Firm**

15 **with respect to its investigation into the death of Anna**

16 **Nicole Smith and the death of Daniel Smith, true?**

17 A Before March 27 --

18 **Q On or before March 27.**

19 A -- I was the only person in the firm

20 investigating the case.

21 **Q And had some assistance prior to March 27 from**

22 **Wilma Vicedomine?**

23 A Yes.

24 **Q But no one else was assisting you besides Wilma**

25 **in your investigation prior to March 27, 2007, true?**

TSG Reporting - Worldwide 877-702-9580

1 **DON CLARK**

2 A When you say -- well, yes, I was the one who

3 was responsible for the investigation.

4 **Q And Wilma Vicedomine was assisting you?**

5 A Yes.

6 **Q For free?**

7 A Yes.

8 **Q Why was that fair?**

9 MR. MAYNARD: Objection to form.

10 A She did not want any pay.

11 **Q (BY MR. WOOD) Why not?**

12 A You will have to ask her.

13 **Q Did you ask?**

14 A No.

15 **Q She's spending hundreds and hundreds and**

16 **hundreds of hours traveling around with you and looking**

17 **at documents and you didn't think she deserved to be**

18 **compensated?**

19 A You know --

20 MS. MCNAMARA: Objection to form.

21 A -- Ms. Vicedomine was very committed to trying

22 to find out what happened in the death of Anna Nicole.

23 She was committed to helping to determine what happened

24 in that -- in her death.

25 **Q (BY MR. WOOD) She was --**

TSG Reporting - Worldwide 877-702-9580

1 **DON CLARK**

2 A And she was willing to give her time, give of

3 her time, to assist me with anything that she could do

4 help find the death -- what happened in her death.

5 **Q You were the only person at the O'Quinn Law**

6 **Firm prior to March 27, 2007 who conveyed information**

7 **about the investigation to John O'Quinn, true?**

8 A Yes.

9 **Q Take a look at Exhibit number -- Vicedomine**

10 **Number 20, Page 3. As part of your investigation for**

11 **the O'Quinn Law Firm, has anyone ever interviewed Howard**

12 **K. Stern?**

13 MR. KLEIN: He just asked you --

14 A Oh, are you asking me a question?

15 **Q (BY MR. WOOD) I really -- I actually was.**

16 A I'm sorry.

17 **Q Has the -- has the O'Quinn Law Firm's**

18 **investigation into the deaths of Anna Nicole Smith and**

19 **Daniel Smith included an interview of Howard K. Stern?**

20 A Not to my knowledge.

21 **Q Has it included an interview of Kristine**

22 **Erosovich, M.D.?**

23 A Not to my knowledge.

24 **Q Has it included an interview of Timothy**

25 **Barett, M.D.?**

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
2 had the same goal that I and Wilma and John O'Quinn had.

3 Q To get Howard?

4 A And that was --

5 MR. MAYNARD: Objection.

6 MR. KLEIN: Objection, move to strike.

7 A That was to identify the person who was
8 responsible for Anna Nicole Smith's death.

9 Q (BY MR. WOOD) Howard Stern?

10 A We had -- Howard Stern, who I believe.

11 We had the same goal and objective. So I
12 didn't look at it as that I was just giving her -- we
13 were exchanging information, because I wanted to know as
14 much, you know, and so we were exchanging information.

15 Q From your discussions with Rita Cosby, you felt
16 that Rita Cosby had the same goal as you and Wilma
17 Vicedomine and John O'Quinn, true?

18 A I really did feel that Rita -- that Rita's goal
19 was to see justice in this case.

20 Q And you gathered in your discussions with her
21 that she agreed with you and John and Wilma that justice
22 included getting Howard Stern prosecuted for this death
23 of Anna Nicole and Daniel?

24 A I don't know what Rita concluded, but I felt
25 that we wanted to get justice. And from where all roads

1 DON CLARK
2 were leading for me, with the drugs, you know, with
3 continuous drugs and feeding of drugs of Anna, even
4 during while she was pregnant, the main road was leading
5 towards Howard.

6 Q Did you get the feeling that Rita agreed with
7 you, from your discussions with her?

8 A I don't want to say what Rita was feeling.

9 Q I'm asking you. I'm asking if you got the
10 impression from your discussions with Rita that she
11 agreed with you about Howard?

12 MR. MAYNARD: Objection to form.

13 A I believe that Rita felt that Howard had some
14 complicity in this case as well. I believe she did.

15 Q (BY MR. WOOD) From your discussions with her?

16 A From my discussions with her.

17 Q Prior to the time the book was published,
18 right? Prior to September of 2007.

19 A Well, I didn't know there was a book being
20 published.

21 Q I know, but I'm talking about the discussions
22 you had with her before the book actually came out.

23 A Before any book came out.

24 Q Right.

25 Now, what other journalists did you,

1 DON CLARK
2 yourself, provide information to about the O'Quinn Law
3 Firm's investigation other than Rita Cosby?

4 A I think as you mentioned earlier, I had a quote
5 in one of Donna Kauffman's articles.

6 Q Anyone other than Donna Kauffman and Rita
7 Cosby? Any other journalist or member of the media that
8 the O'Quinn firm gave information to about --
9 information that it had learned from its investigation?

10 MS. MCNAMARA: Are you talking print or
11 television as well?

12 MR. WOOD: Any -- anybody.

13 A I don't recall giving it out to anybody else.

14 Q (BY MR. WOOD) You only recall Rita Cosby and
15 Donna Kauffman, right?

16 A Donna Kauffman.

17 Q Is that right?

18 A Yes, to the best of my recollection right now.

19 MR. WOOD: What number are we on?

20 THE COURT REPORTER: Number 7.

21 (Exhibit 7 was marked.)

22 Q (BY MR. WOOD) I hand you what's been marked
23 for purposes of identification to your deposition,
24 Mr. Clark, as Exhibit Number 7. Do you see that e-mail
25 from Wilma Vicedomine to you dated March 19th, 2007,

1 DON CLARK
2 Subject: Declaring HKS unfit?

3 Do you see that?

4 Do you see that e-mail?

5 A Yes.

6 Q And do you recognize that as an e-mail you
7 received from Wilma Vicedomine on March 19th, 2007?

8 A No, I don't.

9 Q You don't deny receiving it, do you?

10 A Well, my name is on it. I just don't recall
11 it.

12 Q "Bahamian Statutes Chapter 97 deals with
13 neglect" --

14 A I can read it.

15 Q Yeah. Did you -- did you -- were you aware of
16 that position that Wilma Vicedomine conveyed to you on
17 March 19th, 2007?

18 A No, I wasn't.

19 Q Did you agree with her concerns that because
20 the custody complaint had been filed against Howard
21 weeks before in the Bahamas and no action had been taken
22 with respect to Dannielynn, that there was no way that
23 Virgie Arthur would get Dannielynn unless Howard K.
24 Stern was found guilty about something to do with Daniel
25 or Anna Nicole Smith and/or Larry Birkhead was not the

Page 278

DON CLARK

1
2 **father?**

3 A I don't recall seeing this e-mail.

4 **Q I didn't ask you that. I asked you if you**
5 **agreed with that conclusion that Wilma Vicedomine**
6 **conveyed to you.**

7 A Well, I can't make a determination on whether
8 or not I agree with this. I don't recall seeing it,
9 even though it's addressed to me. And I would have to
10 analyze what all of this means.

11 **Q Well, Wilma Vicedomine is your --**

12 MR. KLEIN: Lin, don't argue with him.

13 MR. WOOD: I'm not arguing with him, Rob.
14 I haven't even finished saying what I'm going to say.

15 MR. KLEIN: He's told you three times he
16 hasn't even see it, doesn't recall seeing it.

17 MR. WOOD: I don't care if he says that.
18 I have a right to question him about it.

19 MR. KLEIN: And you questioned him three
20 times about it.

21 MR. WOOD: Question him a hundred times,
22 if I have to, to get -- to get what I want answered. No
23 limitation on how many questions I can ask him about an
24 e-mail.

25 MR. KLEIN: Yeah, there are. But go

TSG Reporting - Worldwide 877-702-9580

Page 279

DON CLARK

1
2 ahead.

3 MR. WOOD: No, there are not.

4 **Q (BY MR. WOOD) Were you aware prior to March**
5 **19th, 2007, that in fact a custody complaint had been**
6 **filed against Howard K. Stern by Virgie Arthur in the**
7 **Bahamas?**

8 A I was aware of some filings in the Bahamas.

9 And I believe the custody -- I don't -- I can't -- I
10 don't know exactly when any custody or any filings in
11 the Bahamas was made, but I believe -- I know that there
12 were a number of -- there were filings in the Bahamas.

13 **Q Were you aware that after Anna Nicole Smith's**
14 **death, that Dannielynn continued to live at Horizons in**
15 **the Bahamas with Mr. Stern until Larry Birkhead returned**
16 **to the United States with Dannielynn in, I believe, May**
17 **of 2007?**

18 A Yes. Yes, I'm aware of that.

19 **Q Were you aware -- you were aware also you**
20 **had -- strike that. You had actual knowledge that the**
21 **nannies had received monies for the first affidavits**
22 **that they had given?**

23 A No, I didn't have actual knowledge.

24 **Q You didn't know that Ford Shelley had paid**
25 **them?**

TSG Reporting - Worldwide 877-702-9580

Page 280

DON CLARK

1
2 A No.

3 **Q They didn't tell you that?**

4 A I didn't know that.

5 **Q Tom Pirtle didn't tell you that?**

6 A I didn't know that.

7 **Q Wilma Vicedomine --**

8 A I didn't know that.

9 **Q Excuse me. Wilma Vice --**

10 A I didn't know that.

11 **Q Wilma Vicedomine never told you that?**

12 A I didn't know that.

13 **Q Sir, did Wilma -- did Wilma Vicedomine tell you**
14 **that?**

15 A No.

16 **Q Were you aware that she knew that the nannies**
17 **had taken money for their first affidavit?**

18 A No.

19 **Q Would that concern you about their credibility,**
20 **if they were taking money payments for affidavits?**

21 A Not -- it may not.

22 **Q Or it may?**

23 A It may not.

24 **Q It may or may not, is that what you're telling**
25 **me?**

TSG Reporting - Worldwide 877-702-9580

Page 281

DON CLARK

1
2 A I don't know -- I don't know what the monies
3 for were for, I don't know if it was for transportation
4 or for some expenses, just as I tried to give to the
5 nannies. So not knowing anything of that nature about
6 it, I can't -- I just don't know -- you said that they
7 were taking money. I don't know anything about that.

8 **Q You don't know whether they got 50 bucks or**
9 **\$5,000 from Ford Shelley, do you?**

10 MS. MCNAMARA: Objection,
11 mischaracterizes.

12 A I don't know anything about them taking money.

13 **Q (BY MR. WOOD) You don't deny receiving this**
14 **e-mail from Wilma Vicedomine do you?**

15 A My -- both my e-mail addresses are on here, but
16 I don't recall receiving it.

17 **Q And they are both correct, are they not?**

18 A Yes.

19 **Q This was produced by your law firm from your**
20 **law firm's record. Do you see that?**

21 A I'm not denying that it -- that it came to both
22 of my computers, I just don't recall seeing this e-mail.

23 **Q You are not -- you are not denying it's an**
24 **authentic e-mail sent from Wilma Vicedomine to you?**

25 A Well, it's a copy. I assume --

TSG Reporting - Worldwide 877-702-9580

Page 282

Page 283

1 DON CLARK

2 Q Well, a true and correct copy.

3 A I assume that it is.

4 Q You were aware, were you not, Mr. Clark, that
5 after Larry Birkhead had been found to be the father of
6 Dannielynn, based on the test conducted in the Bahamas,
7 that the -- that Virgie Arthur filed an action in the
8 Bahamas to try to prevent Mr. Birkhead from taking
9 Dannielynn out of the Bahamas? You were aware of that,
10 weren't you?

11 A Yes.

12 Q Were you aware that in the custody action
13 brought by Virgie Arthur in the Bahamas against
14 Mr. Stern, that one of the grounds alleged was that
15 Howard Stern was a danger to Dannielynn because he was
16 somehow involved in the deaths of Anna Nicole Smith and
17 Daniel Smith?

18 A Yes.

19 Q You and John O'Quinn would have been aware of
20 that, true?

21 A Yeah. And I would have agreed with it. And I
22 think John would have too.

23 Q And it appears that Wilma Vicedomine was
24 concerned in her e-mail that the Bahamian authorities
25 had already looked into that issue and had not found it

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 to have merit, by virtue of the fact that they had taken
3 no action to remove Dannielynn from the custody of
4 Howard Stern --

5 MR. MAYNARD: Objection --

6 Q (BY MR. WOOD) -- true?

7 MR. MAYNARD: Objection.

8 A I'm not going to make that quantum leap. I
9 don't know what Wilma had looked into regarding this --

10 Q (BY MR. WOOD) But that's what she said in the
11 e-mail, isn't it, sir? It's right there in black and
12 white.

13 A I don't interpret this as this is what the
14 Bahamian's authorities are saying.

15 Q It's Wilma's concern that the Bahamian
16 authorities had looked into the matter, not found it to
17 have -- be meritorious, or they would have already taken
18 action to get Dannielynn away from Howard.

19 MR. MAYNARD: Objection.

20 Q (BY MR. WOOD) "Also she already filed a
21 complaint against Howard K. Stern weeks ago in the
22 Bahamas which would mean they have already investigated
23 that complaint and Dannielynn would have already been
24 taken if the charges were legit." Did I read that
25 correctly?

TSG Reporting - Worldwide 877-702-9580

Page 284

Page 285

1 DON CLARK

2 A Yes.

3 Q That was the position that Wilma Vicedomine had
4 taken and that she conveyed to you in this e-mail of
5 March 19th, 2007 --

6 MR. MAYNARD: Objection.

7 Q (BY MR. WOOD) -- true?

8 MR. KLEIN: Objection. Object to the
9 form.

10 A I can't -- I can't make a judgment on this,
11 because I don't know who's making the determination that
12 it's already resolved, if it's Wilma making the
13 determination or where that information came from. I
14 can't make a determination on this.

15 MR. WOOD: Let's change the tape.

16 THE VIDEOGRAPHER: We're going off the
17 record. The time is 4:20.

18 (A recess was taken.)

19 THE VIDEOGRAPHER: We're back on the
20 record. The time is 4:22.

21 Q (BY MR. WOOD) Mr. Clark, I believe you told me
22 that Wilma Vicedomine was going back and doing what you
23 wanted in terms of a thorough and complete search on the
24 Internet and online for articles and for interviews.
25 And then she would either provide you with copies of

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 those or she would discuss the articles or the
3 interviews with you. Is that the way it worked?

4 A That's pretty accurate.

5 MR. MAYNARD: Objection, form.

6 Q (BY MR. WOOD) You were aware that Bahamian
7 authorities as early as September 2006, had been quoted
8 in articles stating that they did not believe there was
9 any foul play or criminal involvement in connection with
10 the death of Daniel Smith; you were aware of that, were
11 you not?

12 A No.

13 Q You didn't ever discuss that with Wilma
14 Vicedomine?

15 A In September of '06?

16 Q No, that there were statements as early as
17 September of '06.

18 A Oh, oh.

19 Q But not that you knew it in September of '06.
20 I didn't mean to say --

21 A Okay.

22 Q Let me rephrase. Before March 28th, 2007, it
23 had been brought to your attention that there were
24 articles published where Bahamian authorities had
25 publicly stated that there -- that they did not believe

TSG Reporting - Worldwide 877-702-9580

Page 286

Page 287

1 DON CLARK
 2 there was any foul play or criminal involvement with
 3 respect to the death of Daniel Smith, true?
 4 A I don't recall seeing that article.
 5 Q It's more than one.
 6 A Okay. I don't recall seeing that --
 7 Q You don't recall Wilma Vicedomine discussing
 8 that with you?
 9 A About they did not -- about their findings?
 10 Q That they were -- no, that they were quoted in
 11 articles that they did not believe that there was any
 12 foul play or criminal involvement in Daniel's death.
 13 A I don't recall if I saw those articles or not.
 14 Q Well, you were aware of articles that had been
 15 published prior to March 28th, 2007, where the
 16 authorities in Florida had stated on the record publicly
 17 that they did not believe that there was any foul play
 18 or criminal involvement in connection with the death of
 19 Anna Nicole Smith, true?
 20 A And that was the Seminole police, yes.
 21 Q Yes. They had been quoted --
 22 A The only law enforcement authority that looked
 23 at it.
 24 Q And they had been quoted in the in the media on
 25 the record saying they did not believe there was any
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 foul play or criminal involvement in connection with
 3 Anna Nicole Smith's death, the Seminole police. You
 4 knew that?
 5 A Yes.
 6 Q And you would convey all this information to
 7 Mr. O'Quinn, would you not?
 8 A At -- yes, at times, yes.
 9 Q Do you know Reginald Ferguson, Assistant
 10 Commissioner for the Rural Bahamas Police Force?
 11 A I know who he is.
 12 Q You're aware that he was quoted October 2006
 13 stating that they did not believe that there was any
 14 foul play in the September 10th death of Daniel Smith?
 15 A Was I aware that he quoted saying that?
 16 Q That he -- that he --
 17 A They didn't close their investigation, so
 18 obviously somebody over there believed that there must
 19 have been something. They didn't close their
 20 investigation --
 21 Q Mr. Clark --
 22 MS. MCNAMARA: Just a second, is he
 23 finished?
 24 MR. KLEIN: Whoa, whoa, let him finish his
 25 answers, please. Go ahead, Don.
 TSG Reporting - Worldwide 877-702-9580

Page 288

Page 289

1 DON CLARK
 2 A They continued -- they continued with their
 3 investigation, they even changed magistrates over there
 4 during that time a couple of times and continued on with
 5 their investigation, which kind of went parallel with
 6 the inquest.
 7 Q (BY MR. WOOD) You understood why the inquest
 8 was conducted in the Bahamas into Daniel Smith's death,
 9 did you not, Mr. Clark? Did you understand the nature
 10 of the inquest that was conducted in the Bahamas?
 11 A The inquest was not a criminal investigation.
 12 Q Correct.
 13 A The inquest was designed to determine how
 14 Daniel died.
 15 Q There was never a criminal investigation in the
 16 Bahamas relating to Daniel Smith's death, was there,
 17 sir?
 18 A There was.
 19 Q Who conducted it?
 20 A The Bahamian police.
 21 Q And when -- what did they conclude?
 22 A I don't know what they concluded. It never
 23 went to court. They didn't make a conclusion.
 24 Q Sounds like they didn't conclude anybody had
 25 been involved in any crime, doesn't it?
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A I don't know what it sounds like. All I know
 3 is what the -- what the inquest said, which was a farce.
 4 That was a farce in and of itself. And so I don't think
 5 everything came out in the -- in the inquest with
 6 witnesses such as Howard getting up saying completely
 7 putting everything on Anna, and Larry Birkhead, his
 8 cohort in crime, saying other things about Daniel's use
 9 of drugs and there was never any history of Daniel's use
 10 of drugs.
 11 Q What do you mean when you say, "Larry Birkhead,
 12 his cohort in crime"?
 13 A Well, they were talking all the way from the
 14 trial in Florida, Howard was talking to Larry 24 -- not
 15 24/7, but consistently on the phones, even after the
 16 court was hearing about making a deal about the babies.
 17 Q Where did you get that from?
 18 A I know that that was taking place, you know.
 19 Q I didn't ask you --
 20 A Tom Pirtle was talking to Larry, who was
 21 talking to Howard.
 22 Q When was this?
 23 A During the Seidlin hearing.
 24 Q And Tom Pirtle told you that Larry Birkhead
 25 told him that Howard was trying to make a deal about the
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 THE VIDEOGRAPHER: We're back on the
 3 record. The time is 4:37.
 4 MR. KLEIN: Okay. When we went outside
 5 when he didn't want to answer the question, Mr. Clark
 6 said that he had spoken to Mr. -- that Mr. Speer told
 7 him that during the Seidlin hearings blah, blah, blah.
 8 And I thought he was talking about having spoken with
 9 Mark Speer during the Seidlin hearings.
 10 What's he clarified for me, as I realized
 11 that his answer was, he did not speak to Mark Speer at
 12 any point before sometime in late '07.
 13 So I don't want to get into. It is
 14 clearly inadvertent. I misunderstood what he was
 15 telling me when we went outside. And I don't want to
 16 get into discussions that are a waiver of work product.
 17 MR. WOOD: Let me just make this record.
 18 MR. KLEIN: Sure.
 19 **Q (BY MR. WOOD) The only time you've interviewed**
 20 **Mr. Speer would have been in late 2007, and again in**
 21 **2008?**
 22 A Yes.
 23 **Q And for the record, let me just ask the**
 24 **question. Would you give me the benefit of what**
 25 **Mr. Speer told you in those two meetings?**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 MR. KLEIN: Are we going to agree this is
 3 without a waiver of current work product?
 4 MR. WOOD: I'm sorry?
 5 MS. MCNAMARA: I think he's looking for
 6 you to instruct him not to answer.
 7 MR. KLEIN: Oh, right. I'm not going to
 8 tell him -- I'm not going to allow him to testify now
 9 about what Stern has told him since -- I mean what Speer
 10 has told him since.
 11 **Q (BY MR. WOOD) When you said that Mr. Speer had**
 12 **made some statements to you -- strike that. When you**
 13 **said that Mr. Speer had a conversation with you about**
 14 **Larry testifying at the Seidlin hearing and being on the**
 15 **phone and making this deal or talking about a deal with**
 16 **Howard, that was not information that you received at**
 17 **the time of the Seidlin hearings?**
 18 A No.
 19 **Q You didn't have any information about Mark**
 20 **Speer or anything he had said prior to March 28th, 2007;**
 21 **is that true?**
 22 A Yes, it was -- that is true.
 23 **Q No member of the Bahamian Police Department has**
 24 **ever told you that that department felt that or**
 25 **suspected that foul play was involved in the death of**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **Daniel Smith, have they?**
 3 A The -- the members of the --
 4 MR. KLEIN: It's a yes or no. Have they
 5 ever told you?
 6 A No.
 7 MR. KLEIN: Okay.
 8 A No.
 9 **Q (BY MR. WOOD) And you've never been told by**
 10 **any of the Seminole police investigators that they in**
 11 **fact suspect foul play in connection with the death of**
 12 **Anna Nicole Smith, true? Is that true?**
 13 A That's true.
 14 **Q And you're not aware of any media reports where**
 15 **any Bahamian investigators have suggested that they**
 16 **suspected foul play, are you?**
 17 A No, I'm not aware of it.
 18 **Q And you're not aware of any media reports that**
 19 **the Seminole police investigators ever suspected foul**
 20 **play, are you?**
 21 A Any media reports?
 22 **Q Yeah, that the Seminole police suspected foul**
 23 **play in connection with the death of Anna Nicole Smith.**
 24 A Reports that they did?
 25 **Q Yes, you're not aware of any media reports to**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **that effect, are you?**
 3 A No, I'm not.
 4 **Q I want to go back, because I want to make sure**
 5 **I've covered this, but when you said "Larry Birkhead,**
 6 **Mr. Stern's cohort in crime," were you relating that**
 7 **simply or solely to this discussion with Mr. Stern about**
 8 **this alleged deal with the baby?**
 9 MR. MAYNARD: Objection, form.
 10 A Yes.
 11 **Q (BY MR. WOOD) Did you refer to him as**
 12 **"Mr. Stern's cohort in crime" based on any other**
 13 **information?**
 14 A No.
 15 **Q You remember Tom Pirtle going down to the**
 16 **Bahamas, flying down in Mr. O'Quinn's jet to meet with**
 17 **Larry Birkhead?**
 18 A I know that that took place.
 19 **Q And you also know that Tom Pirtle was**
 20 **instructed to go down there and talk to Larry Birkhead**
 21 **and to tell him that -- that if Larry wanted Virgie to**
 22 **help manage -- strike that -- that Tom Pirtle went to**
 23 **the Bahamas and tried to cut a deal with Larry Birkhead**
 24 **where he would help Virgie Arthur, right?**
 25 A I don't know that.
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A I did make that -- I did make that statement.
 3 I don't -- I don't -- I really don't recall this
 4 interview, but that's -- it's here. And if I made that
 5 statement. But about -- to save any information she got
 6 about this, saying that I had no idea about any
 7 information she got about this, was simply I didn't want
 8 to give to the public out there --
 9 Q (BY MR. WOOD) The truth?
 10 A -- whatever information --
 11 MR. MAYNARD: Objection.
 12 MS. MCNAMARA: Objection. Let him finish.
 13 A -- whatever -- whatever information that I may
 14 have relayed to Rita Cosby. So I said it about this. I
 15 didn't want to give it out to the world.
 16 Q (BY MR. WOOD) Why not?
 17 A Because I didn't want that information out to
 18 the public.
 19 Q Sir, you sat there and talked about it, about
 20 your team having the same encounter with Lincoln Bain
 21 and the nannies.
 22 MS. MCNAMARA: Objection.
 23 MR. MAYNARD: Objection.
 24 Q (BY MR. WOOD) You sat there and described it
 25 in this interview.
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 MR. MAYNARD: Objection.
 3 Q (BY MR. WOOD) "Clark: We did not get an
 4 opportunity to discuss money and didn't go with any real
 5 plan to discuss money. We did get an opportunity to ask
 6 the nannies a couple of questions just to see what they
 7 did know, and they did confirm that they knew that Anna
 8 would watch these tapes in bed and laugh about them and
 9 that they had seen Larry in this position, as they would
 10 put it."
 11 I don't understand, Mr. Clark. Help me.
 12 MR. MAYNARD: Objection.
 13 Q (BY MR. WOOD) You said you didn't want the
 14 public to know this information that you had gotten
 15 about the nannies and that's why you didn't tell the
 16 truth when you said you had no idea about how Rita got
 17 her information about it, but then you sat there and
 18 described it.
 19 MR. MAYNARD: Objection.
 20 MS. MCNAMARA: Objection. You are
 21 mischaracterizing testimony.
 22 MR. WOOD: Hold on a second. Just wait
 23 until I'm finished.
 24 Q (BY MR. WOOD) Could you explain that for me,
 25 please, Mr. Clark?
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 MS. MCNAMARA: And objection. You are
 3 mischaracterizing his testimony.
 4 MR. KLEIN: Same objection.
 5 A Listen, the statement is here, but I don't have
 6 any idea how she got her information about this.
 7 Q (BY MR. WOOD) About the nannies and the
 8 videotape?
 9 A And I didn't want to go into on a television
 10 show there and go into all of the details as to how she
 11 got this. So I made that statement.
 12 Q You what? You knew when you made that
 13 statement that Rita Cosby had gotten information about
 14 it from you in several conversations, true?
 15 MS. MCNAMARA: Objection.
 16 A Rita Cosby had gotten some information that
 17 we've gone over from me.
 18 Q (BY MR. WOOD) And you also knew when you made
 19 the statement on national television that Wilma
 20 Vicedomine had provided information to Rita Cosby about
 21 the nannies and the videotape, true?
 22 A Yes, I did.
 23 Q This statement was not the truth when you said
 24 it on national television that you didn't have any idea
 25 how Rita Cosby got her information about it. That was
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 not the truth, was it, Mr. Clark?
 3 A That was not the truth.
 4 Q For whatever reason. You say you had a reason.
 5 And I take it the reason is you didn't want the public
 6 to know that you and Wilma were the sources for that
 7 information, did you?
 8 MR. MAYNARD: Object to form.
 9 MS. MCNAMARA: Same objection.
 10 MR. WOOD: Strike that.
 11 Q (BY MR. WOOD) You didn't want the public to
 12 know that you and Wilma Vicedomine had provided this
 13 information to Rita Cosby, did you?
 14 A I didn't want the information of whatever we
 15 had done to get out. And that's why I said what I said.
 16 Q You didn't want the public to know that you and
 17 Wilma Vicedomine had provided this information to Rita
 18 Cosby, did you?
 19 MS. MCNAMARA: Objection, asked and
 20 answered.
 21 MR. KLEIN: Objection. That's precisely
 22 the same question you just asked.
 23 Q (BY MR. WOOD) Did you sir?
 24 A I just said my answer.
 25 Q I don't believe you answered my question, so
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 Q And you clearly had received Ms. Barth's letter

3 prior to March 27th, 2007, true?

4 A According to this date, yes.

5 Q Look at -- look at Exhibit Number 10. "I'm in

6 receipt of your letter vent via e-mail to me today."

7 You e-mailed your letter to her on March the 20th,

8 apparently.

9 First sentence, Mr. Clark. You apparently

10 e-mailed her the letter on the 20th of March.

11 A I don't recall e-mailing the letter.

12 Q You don't deny it?

13 A I don't recall e-mailing it.

14 MR. WOOD: Number 11.

15 A I -- my best recollection is that I sent it by

16 regular mail.

17 MR. WOOD: What number are we up to?

18 THE COURT REPORTER: Eleven.

19 (Exhibit 11 was marked.)

20 Q (BY MR. WOOD) Are you familiar with Exhibit

21 Number 11?

22 A Yes.

23 Q Is that a true and correct copy of the letter

24 you received from Brain T. Cavanagh, Assistant State

25 Attorney-in-Charge of the Homicide Trial Unit?

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 A Yes.

3 Q Dated August 2, 2007?

4 A Right.

5 Q Do you remember receiving that letter?

6 A Yes.

7 Q Third paragraph down on the first page, "If any

8 legitimate" -- strike that. Do you have a copy of your

9 letter of July 23, 2007, that you sent to him? We've

10 never received it.

11 A I'm sure I do.

12 MR. WOOD: Okay. That's something we can

13 maybe follow up with, Rob?

14 MR. KLEIN: Yeah. I think we looked for

15 it, actually, because we had this.

16 Q (BY MR. WOOD) And do you see where --

17 MR. KLEIN: I don't think we ever actually

18 found it.

19 Q "If any legitimate evidence of probative value

20 exists as to some articulable criminal agency in the

21 death" -- talking about the death of Anna Nicole

22 Smith -- "it properly should be made known not only to

23 this office, but to the Medical Examiner. Kindly

24 apprise us, with requisite particularity, the nature of

25 any relevant evidence you possess that supports your

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 'claim of possible foul play.'

3 "After appropriate examination of the

4 quality of such potential evidence, a formal meeting

5 might thereafter be scheduled with the undersigned

6 prosecutor in attendance at the Medical Examiner's

7 Office, at which the merits of your presentation might

8 be explored."

9 Have I read that correctly?

10 A Yes, sir.

11 Q Did you follow up and present any evidence to

12 Mr. Cavanagh and the medical examiner?

13 A No, I did not.

14 Q And he's quoting your letter where you made a

15 statement that you had evidence to support, quote, claim

16 of possible foul play, end quote, right?

17 A Where are you reading?

18 Q Last -- last line on the first page, Mr. Clark.

19 MR. KLEIN: Bottom paragraph of the page.

20 Q (BY MR. WOOD) He's referencing your letter

21 where you apparently stated that you had some evidence

22 to support a, quote, claim of possible foul play, end

23 quote. Right?

24 A That's what it says, yes.

25 Q And that's what you said to him in the letter,

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK

2 true?

3 A He's got it quoted. I assume I said it.

4 Q Yeah, "possible foul play," right?

5 A Yeah. That's what it says.

6 Q Did you ever -- why did you not follow up and

7 present any evidence to the medical examiner and to

8 Mr. Cavanagh, as he invited you to do, sir?

9 A One of the reasons that I didn't get back to

10 that office is because I sent this letter to the State

11 Attorney's office and thinking that I was sending it to

12 a law enforcement office and it would be held in

13 confidentiality. This letter was obviously given to

14 someone else and the next thing I see it's on Rose Speak

15 all over the Internet. So I decided that I would wait

16 for a while before I sent another letter back to them.

17 Q How much longer you going to wait?

18 A Still waiting.

19 Q Still waiting to get some evidence?

20 MR. MAYNARD: Objection to form.

21 MS. MCNAMARA: Objection to form.

22 MR. KLEIN: Object to the form.

23 Q (BY MR. WOOD) Still waiting to get some

24 evidence?

25 MR. MAYNARD: Objection to form.

TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 MS. MCNAMARA: Same objection.
 3 A Sometimes it takes a long time to solve cases.
 4 **Q (BY MR. WOOD) Yes, sir. Are you still waiting**
 5 **to get that evidence that would be legitimate evidence**
 6 **of probative value existing as to some articulable**
 7 **criminal agency with respect to the death of Anna Nicole**
 8 **Smith? Have you got it yet?**
 9 MR. MAYNARD: Objection to form.
 10 MS. MCNAMARA: Same objection.
 11 **Q (BY MR. WOOD) Have you got it yet?**
 12 MR. KLEIN: Same objection.
 13 A I have not sent them a letter back yet.
 14 **Q (BY MR. WOOD) I didn't ask you that. I want**
 15 **to know if you've got the evidence now. He wants to**
 16 **know if you have any legitimate evidence of probative**
 17 **value that exists as to some articulable criminal agency**
 18 **in the death of Anna Nicole Smith. I said -- I know you**
 19 **haven't gotten back to him yet, but I want to know if**
 20 **you have the evidence --**
 21 A Trust me --
 22 **Q -- to give to him?**
 23 A Trust me, Mr. Wood, if I had the evidence to
 24 support everything that I believe that Howard Stern was
 25 involved in, I would get it to some legitimate law
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 enforcement agency. But it's not over with yet.
 3 **Q You don't have it right now, do you?**
 4 A It's not over with yet.
 5 **Q Because --**
 6 A I said -- I just said if I had the evidence
 7 that I felt strong enough and that I could give it to a
 8 law enforcement agency that I didn't think would leak it
 9 out to unauthorized people or units or entities.
 10 **Q But you put it up -- you preface that with and**
 11 **"if" because you acknowledge you don't have that strong**
 12 **evidence at this time, true?**
 13 A I didn't preface that with an "if," but --
 14 **Q Yes, sir, you said "if" -- you said, "Trust me,**
 15 **Mr. Wood, if I had the evidence to support everything**
 16 **that I believe that Howard Stern was involved in, I**
 17 **would get it to some legitimate law enforcement agency.**
 18 **But it's not over with yet."**
 19 **You said "if you had the evidence,"**
 20 **because you acknowledge as you sit here today that you**
 21 **do not have the evidence to support what you believe**
 22 **Howard Stern was involved in, true?**
 23 MR. MAYNARD: Objection to form.
 24 **Q (BY MR. WOOD) Isn't that the truth, Mr. Clark?**
 25 MR. KLEIN: Object to the form.
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 A I have not been able to develop the evidence to
 3 give to a law enforcement agency.
 4 **Q (BY MR. WOOD) To have him prosecuted for**
 5 **murder?**
 6 A Yes.
 7 **Q In the death of Anna Nicole Smith?**
 8 A Yes. And Danny.
 9 **Q Or in the death of Daniel Smith?**
 10 A Yes.
 11 **Q You don't have it yet, do you?**
 12 A No.
 13 MR. WOOD: All right. Let's take a break.
 14 THE VIDEOGRAPHER: We're going off the
 15 record. The time is 6:02.
 16 (A recess was taken.)
 17 THE VIDEOGRAPHER: We're back on the
 18 record. The time is 6:12.
 19 **Q (BY MR. WOOD) Mr. Clark, who told you that the**
 20 **Seminole police did not interview Mr. Stern?**
 21 A Who told me that the Seminole police --
 22 **Q Yes.**
 23 A -- did not interview Mr. Stern?
 24 MR. MAYNARD: Objection to form.
 25 **Q (BY MR. WOOD) You don't know whether they**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **interviewed Mr. Stern or not, do you?**
 3 A I know that Mr. Stern was interviewed by the
 4 Seminole police.
 5 **Q And do you know whether the Seminole police**
 6 **interviewed King Eric?**
 7 A I don't know.
 8 **Q One way or the other?**
 9 A I don't know.
 10 **Q Or whether they interviewed Bridgette?**
 11 A I don't know, but she was in the room.
 12 **Q You don't know whether the Seminole police**
 13 **interviewed her or not, do you?**
 14 A I don't know. I did not see that report.
 15 **Q You were aware from your discussions with Ford**
 16 **Shelley -- strike that. You were aware as of March**
 17 **27th, 2007, that an injunction had been put in place in**
 18 **the Bahamas that prohibited Ford Shelley and Ben**
 19 **Thompson from coming onto the Horizons property, true?**
 20 A I don't recall being aware of that.
 21 **Q You don't know whether you were or not?**
 22 A I don't -- I'm talking too low. I don't recall
 23 being aware of that, no.
 24 **Q Other than the two nannies, did you or any**
 25 **member of the O'Quinn investigative team ever attempt to**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 interview or interview any other employee of Anna Nicole
 3 Smith?
 4 A An employee of Anna Nicole Smith's in the
 5 Bahamas?
 6 Q Yes.
 7 A I don't recall. I don't think we did.
 8 Q Your best recollection is that you did not?
 9 A Right.
 10 Q And you, in your discussions with Rita Cosby,
 11 you did in fact tell her what had happened with Moe when
 12 y'all went to interview him in April, didn't you?
 13 MR. MAYNARD: Objection to form.
 14 Q (BY MR. WOOD) You told her about the problem
 15 you had with Moe and what you had to, in essence, say to
 16 him separate from Tas?
 17 A Yes, I think I did.
 18 Q You told her that you had said something to
 19 the -- in fact, told her that you had told Moe he
 20 couldn't see the forest for the trees?
 21 A I don't know that I told her that exactly, but
 22 I probably did talk to her.
 23 Q And you gave her -- you gave her the
 24 description of what happened about Moe and you having to
 25 go out in the hall and have -- or go out of a room away
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 from Tas and in fact had the discussion you had with
 3 him?
 4 A I talked to her about our interview with Moe,
 5 yes.
 6 Q How it went?
 7 A About our interview with Moe.
 8 Q Yeah, but you told her what happened about you
 9 having to go out separate with Moe and talk to him
 10 about --
 11 A Yeah, I probably did.
 12 Q You believe you did, right?
 13 A Yeah.
 14 Q Prior to the time that the book was published
 15 in the discussions you had with her?
 16 A Yes, my discussion with her was prior to the
 17 time the book was published.
 18 Q And don't want to belabor the point, but I do
 19 want to make sure, because I'm not sure I made this
 20 clear on the record. Whatever your motive was with
 21 respect to your statement on John Gibson's show where
 22 you said you didn't have any idea how Rita got the
 23 information about the nannies and the videotape, that
 24 statement was not the truth, was it?
 25 MS. MCNAMARA: Objection, asked and
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 answered.
 3 MR. KLEIN: Objection, asked and answered.
 4 A That was a statement that I made, and I made it
 5 in lieu of passing out any other information about this.
 6 Q (BY MR. WOOD) I understand why. You've told
 7 me -- you've told me why you said you didn't disclose
 8 it, but the fact of the matter is, the statement you
 9 made, that you didn't have any idea where Rita got the
 10 information from --
 11 MR. KLEIN: Lin, we're trying --
 12 Q (BY MR. WOOD) -- that was not --
 13 MR. KLEIN: I thought we were going to try
 14 to wrap. We're going back over stuff --
 15 MR. WOOD: I am, if you let me finish.
 16 MR. KLEIN: -- you did two hours ago.
 17 MR. WOOD: I just made my point -- I tried
 18 to make the point that I wanted to get this clear on the
 19 record.
 20 MR. KLEIN: You made it very clear on the
 21 record.
 22 MR. WOOD: Well, I want to make sure, if
 23 you don't mind. It's just a simple --
 24 MR. KLEIN: I do mind.
 25 MR. WOOD: It's a simple question, Rob.
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 Let me get an answer and let's go on.
 3 Q (BY MR. WOOD) The statement you made on John
 4 Gibson's about not having any idea where Rita got her
 5 information from with respect to the nannies and the
 6 videotape, it was not the truth, was it, Mr. Clark?
 7 A That was not a true statement.
 8 Q Thank you.
 9 How many murder investigations have you
 10 performed for the O'Quinn Law Firm?
 11 A How many murder investigations?
 12 Q Yes, sir, for the O'Quinn Law Firm.
 13 A I haven't done any murder investigations.
 14 Q You don't characterize the Anna Nicole Smith
 15 investigation as a murder investigation, do you?
 16 A I characterize that as an investigation into
 17 how did Anna die, you know, and who is responsible for
 18 it.
 19 Q And whether there was any criminal
 20 responsibility?
 21 A Well, if there was someone responsible for it,
 22 then there should -- criminal responsibility should
 23 follow.
 24 Q That's what I'm trying to find out. How many
 25 other similar investigations where you were looking into
 TSG Reporting - Worldwide 877-702-9580

Exhibit 10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOWARD K. STERN, §
§
Plaintiff, §
§
VS. § Civ. Action No.
§ 07-CV-8536 (DC)
RITA COSBY and HACHETTE §
BOOK GROUP USA, INC., §
d/b/a Grand Central §
Publishing, and JOHN OR §
JANE DOE §
§
Defendants. §

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

HOWARD K. STERN, §
§
Plaintiff, §
§ Case No. 07-60534-CIV
VS. §
§
JOHN M. O'QUINN and JOHN §
M. O'QUINN & ASSOCIATES, §
PLLC d/b/a The O'Quinn §
Law Firm §
Defendants. §

CONFIDENTIAL ORAL AND VIDEOTAPED DEPOSITION OF
DON CLARK
OCTOBER 14, 2008

1 DON CLARK
2 Q And you clearly had received Ms. Barth's letter
3 prior to March 27th, 2007, true?

4 A According to this date, yes.

5 Q Look at -- look at Exhibit Number 10. "I'm in
6 receipt of your letter vent via e-mail to me today."
7 You e-mailed your letter to her on March the 20th,
8 apparently.

9 First sentence, Mr. Clark. You apparently
10 e-mailed her the letter on the 20th of March.

11 A I don't recall e-mailing the letter.

12 Q You don't deny it?

13 A I don't recall e-mailing it.

14 MR. WOOD: Number 11.

15 A I -- my best recollection is that I sent it by
16 regular mail.

17 MR. WOOD: What number are we up to?

18 THE COURT REPORTER: Eleven.

19 (Exhibit 11 was marked.)

20 Q (BY MR. WOOD) Are you familiar with Exhibit
21 Number 11?

22 A Yes.

23 Q Is that a true and correct copy of the letter
24 you received from Brain T. Cavanagh, Assistant State
25 Attorney-in-Charge of the Homicide Trial Unit?

1 DON CLARK

2 A Yes.

3 Q Dated August 2, 2007?

4 A Right.

5 Q Do you remember receiving that letter?

6 A Yes.

7 Q Third paragraph down on the first page, "If any
8 legitimate" -- strike that. Do you have a copy of your
9 letter of July 23, 2007, that you sent to him? We've
10 never received it.

11 A I'm sure I do.

12 MR. WOOD: Okay. That's something we can
13 maybe follow up with, Rob?

14 MR. KLEIN: Yeah. I think we looked for
15 it, actually, because we had this.

16 Q (BY MR. WOOD) And do you see where --

17 MR. KLEIN: I don't think we ever actually
18 found it.

19 Q "If any legitimate evidence of probative value
20 exists as to some articulable criminal agency in the
21 death" -- talking about the death of Anna Nicole
22 Smith -- "it properly should be made known not only to
23 this office, but to the Medical Examiner. Kindly
24 apprise us, with requisite particularity, the nature of
25 any relevant evidence you possess that supports your

1 DON CLARK
2 'claim of possible foul play.'

3 "After appropriate examination of the
4 quality of such potential evidence, a formal meeting
5 might thereafter be scheduled with the undersigned
6 prosecutor in attendance at the Medical Examiner's
7 Office, at which the merits of your presentation might
8 be explored."

9 Have I read that correctly?

10 A Yes, sir.

11 Q Did you follow up and present any evidence to
12 Mr. Cavanagh and the medical examiner?

13 A No, I did not.

14 Q And he's quoting your letter where you made a
15 statement that you had evidence to support, quote, claim
16 of possible foul play, end quote, right?

17 A Where are you reading?

18 Q Last -- last line on the first page, Mr. Clark.

19 MR. KLEIN: Bottom paragraph of the page.

20 Q (BY MR. WOOD) He's referencing your letter
21 where you apparently stated that you had some evidence
22 to support a, quote, claim of possible foul play, end
23 quote. Right?

24 A That's what it says, yes.

25 Q And that's what you said to him in the letter,

1 DON CLARK
2 true?

3 A He's got it quoted. I assume I said it.

4 Q Yeah, "possible foul play," right?

5 A Yeah. That's what it says.

6 Q Did you ever -- why did you not follow up and
7 present any evidence to the medical examiner and to
8 Mr. Cavanagh, as he invited you to do, sir?

9 A One of the reasons that I didn't get back to
10 that office is because I sent this letter to the State
11 Attorney's office and thinking that I was sending it to
12 a law enforcement office and it would be held in
13 confidentiality. This letter was obviously given to
14 someone else and the next thing I see it's on Rose Speak
15 all over the Internet. So I decided that I would wait
16 for a while before I sent another letter back to them.

17 Q How much longer you going to wait?

18 A Still waiting.

19 Q Still waiting to get some evidence?

20 MR. MAYNARD: Objection to form.

21 MS. MCNAMARA: Objection to form.

22 MR. KLEIN: Object to the form.

23 Q (BY MR. WOOD) Still waiting to get some
24 evidence?

25 MR. MAYNARD: Objection to form.

Page 350

Page 351

1 DON CLARK
 2 MS. MCNAMARA: Same objection.
 3 A Sometimes it takes a long time to solve cases.
 4 **Q (BY MR. WOOD) Yes, sir. Are you still waiting**
 5 **to get that evidence that would be legitimate evidence**
 6 **of probative value existing as to some articulable**
 7 **criminal agency with respect to the death of Anna Nicole**
 8 **Smith? Have you got it yet?**
 9 MR. MAYNARD: Objection to form.
 10 MS. MCNAMARA: Same objection.
 11 **Q (BY MR. WOOD) Have you got it yet?**
 12 MR. KLEIN: Same objection.
 13 A I have not sent them a letter back yet.
 14 **Q (BY MR. WOOD) I didn't ask you that. I want**
 15 **to know if you've got the evidence now. He wants to**
 16 **know if you have any legitimate evidence of probative**
 17 **value that exists as to some articulable criminal agency**
 18 **in the death of Anna Nicole Smith. I said -- I know you**
 19 **haven't gotten back to him yet, but I want to know if**
 20 **you have the evidence --**
 21 A Trust me --
 22 **Q -- to give to him?**
 23 A Trust me, Mr. Wood, if I had the evidence to
 24 support everything that I believe that Howard Stern was
 25 involved in, I would get it to some legitimate law
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 enforcement agency. But it's not over with yet.
 3 **Q You don't have it right now, do you?**
 4 A It's not over with yet.
 5 **Q Because --**
 6 A I said -- I just said if I had the evidence
 7 that I felt strong enough and that I could give it to a
 8 law enforcement agency that I didn't think would leak it
 9 out to unauthorized people or units or entities.
 10 **Q But you put it up -- you preface that with and**
 11 **"if" because you acknowledge you don't have that strong**
 12 **evidence at this time, true?**
 13 A I didn't preface that with an "if," but --
 14 **Q Yes, sir, you said "if" -- you said, "Trust me,**
 15 **Mr. Wood, if I had the evidence to support everything**
 16 **that I believe that Howard Stern was involved in, I**
 17 **would get it to some legitimate law enforcement agency.**
 18 **But it's not over with yet."**
 19 **You said "if you had the evidence,"**
 20 **because you acknowledge as you sit here today that you**
 21 **do not have the evidence to support what you believe**
 22 **Howard Stern was involved in, true?**
 23 MR. MAYNARD: Objection to form.
 24 **Q (BY MR. WOOD) Isn't that the truth, Mr. Clark?**
 25 MR. KLEIN: Object to the form.
 TSG Reporting - Worldwide 877-702-9580

Page 352

Page 353

1 DON CLARK
 2 A I have not been able to develop the evidence to
 3 give to a law enforcement agency.
 4 **Q (BY MR. WOOD) To have him prosecuted for**
 5 **murder?**
 6 A Yes.
 7 **Q In the death of Anna Nicole Smith?**
 8 A Yes. And Danny.
 9 **Q Or in the death of Daniel Smith?**
 10 A Yes.
 11 **Q You don't have it yet, do you?**
 12 A No.
 13 MR. WOOD: All right. Let's take a break.
 14 THE VIDEOGRAPHER: We're going off the
 15 record. The time is 6:02.
 16 (A recess was taken.)
 17 THE VIDEOGRAPHER: We're back on the
 18 record. The time is 6:12.
 19 **Q (BY MR. WOOD) Mr. Clark, who told you that the**
 20 **Seminole police did not interview Mr. Stern?**
 21 A Who told me that the Seminole police --
 22 **Q Yes.**
 23 A -- did not interview Mr. Stern?
 24 MR. MAYNARD: Objection to form.
 25 **Q (BY MR. WOOD) You don't know whether they**
 TSG Reporting - Worldwide 877-702-9580

1 DON CLARK
 2 **interviewed Mr. Stern or not, do you?**
 3 A I know that Mr. Stern was interviewed by the
 4 Seminole police.
 5 **Q And do you know whether the Seminole police**
 6 **interviewed King Eric?**
 7 A I don't know.
 8 **Q One way or the other?**
 9 A I don't know.
 10 **Q Or whether they interviewed Bridgette?**
 11 A I don't know, but she was in the room.
 12 **Q You don't know whether the Seminole police**
 13 **interviewed her or not, do you?**
 14 A I don't know. I did not see that report.
 15 **Q You were aware from your discussions with Ford**
 16 **Shelley -- strike that. You were aware as of March**
 17 **27th, 2007, that an injunction had been put in place in**
 18 **the Bahamas that prohibited Ford Shelley and Ben**
 19 **Thompson from coming onto the Horizons property, true?**
 20 A I don't recall being aware of that.
 21 **Q You don't know whether you were or not?**
 22 A I don't -- I'm talking too low. I don't recall
 23 being aware of that, no.
 24 **Q Other than the two nannies, did you or any**
 25 **member of the O'Quinn investigative team ever attempt to**
 TSG Reporting - Worldwide 877-702-9580